

## REPORT OF THE HEARING COMMITTEE

### WELLINGTON CITY COUNCIL REPORT OF THE HEARING COMMITTEE

**SUBJECT:**

PROPOSED DISTRICT PLAN CHANGE 48: CENTRAL AREA REVIEW

**COMMITTEE MEMBERS:**

CRS SHAW  
ARMSTRONG  
WADE-BROWN

**DATE OF HEARING:**

16<sup>TH</sup> – 30<sup>TH</sup> MAY 2007

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#### 1. RECOMMENDATIONS

- 1) *Approve District Plan Change 48 – Central Area Review as publicly notified, subject to the changes outlined in the revised plan change document (attached as Appendix 2).*
- 2) *Accept or reject all the submissions and further submissions to the extent that they accord with recommendation (1) above.*
- 3) *Direct Council officers to undertake the following work as a result of issues raised through proposed District Plan Change 48:*
  - *Investigate the appropriateness of providing sunlight protection controls to the Old St Paul's site on Mulgrave Street*
  - *Review the listings for the identified heritage buildings at Stewart Dawson's corner (heritage items 191/1, 191/2 and 342 on Map 17) to ensure that the extent of the listing accurately reflects the extent of the existing heritage buildings.*
  - *Undertake discussions with the owners of No. 2 Footscray Avenue and 61-65 Abel Smith Street, to develop a site specific development proposal that complements and enhances the setting of the Footscray Avenue cottages.*
  - *Investigate options for the retention and enhancement of informal pedestrian links throughout the Central Area*
  - *Initiate a review of all contaminated sites provisions within the District Plan*
  - *Investigate the appropriateness of creating a heritage area to cover the Eva Street, Leeds Street, Egmont Street area*

#### 2. INTRODUCTION

This decision relates to Proposed District Plan Change 48 (DPC 48) – Central Area Review.

DPC 48 was publicly notified on 23 September 2006.

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Proposed District Plan Change 48 was a Council initiated plan change and the purpose of the plan change was to provide a complete review of the District Plan provisions that apply to land within the Central Area. All aspects of the Central Area chapter were open to submission. The plan change also covered definitions, design guides, maps etc. associated with the Central Area.

The plan change sought to build on those aspects of the operative District Plan that had resulted in improvements in the quality, amenity, vibrancy and vitality of the Central Area. These included:

- A single zone approach that encourages a wide range activities throughout the Central Area
- Reaffirmation of the 'high city/low city' model of urban form
- Management of the urban design effects of new building works
- Provisions to maintain and enhance pedestrian amenity and the quality of key public spaces.

The plan change included a number of significant new provisions designed to allow the Council to better manage the effects of new development within the Central Area. These included:

- Improved management of the effects of new building works – height, mass, daylight, wind and heritage
- Creation of nine heritage areas to cover significant and unique neighbourhoods within the Central Area.
- Creation of the Port Redevelopment Precinct and Pipitea Precinct to manage any future office or retail development on port and rail land north of the CBD
- Enhanced integration of the Inner City Bypass route into the urban fabric of southern Te Aro.

A public notice was sent to all ratepayers in Wellington City, outlining the plan change in brief. Individual letters were also sent to all owners of properties within a proposed heritage area, and to the owners of property that were subject to the sunlight protection provisions.

Ninety-one main submissions and nineteen further submissions were received on Proposed District Plan Change 48.

The Hearing for District Plan Change 48 was held at Council Offices over nine days between the 16<sup>th</sup> and 30<sup>th</sup> May 2007, in conjunction with the hearing of District Plan Change 43 (Heritage Provisions).

At the onset of the hearing, Jeremy Blake spoke to the officer's report on the plan change.

Forty nine submitters appeared at the hearing and spoke to their submissions:

- Save our Streets (Natasha Naus)
- Craig Erskine
- Wellington Civic Trust (Di Buchanan, Tony Towns)
- Trojan Properties Ltd (Ian Gordon, Helen Musson, David Goban)
- Ulysses Trust (Ian Gordon, Helen Musson)
- OEC Ltd (Ian Gordon, Helen Musson)
- David Kember
- Craig Palmer
- Stephen Pattinson
- Wellington Company Ltd (Ian Cassels)
- Property Council of NZ (Phillip Percy obo Brent Slater)
- Ian Cassels (obo John Feast)
- Steve Dunn

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- NZ Institute of Surveyors (Dave Gibson)
- Truebridge, Callender Beach Ltd (Rhys Phillips)
- Marshall Day Accoustics (Con Wassilieff)
- Waterfront Watch (Iona Pannett)
- Maurice Goldsmith
- Manchester Unity Friendly Society (David Grant)
- Arco House Ltd (Sylvia Allen, Malcolm Hunt, Nigel Oxley, Martin Mias)
- AMP NZ Property Commercial Ltd (Ian Gordon, Helen Musson, Nick Barret-Boyes, Peter Shaw, Mark Bailey)
- Dominion Funds (Ian Gordon, Helen Musson)
- Roger Walker
- Nicolas Morgan
- Ian Bowman
- Ministry of Culture and Heritage (Andrew Noble)
- Historic Places Trust (Robert McLean)
- Foodstuffs (Wellington) Co-operative Society Ltd (D Butler)
- Wesley Wellington Parish (Ian Leary, Con Anastasiou, Gina Jones, Lynne Frith)
- Greater Wellington Regional Council (Laura Paynter, Ling Phang)
- ING (NZ) Ltd (Saatyesh Bhana, Ian Leary, Hamish Boyd)
- Progressive Enterprises Ltd (Kristen Gunnell, Nicola Treadwell)
- Housing New Zealand Corporation (Nathan Baker)
- St Peter's Apartment Body Corporate (Caroline Wiss, Kathryn McLean)
- Prime Property Ltd (Andrew Beatson, Eyal Aharoni, David Kearnaahan, Dave Armour)
- Museum Hotel Properties Ltd (Angela Foster)
- CentrePort Ltd (Andrew Beatson, Sylvia Allen, Neville Hyde)
- Roland Sapsford
- Wellington Regional Stadium Trust (Alastair Aburn, Stephen Thompson)
- Accor Asia Pacific Ltd (Mark Ashby)
- Capital Properties NZ Ltd (Jim Lynch)
- St John's in the City Council (Jim Lynch)
- Huddart Parker Building Limited (Jim Lynch)
- Hannah Playhouse Trust (Chris Prowse)
- Karamea Ltd, formerly Lloyd Richardson Ltd
- Bright Green Properties Ltd
- Get Smart Group Ltd
- Wellington Distributors Ltd
- Dr Marko Kljatovic (Sir Ron Scott)

The Committee gave careful consideration to all the issues raised by the submitters, including those issues raised in evidence by the individuals and expert witnesses who appeared before the Committee.

Members of the Hearing Committee declared some conflicts of interest resulting from the submissions lodged on proposed District Plan Change 48. As a result Councillor Armstrong took no part in the hearing and deliberations relating to the submission of Wellington Regional Stadium Trust. Councillor Shaw identified a conflict of interest in relation to the submissions of Arco House Ltd and Allen Blair Properties Ltd, and took no part in the deliberations for the Courtenay Place Heritage Area north of Courtenay Place, and the Cuba Street Heritage Area north of Dixon Street.

The following discussion sets out the key issues and the Committee's reasons for making its decision.

***NOTE:** The decisions on submissions contained in this report relate to the provision numbers as notified in DPC 48. However it is noted that the numbering of some of the provisions in the Plan Change Document attached in Appendix 2 have been altered as a result of decisions made by the Hearing Committee.*

**3. SUBMISSIONS AND DISCUSSION**

Submissions were received from:

<b>Submitter No.</b>	<b>Submitter Name</b>
1	Keith T Matthews
2	Roger Walker
3	Clinton Riley
4	Charles Plimmer Estate
5	S William Toomath
6	Grand Complex Properties Ltd
7	Stratum Management Ltd
8	Wellington Distributors Ltd
9	Nicholas Morgan
10	Dominion Funds Ltd
11	Ben Buckley
12	Manchester Unity Friendly Society
13	Wellington Civic Trust
14	Regional Public Health
15	The Wellington Regional Stadium Trust
16	AMP NZ Property Commercial Ltd
17	James Robert Reid Craig
18	Wellington City Council
19	Foodstuffs (Wgtn) Co-operative
20	Celia Walmsley
21	Trojan Properties Ltd, Scoter Ventures Ltd,
22	Ian Bowman
23	Hannah Playhouse Trust
24	Vanessa Robson
25	St Peter's Apartments' Body Corporate
26	Dr Marko Kltakovic
27	Mt Victoria Residents Ass Inc
28	Accor Asia Pacific Ltd
29	Mark Ashby
30	Ulysses Turst
31	Maurice Marks Goldsmith
32	Kendal Phillip Henry
33	Marshall Day Acoustics Ltd

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34	Capital Properties NZ Ltd
35	Huddart Parker Building Ltd
36	St Johns In the City Council
37	Martin Hibma
38	John Ewen Feast
39	Ministry for Culture & Heritage
40	Craig Erskine
41	Telecom New Zealand Ltd
42	The Wellington Company
43	Museum Hotel Properties Ltd
44	Susan Hitchiner
45	ING (NZ) Ltd
46	Save Our Streets
47	Andrew McCarthy
47A	Sharma family
48	The Architectural Centre Inc
49	CentrePort Wellington
50	Allen Blair Properties Ltd
51	Arco House Ltd
52	Globe Holdings Ltd
53	Edmonds Family
54	Primeproperty Group
55	Housing New Zealand Corporation
56	Prime Commercial Ltd
57	Thow K Tan
58	Bright Green Properties Ltd
59	Livingstones (Wellington) Ltd
60	Karamea Ltd, formerly Lloyd Richardson Ltd
61	Malcolm Hunt Associates
62	Craig Thomas Parker
63	Geoffrey Edward Palmer
64	Moir Street Residents Group
65	Property Council of NZ
66	NZ Institute of Surveyors Inc
67	Progressive Enterprises Ltd
68	Greater Wellington Regional Council
69	Christine Greenwood
70	David Greville Kember
71	Crail Bay Aquaculture Ltd
72	New Zealand Historic Places Trust
73	Gazebo Holdings Ltd
74	Carl John Hawke
75	The Warehouse Ltd

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76	Rasbeer Singh Gill
77	Transit New Zealand
78	Con Anastasiou
79	Steve Dunn
80	Roland Sapsford
81	Stephen John Pattinson
82	Truebridge Callender Beach Ltd
83	Dr Paul & Raewyn Hendy
84	Iain Colligan
85	Golden Bay Cement, Firth Industries, CentrePort
86	Victoria University of Wellington
87	Monopoly Holdings Ltd
88	Wesley Wellington Parish
89	Bellingham Estate
90	Waterfront Watch

Further submissions were received from:

Submitter No.	Submitter Name
1,2,19 FS	Property Council of NZ
3 FS	Progressive Enterprises Ltd
4 FS	Allen Blair Properties Ltd
5 FS	Arco House Ltd
6 FS	CentrePort Wellington
7 FS	Housing New Zealand Corporation
8 FS	Prime Property Group
9 FS	Golden Bay Cement, Firth Industries,
10 FS	Karamea Ltd
11 FS	ING (NZ) Ltd
12 FS	Mt Victoria Residents Ass Inc
13 FS	The Wellington Company
14 FS	Patricia Newton Peebles
15 FS	Tracey Paterson
16 FS	OEC Ltd
17 FS	Matthew Sew Yoy
18 FS	New Zealand Historic Places Trust

The submissions received have been grouped below according to issues raised. These issues accord with the subheadings used in the summary of submissions attached in Appendix One. As far as possible the issues and submissions are listed in order to match the format of the Plan Change document (i.e. Introduction, Objectives and Policies, Rules, Standards etc.). The key issues raised in submission, and the Hearing Committee's decisions on the submissions are addressed in sections 3.1-3.97 below.

## 3.1 DPC 48 - General.

Specific issues raised in submissions include:

- That the Council adopt District Plan Change 48 as proposed (submission 5).
- We support the intent of the Proposed Plan Change as it will ensure that there are controls in place that constrain developers in their activities and that height limits become absolute rather than baseline and open to interpretations, and that there is greater consistency in the rules. The submitters also note that there is a fine balance between promoting active edges and hindering the passage of pedestrians (submission 27).
- Save Our Streets supports the Proposed Plan Change 48 and proposes some amendments to further enhance the heritage area provisions (submission 46).
- While the Wellington Civic Trust supports the change in broad terms, the Trust does have concerns over some matters which they believe have been overlooked and they query whether some of the proposals will be as effective as is hoped (submission 13).
- The Architectural Centre gives overall support for the Central Area Review with some amendments. We fully support the Council's stated commitment to "achieving high quality built form and urban design results throughout the central area" (submission 48).
- CentrePort generally supports the intent and content of the proposed plan change subject to numerous amendments detailed in the submission. Implement PC48 as proposed, except where identified in the specific submissions (submission 49).
- The submitter (who is particularly interested in the land bounded by Johnston Street, Featherston Street, Brandon Street and Customhouse Quay) is opposed to the plan change to the extent that it may reduce the development potential of that land. Requests that the Plan Change be declined in its entirety. If this is not possible then the submitter requests that the Plan Change should be amended to better enable future development of their land. Such further or consequential amendments necessary to give effect to this submission (submission 56).
- While the submitter generally supports PC48, it has some reservations about the potential for the rules and design guidelines to be administered in an inflexible manner (submission 75).
- Submitter 34 owns a building within the proposed Stout Street Heritage Area. Submitter 35 owns a building within the proposed Post Office Square Precinct Heritage Area. The submitters consider DPC48 is inherently unfair as it will impose significant restrictions on the use of land and buildings. In particular the heritage area, building mass and sunlight protection provisions are unjustified. The change of activity status for new buildings (to discretionary restricted) is unnecessary and undesirable. The section 32 report is also seriously deficient. The submitters request that Council reject all of DPC48; with such further or incidental relief as may be appropriate. Specific requested amendments are also included in the submission (submissions 34 & 35).
- While the submitter generally supports PC48, the submission requests that Plan Change 48 be amended so that each of the various topics - containment, height controls, heritage, new precincts etc are all determined as to how well they contribute to the "mixed use, sustainable and intensified" city (submission 42).
- ING Property Trust owns a number of buildings in the Central Area, some of these being heritage buildings. ING's submission is primarily that of "preserving" or maintaining the development rights that exist under the current District Plan and ensuring that the new changes do not unreasonably disadvantage it in terms of future development options. The submitter seeks a number of amendments and deletions from PC48. These are summarised, with full "suggested rewording" to be found in the original submission (submission 45).
- At least 3 "pocket parks" protected from prevailing winds are needed on Lambton Quay or Featherston Street between Midland Park and the Civic Centre (submission 13).
- That numerous minor typographical corrections be made throughout the Plan Change (submission 49).

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- Primeproperty Group (PPG) generally opposes proposed Plan Change 48 (PC48) as it considers the proposed provisions would have a significant adverse effect on the development potential of the city, would create a significant amount of uncertainty regarding development, resulting in significant economic impacts. PPG considers that insufficient justification has been provided for introducing District Plan changes that have such potential to create significant economic impacts. The submitter does however make a number of individual points about the proposed provisions (submission 54).
- The Property Council commends the Council on the general approach taken, but submits that council officers need more tools to work with to obtain the best outcomes for the city. That the Council:
  - amend the Plan to include a mandate for the use of Transferable Development Rights to enable the protection and enhancement of heritage items.
  - amend the Plan to include a mandate for the use of Environmental Compensation to enable the protection and enhancement of heritage items.
  - amend the Plan to include a mandate for the use of Rates Relief to enable the protection and enhancement of heritage items (submission 65).
- The submitter is very concerned that PC 48 (regarded as a 'full review') omits significant issues, including:
  - traffic and its effect on the quality of the urban environment;
  - the (lack of) connections between the city and the waterfront;
  - energy efficiency and conservation;
  - the sustainability of Wellington Central's urban form.The above issues are fundamentally inter-related and are all critical to the physical, social and economic welfare of Wellington City. That Plan Change 48 be seriously revised to address concerns, relating to long term traffic needs, lack of connections to the waterfront, greater recognition of energy efficiency and conservation, and the sustainability of Wellington's urban form (submission 81).
- HNZC has a number of residential properties/complexes within the identified Wellington Central Area. It is concerned that PC48 will create additional cost and uncertainty for potential house developments within the central area. HNZC also opposes the proposed Plan Change as it will remove certainty for property owners/occupiers and will increase the number of resource consents required (submission 55).
- The submitter is generally supportive of DPC 48, but seeks amendments to policies that do not adequately recognise the needs of large format retail. That the Plan Change be adopted insofar as it is consistent with the principles of the RMA and subject to the specific amendments sought in the remainder of the submission (submission 67).

### *Discussion*

The majority of these submissions either supported or opposed the plan change in part, with some changes requested. The specific changes requested are dealt up in sections 3.2 – 3.97 below. The Hearing Committee considered that the general support or opposition indicated in the above submissions should be accepted and rejected insofar as DPC 48 is to be retained, albeit with multiple amendments resulting from submissions.

Submission 13 requested that three 'pocket parks' be created on Lambton Quay, Featherston Street and the Civic Centre. In response the Hearing Committee noted that the provision of public parks is not a role of the District Plan. These can only be facilitated through Council securing ownership of appropriate land within the Central Area. This would require funding to be made available through the Annual Plan process. The Committee noted that once ownership is secured, the District Plan would be amended to rezone the land as open space.

Submission 65 requested that DPC 48 be amended to provide scope for transferable development rights, environmental compensation and rates relief. The Committee noted that options for financial compensation are considered in more detail in section 3.72.

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Submission 81 (Stephen Pattinson) was concerned that DPC 48 failed to address key issues relating to traffic, connections to the waterfront, energy efficiency and the sustainability of Wellington's urban form. At the Hearing the submitter expressed concern at the lack of an all encompassing vision within the District Plan. The submitter considered that the District Plan needed to provide greater guidance on the links between city form and energy use, should promote sustainable transport options and should focus on the efficient use of infrastructure. The submitter was also concerned that the vision for the city encapsulated in documents such as the Gehl Report (on improving pedestrian links to the waterfront) and the Central Area Framework had not been incorporated into the District Plan. The Hearing Committee noted the submitter's concerns, and agreed with many of the points that he raised regarding urban sustainability, the quality of the pedestrian environment and improving links between the Central Area and the waterfront. However the Committee noted that the District Plan was only one of the many documents and strategies that the Council uses to manage the day to day development of the City. The District Plan is a tool for managing the effects associated with land use activities, but it is not a mechanism for determining how and when to allocate resources to new urban projects. The focus for the Committee was therefore to ensure that the Central Area provisions were sufficiently flexible so as to enable the development of beneficial works such as improved pedestrian shelter, better links to the waterfront, and the provision of sustainable buildings. The Committee also noted that many of the issues raised by the submitter were addressed in DPC 48 to varying degrees or that changes had been made as a result of other specific submissions on the DPC 48. Verandah requirements have been extended to improve pedestrian links to the waterfront and in other parts of Te Aro. New policies have been included to encourage uptake of ESD principles and energy efficient buildings. Significant consideration has been given to the sustainability benefits of the consolidated form of Wellington's Central Area. The Committee also agreed that the proposed policy for energy efficiency and sustainability could be enhanced further to make explicit reference to environmental sustainable design. Similarly, the Committee was of the opinion that the issue of sustainability was of such importance that it should be noted as one of the main principles guiding the future development of the city (in section 12.1 of the Plan). A new principle 12.1.8 has been included under the heading 'Enhance the sustainability of the Central Area'.

### **12.1.8 Enhance the sustainability of the Central Area**

Buildings and other forms of development that reduce the consumption of natural and physical resources (including energy consumption), whilst maintaining the reasonable development expectations of landowners will ensure that the goal of a sustainably managed city centre will be achieved. Innovative design and construction of buildings exhibiting new principles of environmental sustainability will be encouraged.

Submission 55 was concerned that DPC 48, particularly the provisions relating to urban design, would create uncertainty to land owners and increase the number of resource consents required. The Hearing Committee considered that it was unlikely that DPC 48 would significantly increase the number of resource consents generated in the District Plan, as most building works in the Central Area already require consent to allow an urban design assessment to be undertaken.

Submission 5 supported DPC 48 as proposed.

#### *Decision*

- **Accept** submissions 27, 46, 13, 48, 49, 75, 42 and 67 insofar as they generally support DPC 48, subject to any amendments resulting from submissions.
- **Reject** submissions 56, 34, 35, 45, and 54 insofar as they are generally oppose of Plan Change 48, subject to any amendments resulting from submissions.
- **Reject** submission 13 insofar as it requests provisions of pocket parks in the Central Area.

- **Reject** submission 65 insofar as it requests provisions of economic incentives for Central Area properties.
- **Reject** submission 81 insofar as it considers that DPC 48 does not cover key issues.
- **Reject** submission 55 insofar as it notes that DPC 48 will increase uncertainty and the number of resource consent required to undertake works in the Central Area.
- **Accept** submission 5 insofar as it supported plan change 48 as proposed.

### 3.2 Introduction - Chapter 12.

Specific issues raised in submissions include:

- Amend principle 12.1.5's last sentence to read: The lower height on the waterfront and areas adjacent to it completes the stepping down from the hills to the waterfront and enhances the sharing of the view (submission 24).
- Enhance 'sense of place' (12.1.1) to remove the phrase 'jinky character areas', as the word 'jinky' is unclear and may be inappropriately defined (submission 46).

#### *Discussion*

Submission 24 requested that height limits in the Cable Street/Wakefield Street area be reduced to create a transition or 'step down' from Te Aro to the Waterfront. The submitter requested that this 'step down' be referred to in principle 12.1.5. The question of building height in this area is dealt with by the Hearing Committee in detail in section 3.94 below, where it was determined that the heights should be retained at the current height of 27 metres. Accordingly the proposal to amend principle 12.1.5 has been also been rejected.

The term 'jinky' was added as a descriptive work to indicate the unique nature of some of the precincts and neighbourhoods in the Central Area. The Committee agreed that the true meaning of the word is unclear and it should be deleted in the interests of ensuring clarity.

#### *Decision*

- **Reject** submission 24 that seeks to amend the wording of Principal 12.1.5.
- **Accept** submission 46 that seeks to have the word 'jinky' removed from the Introduction to Chapter 12.

### 3.3 Objectives and Policies – Section 12.2.

Specific issues raised in submissions include:

- That the Objectives and Policies be amended to better accommodate and recognise the appropriate provision of large format retail within the Central Area, and the relevant operational and other characteristics of large format retail (submission 67).

#### *Discussion*

The objectives and policies contained in the Central Area chapter are generic in their wording and application and are intended to deliver a positive public environment within the Central Area. The Hearing Committee noted that some of the current policies, such as the creation of ground level open space and the requirement to provide active frontages, may impact on the form and layout of large format retailing. However the Committee considered that the policies were an important tool in helping to ensure that new development and buildings make a positive contribution to the public environment of the City. The Committee cited Thorndon New World is an example of a large format retailing operation that had been sensitively incorporated into the existing context. The consenting process allows the pro's and con's of specific development to be quantified, and the Committee considered that this was the appropriate forum for consideration of the detailed design issue generated by new large format retail operations.

## *Decision*

- **Reject** submission 67 insofar as it requests that the Central Area objectives and policies be amended to recognise the requirements of large format retailing.

### **3.4 Objective 12.2.1 - Containment and Accessibility.**

Specific issues raised in submissions include:

- Objective 12.2.1, Policy 12.2.1.1 and Policy 12.2.1.2 are supported. Adopt as notified (submission 54).
- GWRC supports a number of transportation principles identified in the plan change and supported by its objectives, policies, methods and design guides (including 12.2.1) (submission 68).

## *Discussion*

The support of submissions 54 and 68 was accepted by the Hearing Committee.

## *Decision*

- **Accept** submission 54 insofar as it supports Objective 12.2.1, and Policies 12.2.1.1 and 12.2.1.2.
- **Accept** submission 68 insofar as it supports Objective 12.2.1.

### **3.5 Objective 12.2.2 - Activities.**

Specific issues raised in submissions include:

- Amend Objective 12.2.2 by deleting the word "allowing" and substituting the word "enabling" (submission 75).
- That objective 12.2.2 is adopted (submission 90).
- Supports proposed Objective 12.2.2. Introduce a similarly worded objective and policy for the effects of new building works (submission 54).

## *Discussion:*

The support of submissions 54 and 90 was noted and accepted. Submission 75 requested that the objective be amended by replacing the word 'allowing' with 'enabling'. This submission is accepted on the grounds that the phrase 'enabling' better describes the manner in which activities are managed under the District Plan. The resulting objective reads:

*Objective 12.2.2 To facilitate a vibrant, dynamic Central Area by ~~allowing~~ enabling a wide range of activities to occur, provided that adverse effects are avoided, remedied or mitigated.*

## *Decision*

- **Accept** submissions 54 and 90 insofar as they support objective 12.2.2
- **Accept** submission 54 insofar as it requests that the word 'allowing' be substituted with the word 'enabling' in objective 12.2.2

#### Policy 12.2.2.1 – Provide for a range of activities in the Central Area

Specific issues raised in submissions include:

- Supports proposed Policy 12.2.2.1. Introduce a similarly worded objective and policy for the effects of new building works (submission 54).
- That policy 12.2.2.1 is adopted (submission 90).

### *Discussion:*

The support of submissions 54 and 90 was noted and accepted.

### *Decision*

- **Accept** submissions 54 and 90 insofar as they support policy 12.2.2.1

### Policy 12.2.2.2 – Manage adverse effects generated by activities

Specific issues raised in submissions include:

- Add one or more paragraphs of explanation to Policy 12.2.2.2 relating to the Port Noise Standard and future Plan provisions relating to port noise management (submission 49).
- Add an explanation to policy 12.2.2.2 (Effects of activities) as to why full control is retained by the Council over office and retail activities in the Pipitea Precinct (submission 49).
- Add the following additional activity to the list found in policy 12.2.2.2; and rule 13.1.1: "Any activity adjacent to an inner residential area that releases into the atmosphere harmful substances or objectionable odours" (submission 62).
- Make an addition to the excluded activities in 12.2.2.2 for toxic substances and offensive odours. The Moir Street Residents Group seek a number of amendments that would maintain or improve their level of amenity as a group of residents living adjacent to the Central Area. (submission 64).
- That policy 12.2.2.2 is adopted (submission 90).

### *Discussion:*

Policy 12.2.2.2 notes those activities that are not generally permitted in the Central Area because they require special management to avoid significant adverse effects.

Submission 49 (CentrePort Ltd) requested that the explanation to the policy be amended to reference the Port Noise Standard. In their evidence to the Hearing, CentrePort noted that since DPC 48 was notified a variation (Variation 3) had been notified by Council to specifically address issues of port noise. In light of Variation 3, CentrePort agreed with the officer's recommendation that no change should be made to policy 12.2.2.2 in response to their submission.

Submission 49 also requested that additional explanatory text be added to policy 12.2.2.2 to clarify why Council has retained control over office and retail activities in the Pipitea Precinct. The Committee noted that detailed explanation of Council's management of the Precinct are contained in policies 12.2.4.2 to 12.2.4.4. A cross reference to these policies is contained in the explanatory text in Policy 12.2.2.2. In their evidence CentrePort noted that the cross reference was a slightly clumsy technique, and requested that the following text be added to policy 12.2.2.2.

*Control over office and retail activities within the Pipitea Precinct is retained to ensure that any such proposals are carefully considered in terms of their effect on the vitality of the remainder of the Central Area. However, office and retail activities associated with operational port activities, and a small range of other types of retailing, are permitted.*

The Hearing Committee considered that the suggested wording was useful to help to clarify why controls had been placed on office and retail uses within the Pipitea Precinct, and accepted CentrePort's submission accordingly.

Submissions 62 and 64 requested that policy 12.2.2.2 be amended to include any activity adjacent to residential areas that releases into the atmosphere harmful substances or objectionable odours. The Committee considered that this specific reference is not required as

the plan already contains provisions for the management of hazardous substances. The Committee also noted that under the Resource Management Act managing discharges to air is a regional council function.

The support of submission 90 is accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports policy 12.2.2.2.
- **Reject** submission 49 insofar as it requests reference to port noise be included in policy 12.2.2.2.
- **Accept** submission 49 insofar as it seeks greater clarity in Policy 12.2.2.2 regarding the management of retail and office activities in the Pipitea Precinct.
- **Reject** submissions 62 and 64 that seek the addition of text to Policy 12.2.2.2 regarding harmful substances and objectionable odour near residential areas.

### Policy 12.2.2.3 – Temporary Activities

Specific issues raised in submissions include:

- That policy 12.2.2.3 is adopted (submission 90).

### *Discussion:*

The support of submission 90 was noted and accepted.

### *Decision:*

- **Accept** submission 90 insofar as they support policy 12.2.2.3

### Policy 12.2.2.4 - Noise

Specific issues raised in submissions include:

- Delete paragraph 5 to the 'explanation' to Policy 12.2.2.4 commencing "Fixed plant noise ... and ending ... within the Central Area" (submission 7).
- The submitter seeks changes to the proposed new noise rules for fixed plant. Delete paragraph 5 to the 'explanation' to Policy 12.2.2.4 commencing "Fixed plant noise within the Central Area" (submission 33).
- Deletion of paragraph 5 to the 'explanation' to Policy 12.2.2.4 commencing "Fixed plant noise within the Central Area" and deletion of Rule 13.6.1.1 (Fixed Plant) (submission 61).
- Amend policy 12.2.2.4 to include reference to construction noise (wording supplied) (submission 45).
- The submitter seeks additional explanatory text in policy 12.2.2.4 (3rd paragraph) (wording supplied) (submission 70).
- That policy 12.2.2.4 is adopted (submission 90).

### *Discussion:*

Policy 12.2.2.4 addresses the management of noise effects in the Central Area.

Submissions 7, 33 and 61 requested that the explanatory text relating to fixed plant noise be deleted. The Hearing Committee noted that this action is only appropriate if it were to decide that the fixed noise standards should be deleted from the plan. The fixed plant noise standards are discussed in greater detail in section 3.44 below. In that section the Hearing Committee considered that the standards for fixed plant should be retained, on the basis that fixed plant is a significant contributor to background, 'ambient' noise levels in the Central Area. Accordingly it is considered that the explanatory text in Policy 12.2.2.4 should be retained.

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Submission 45 requested that additional text be added to the explanation to Policy 12.2.2.4 to clarify how construction noise will be managed. The following text was suggested:

Council acknowledges that construction noise has effects on the Central Area but generally temporary in nature. Controls on construction noise is limited to best practical options. The District Plan rules and resource consent process are not intended to address construction noise. (submission 45)

The Hearing Committee considered that the first two sentences of the proposed text should be added to policy 12.2.2.4 subject to an amendment that clarifies that construction noise is managed using NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work. The last sentence was not accepted on the grounds that at times construction noise is a matter that needs to be addressed through conditions attached to a resource consent.

Submitter 70 (David Kember) requested that outdoor speakers be prohibited in the Central Area, and that the following text be added to the explanation of Policy 12.2.2.4 to this effect.

'While in the case of noise generated by lawful activities within premises a compromise has to be struck between the interests of the public and neighbouring residents on the one hand and commercial operators on the other, there is no compelling interest in allowing commercial operators to appropriate public space with loudspeakers permanently mounted outside premises serving largely to advertise the businesses conducted within. As the number of these noise sources grows, there is a cumulative increase in the level of avoidable noise in the public thoroughfare which both health and amenity standpoints is undesirable. Because noise sources located in public spaces involve little or no compelling interest , outright prohibition is warranted'. (submission 70)

The issue of outdoor speakers is considered in detail in section 3.47 below. In that section the Committee agreed that the proliferation of outdoor speakers has created a considerable nuisance for pedestrians and is resulting in decreasing levels of amenity in the public space. The Committee decided that a two-fold approach was needed to manage outdoor speakers. Firstly that existing speakers be required to comply with the standard proposed in the notified plan change (75dB) and that proposals for new speakers would be assessed as non-complying activities. The intent is that existing speakers will need to lower the noise emitted from the speakers and the addition of new speakers will be restricted. Overtime this should reduce the nuisance effects of such speakers. As a result of this decision, new wording is required in the Policies to clarify this approach. The specific wording to be added to Policy 12.2.2.4 is outlined below:

Noise levels in public places, such as streets, can at times reach unacceptable levels, particularly along streets with high pedestrian usage and in entertainment areas where loudspeakers are often in use. Continued uncontrolled growth in the number of such speakers, typically associated with commercial premises, will decrease the amenity of these public spaces. For this reason, controls are placed on the upper level of noise able to be generated by existing speakers, and applications to install new speakers will be assessed as non-complying activities. These controls will help to reduce noise clutter, ensuring that the quality of the noise environment in public places does not deteriorate further and will gradually be enhanced. This policy is not intended to restrict live music venues because these are a legitimate activity that helps to maintain the vibrancy of the Central Area. Reducing the ambient noise levels in the public space by controlling electronic sound speaker systems will in fact help to enhance such live music venues.

The support of submission 90 was noted and accepted.

## *Decision*

- **Reject** submissions 7, 33 and 61 insofar as they request deletion of the explanatory text relating to fixed plant noise.
- **Accept** submission 45 insofar as it requests additional explanatory text relating to construction noise.
- **Accept** submission 70 insofar as it requests additional explanatory text regarding outdoor speakers.
- **Accept** submission 90 insofar as it supports policy 12.2.2.4.

## **3.6 Objective 12.2.3 - Urban Form and Sense of Place.**

Specific issues raised in submissions include:

- That objective 12.2.3 is adopted (submission 90).
- The NZHPT is pleased that historic heritage has been given proper regard in preparation of this plan change, and many of the proposed provisions are expected to protect historic heritage from inappropriate development; the NZHPT strongly supports these aspects of the plan change. The NZHPT supports Objective 12.2.3 (submission 72).

## *Discussion:*

The support of submissions 72 and 90 was noted and accepted

## *Decision*

- **Accept** submissions 72 and 90 insofar as they support objective 12.2.3

### Policy 12.2.3.1

Specific issues raised in submissions include:

- While no change is intended to this policy, the Civic Trust would like to point out that from an engineering and earthquake safety point of view, the policy means that high rise buildings are concentrated on the least stable reclaimed land while the low rise buildings are concentrated on the geologically stable land to the north and south of the central area. This is a factor that deserves consideration in Council's future planning (submission 13).
- That policy 12.2.3.1 is adopted (submission 90).

## *Discussion:*

The support of submissions 13 and 90 was noted and accepted. The concerns of submitter 13 were noted, but it the Hearing Committee considered that these issues are largely addressed by the earthquake safety requirements of the Building Code.

## *Decision*

- **Accept** submissions 13 and 90 insofar as they support policy 12.2.3.1

### Policy 12.2.3.2

Specific issues raised in submissions include:

- To affirm that development and changes to the urban environment that are inappropriate and/or insensitive to the values of heritage resources or the setting of heritage resources should not be encouraged (submission 46).
- To require that all development proposals be assessed for their potential direct or indirect effects on heritage resources and/or the character of an area, including the setting of heritage resources, with particular regard given to the possible aggregate effects of similar developments, including potential effects of similar future development (submission 46).
- To require that all development proposals that may impact on heritage resources and/or the character of an area be open to public submission (submission 46).

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- Reject any submissions that have the potential to reduce the effectiveness of PC48 to protect heritage values (submission 46).
- We support the conflation of character and heritage areas (submission 48).
- The submitter supports the provisions relating to heritage areas. The submitter commended the changes which have been proposed which focus on a more rigorous consent process, but did note some opposition or changes desired to the proposed rules (submission 69).
- The NZHPT supports Policy 12.2.3.2 as well as the proposed method of identifying heritage areas (submission 72).
- That policy 12.2.3.2 is adopted (submission 90).
- District Plan Change 48, and in particular the Courtenay Place Heritage Area provisions, will have a distinctly negative effect on the value of the Trust's principle asset, namely the Hannah Playhouse containing the Downstage Theatre. Delete policy 12.2.3.2 in favour of the existing conditions (i.e. provisions of the current plan) in relation to the Courtenay Place Heritage Area (submission 23).

### *Discussion*

Policy 12.2.3.2 relates to sense of place and identity in the Central Area:

#### **12.2.3.2 Promote a strong sense of place and identity within different parts of the Central Area.**

Submissions 48, 69, 72 and 90 support the proposed policy and this support should be accepted.

Submission 46 (Save Our Streets) requested that the Council place a greater importance on heritage matters, and that all development proposals within the Central Area be assessed in terms of their potential impact on heritage values. The submitter requested that any application that impacted on heritage resources be notified. The submission implied support for policy 12.2.3.2. At the hearing Save Our Streets re-affirmed that any application with more than a minor effect on the environment should be publicly notified. They did however note that sometimes it was necessary for Council to be able to negotiate outcomes that fell outside the District Plan standards, in order to achieve an outcome that was positive for the public environment.

While the Hearing Committee agreed with the submitter that the proposed heritage areas provided greater scope to consider the impact of new developments on the existing historic heritage values contained within each of the heritage areas, the Committee did not consider that it was appropriate to require all applications that may impact on heritage values to be publicly notified. The issue of whether a resource consent application is publicly notified depended on the scale and nature of the proposal and the effects that it generates. The Committee noted that this decision is made in accordance with the provisions contained within the Resource Management Act and it is not appropriate to pre-judge that assessment by including a statement in the District Plan to the effect that all applications will be publicly notified. Accordingly the Hearing Committee considered that submission 46 should be rejected.

Submission 23 opposed Policy 12.2.3.2 on the grounds that the Courtenay Place Heritage Area will reduce the value of their property, the Hannah Playhouse. While acknowledging the submitter's concerns the Hearing Committee noted that Policy 12.2.3.2 relates to all of the proposed Heritage Areas, not just the Courtenay Place Heritage Area, so deleting the policy was not practical.

### *Decision*

- **Accept** submissions 48, 69, 72 and 90 insofar as they support policy 12.2.3.2
- **Accept in part** submission 46 insofar as it supports the proposed heritage areas
- **Reject in part** submission 46 insofar as it requests that all resource consent applications affecting heritage values be publicly notified.

- **Reject** submission 23 insofar as it requests the deletion of policy 12.2.3.2

### 3.7 Objective 12.2.4 - Sensitive Development Areas.

Specific issues raised in submissions include:

- The main thrust of this submission is to ensure the review recognises Wellington's advantage and strong point of difference is its intensity of development and compactness. More encouragement should be given to ensure the Thorndon office area retains its colonial character and heritage with people in the area 24 hours a day and seven days a week. Office building sizes, height and mass should be reduced in this precinct and site/mass bonuses should be given for developers increasing the retail and residential components within the precinct (submission 38).
- That the Council adopt the proposals, specifically objective 12.2.4 and associated policies (submission 77).

#### *Discussion:*

This objective deals with large areas of predominantly undeveloped land within the Central Area:

**12.2.4 To ensure that any future development of large land holdings within the Central Area is undertaken in a manner that is compatible with, and enhances the contained urban form of the Central Area.**

The support of this objective in submission 77 was noted and accepted.

Regarding submission 38, the Hearing Committee agreed that mixed use was generally a positive feature as it provided urban environments that are varied and occupied 24 hours a day. This is an issue for all of the Central Area, not just Thorndon. While there is very limited scope for the District Plan to require that developments incorporate specific uses the Committee noted that there were a number of provisions contained in DPC 48 that facilitate mixed use development. The Central Area rules provide for almost all uses as Permitted Activities allowing building uses to change rapidly in response to market forces, without the need for resource consent. The rules also allow activities to establish without the requirement to provide off-street car parking and this has allowed many central city buildings to be converted to residential use over the past decade, providing greater mixed use. DPC 48 also put a clear focus on creating positive edges between buildings and adjoining public spaces. This included ensuring that new buildings provide ground floor stud heights that are sufficient to accommodate a range of uses. Provisions such as these will help to ensure that new buildings can adapt over time as market conditions change. The Hearing Committee considered that no changes should be made to DPC 48 in response to submission 38, but noted that the plan change provisions would help to facilitate many of the submitter's requests.

#### *Decision*

- **Accept** submission 77 insofar as it supports objective 12.2.4 and associated policies
- **Reject** submission 38 insofar as it requests amendments to the provisions applying to new developments in Thorndon

#### Policy 12.2.4.1 – Port Redevelopment Precinct

Specific issues raised in submissions include:

- Support the provisions of Proposed District Plan Change 48 in general; and commend the Council's response to CentrePort's 'Harbour Quays' initiative (submission 5).
- The Civic Trust strongly endorses bringing the Port Redevelopment Precinct fully under the control of the Council (submission 13).

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- That special consideration be given to the cumulative visual impact on the view of the city from the harbour (i.e. the picture postcard view) and protection of the scenic value from the city to the water's edge (submission 13).
- To protect options for the future expansion of port capacity that do not involve further harbour reclamations (submission 13).
- Clarify how the proposed new Port Redevelopment Precinct would provide for public access to the coastal marine area, in particular the area of coast between the Inter Island Wharf, Glasgow Wharf and Kings Wharf or not as the case may be (submission 68).
- The submitter supports the policies and rules for the Port Redevelopment Precinct (12.2.4.1) in relation to the key transportation links desired between these areas and the central city (submission 68).
- The submitter raises concerns about the potential impact of the Port Redevelopment Precinct and Pipitea Precinct on the vibrancy of the existing CBD. The submitter requests that the Council play a very strong role in restricting the amount of office space available in Harbour Quays and make it a mixed use development instead, which would bring a certain amount of life back to this part of town and complement the city (submission 76).
- The Port Redevelopment Precinct should be de-zoned to prevent further office development and to encourage a mixed use environment in which the office component has already been met (submission 38).
- Revise the current zoning for the Port Redevelopment Precinct to discourage further office development in this area as it may dilute the unique character of the CBD (submission 47 and 47A).
- Building height in Harbour Quays, Thorndon and Pipitea should be proscribed as to use. Mixed use within any one block or development needs to be the overriding consideration so that the needs of the local environment are balanced with the benefits available to the city (and region) through central city intensification. Residential use in these locations need to be more intense and much greater height concessions are required than presently indicated (submission 42).

### *Discussion:*

Policy 12.2.4.1 relates to the proposed 'Harbour Quays' office park development on port land east of Waterloo Quay.

#### ***12.2.4.1 Enhance the public environment of the Port Redevelopment Precinct (shown in Appendix 2, Chapter 13) by managing the design of new buildings and public space development, and by enhancing accessibility to and within the precinct.***

The Hearing Committee noted that CentrePort's proposal to develop an office park on former port land generated significant discussion and debate during the preparation of DPC 48. There were concerns raised that allowing office development to disperse outside the existing CBD could harm the containment and viability of the CBD. Wellington city's contained, vibrant core has long been recognised as one of the City's strengths, so Council commissioned two studies to consider the possible economic implications of the northward drift of large scale office and retail uses away from the CBD and Golden Mile, to port and rail land to the north. At a large scale the reports recommend that new development should ideally consolidate and intensify in and around the edge of the existing CBD to ensure the benefits of compactness are retained. The Kemp report, which specifically considered the impact of 'Harbour Quays', noted that development on the fringe of the CBD would not harm the CBD as long as it was of high quality, well connected to the CBD, and within 10 minutes walk of the CBD. However the Kemp Report also noted that for Harbour Quays to really enhance the central city 'attention needs to focus on creating superior public places and spaces and integrating shared community, employee and business facilities to create World Class business and residential environments.'

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In response to the findings of the Kemp report, the Council's management strategy for the Port Redevelopment Precinct has been to focus on ensuring that the area eventually becomes a new central city precinct with a mixture of uses, high quality buildings and public spaces, and good connections to the existing CBD and waterfront. It is not proposed to de-zone the area to prevent further office development.

While there are potential benefits to the city from the development of the Port Redevelopment Precinct, there are also some matters that require special consideration including the integration of this area into the rest of the CBD, the development of quality public spaces and a suitable road network. These issues have been considered by way of a master plan for the area, which has been developed by CentrePort in consultation with Council. Additionally a Memorandum of Understanding between CentrePort and the Council has been signed that includes processes for an urban design review of new buildings prior to any consent application being lodged. The rule regime proposed in DPC 48 provides for the development of new buildings within the Port Redevelopment Precinct as a Controlled Activity, provided the building is in accordance with the Master Plan. Any significant deviation from the Master Plan will result in the building being processed as a Discretionary Activity (Restricted).

The Hearing Committee considered that the support of submissions 5, 13 and 68 in relation to policy 12.2.4.1 should be accepted.

Submission 13 also requested that consideration be given to views of the city from the harbour, and that the District Plan protect options for future expansion of port capacity that do not involve further harbour reclamations. The Committee noted that reclamations cannot be managed under the District Plan as they fall under the jurisdiction of Greater Wellington Regional Council. In terms of views of the city from the harbour, the Committee noted that the majority of the harbours edge is operational port and is likely to remain as such in the foreseeable future. Buildings and structures in the Operational Port Area are exempt many of the provisions in the District Plan in recognition of the Ports operational constraints and its role as a key strategic asset for the city. The Committee did not consider that it would be appropriate to place additional requirements on buildings and structures in the Operational Port in order to protect views from the harbour. However it noted that the building heights in the Central Area are stepped down towards the harbours edge which will help to ensure that views of the City and surrounding hills are retained into the future.

Submission 68 sought clarification as to how the Port Redevelopment Precinct would provide for public access to the coastal marine area, particularly around the Inter Island Wharf, Glasgow Wharf and Kings Wharf. The Committee agreed that the issue of public access to the waters edge should be clarified in the explanation to the policy, and has inserted the following text:

*Public access to the waters edge is a key feature of the master-plan for the Port Redevelopment Precinct (see Appendix 2), and Council will seek to facilitate the provision of pedestrian access along the waters edge to enhance the existing waterfront route. However at present the operational requirements of the Port mean that a freight way is needed along the waters edge adjacent to Glasgow Wharf and Kings Wharf to allow freight to be moved from these wharfs to the container port. While this freight way is in place, public access to the waters edge in this area will be restricted.*

Submissions 38, 47, 47A and 76 requested that Council take steps to manage the amount of office space developed within the Port Redevelopment Precinct, to ensure that it does not dilute the unique character of the CBD. They consider that the District Plan should encourage mixed use in the area to complement, rather than compete with the existing CBD.

The Hearing Committee noted that since DPC 48 was notified, discussions have continued between CentrePort, Council and other interested parties regarding the nature of development in the Port Redevelopment Precinct. One of the key generators of these discussions was the

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possibility of locating an Indoor Community Sports Centre within the Precinct, north of Hinemoa Street.

One of the outcomes of the discussions was an agreement to install a cap on total office space within the Precinct. The office cap would be set at 65,000 square metres (sq.m) of net lettable floor area. This compared to approximately 80,000 sq.m of potential office space indicated in the original master-plan. Of the 65,000 sq.m, approximately, 40,000 sq.m was existing or currently under construction. The proposed cap would therefore provide for approximately 25,000 sq.m of additional office floor area. In their report to the Hearing Committee, Council officers recommended that the provision of an office cap be built into the rule regime covering the Port Redevelopment Precinct. Officer's considered that installing a cap would help ensure a greater mix of uses within the Precinct and would also mitigate the potential impact of 'Harbour Quays' on the core CBD.

At the hearing CentrePort made two key submissions regarding the proposed office cap. The first was that the cap of 65,000 sq.m of office space included in the officer's report was incorrect. CentrePort noted that the level of office space agreed between CentrePort, Council and interested parties was in fact 68,200 sq.m (being 65,000 sq.m plus the assessed lettable office development within the Historic Shed 35 and Maritime House).

CentrePort's second submission was that installation of an office cap would be inappropriate if the indoor sports centre were not developed within the Port Redevelopment Precinct. They considered that the imposition of a cap on office activity could inhibit the 'Harbour Quay's' development from achieving a sustainable level of economic activity in its own right. CentrePort argued that the requirement to consider the economic impact of new office development should only be triggered if the total area of office space developed in the Port Redevelopment Precinct exceeded the levels assessed in the Kemp Report (73,500 sq.m).

Since the hearing on DPC 48, a decision was taken by the Council not to locate the indoor sports centre within the Port Redevelopment Precinct. The Hearing Committee's decision is therefore based on the premise that CentrePort opposes the proposed cap on office space.

The Hearing Committee noted CentrePort's concerns that the proposed office cap may unduly constrain the port's ability to complete the 'Harbour Quay's' development. However, after visiting the precinct, the Committee were strongly of the view that 'Harbour Quay's' could not be considered a success and an asset to the city, unless it develops overtime into a vibrant, mixed use neighbourhood, with activities occurring around the clock. The Committee considered that a purely office based development would not achieve this, because occupation would occur only during working hours. The Committee considered that an appropriate mixed use environment would only result if commercial, residential, retail and entertainment were provided for as part of the total development. In this regard the Committee were heartened that CentrePorts had publicly re-affirmed their commitment to achieving a mixed use environment in Harbour Quays in the weeks following the hearing. In terms of promoting the development of a mixed use environment within 'Harbour Quays' the Committee considered that the office cap mechanism should be retained. The Committee considered that it remained a valid planning mechanism even in the absence of the indoor sports centre, because it allowed effects relating to mixed use and economic viability to be considered in the event that the proportion of total office space in 'Harbour Quays' exceeded the identified cap.

The Committee also considered that the office cap mechanism should be retained, given the proposal to provide additional building height for development sites fronting Waterloo Quay. This additional height meant a significant increase in the total floor area that could potentially be developed within the Port Redevelopment Precinct. The Committee was not comfortable that this additional floor area could be developed exclusively for office use, and noted that one

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of the primary drivers for providing the additional height was to increase the viability of providing residential units within the Port Redevelopment Precinct.

The Hearing Committee agreed with the submitter that the office cap should be set at 68,200 sq.m of net floor space, as per the agreement reached during discussions on the indoor sports centre. The Committee did not agree that the cap should be set at 73,500 sq.m on the basis that this was the maximum area of office development considered in the Kemp Report. The Committee noted that the Kemp Report made a number of observations in relation to the 'Harbour Quays' development, including the importance of providing for mixed use and the need to consolidate office uses at the southern end of the site, as close as possible to the existing CBD. If implemented, both these recommendations would impact on the total area of office space developed within the Port Redevelopment Precinct. The Committee therefore did not consider that the Kemp Report could be used as justification for setting a higher office cap.

Submission 42 requested that height in Harbour Quays (the Port Redevelopment Precinct) be proscribed by use. The submitter considered that an increase in height could promote mixed use of the area. This matter is discussed in more detail in section 3.94, where the Committee agreed that additional building height should be provided on sites fronting Waterloo Quay, south of Hinemoa Street, to promote mixed use, to increase the overall 'intensity' of the development, and to consolidate office activities as close as possible to the existing CBD.

As a result of these considerations the Committee agreed to make the following changes to Policy 12.2.4.1 and the provisions relating to the Port Redevelopment Precinct:

- Insertion of a cap on office space. This would help to ensure that Harbour Quays develops into a new high quality central city precinct, with a mixture of uses and high quality buildings and public spaces.
- Additional explanatory text and assessment criteria have been added to Policy 12.2.4.1 to guide the application of the office cap provisions.
- Amend heights, in conjunction with the proposed office cap, to encourage consolidation of new office space close to existing CBD and to encourage mixed use within the precinct. Additional text has been added to the masterplan requiring design excellence for any new buildings built above 27 metres (the previous maximum height limit).

### *Decision*

- **Accept** submissions 5, 13 and 68 insofar as they support policy 12.2.4.1
- **Reject** submission 13 insofar as it requests new provisions to consider views of the city from the harbour
- **Accept** submission 68 insofar as it requests clarification regarding public access to the waters edge in the Port Redevelopment Precinct
- **Accept** submissions 38, 76, 47 and 47A insofar as they request that Council install provisions to encourage mixed use in the Port Redevelopment Precinct
- **Reject** submissions 38, 76, 47 and 47A insofar as they seek to have the Port Redevelopment Precinct down-zoned to discourage further office development
- **Accept** submission 42 insofar as it requests additional height in the Port Redevelopment Precinct to encourage mixed use development within the precinct

### Policy 12.2.4.2 to 12.2.4.4 – Pipitea Precinct

Specific issues raised in submissions include:

- The Civic Trust has for some time been concerned about this "gateway" entrance to the city (Pipitea Precinct). That District Plan provisions for the Pipitea Precinct should ensure that future development does not compromise the functional viability of the rail link to the

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CBD. In other words rail land should not be reduced to the point where it precludes further growth in traffic through the rail corridor (submission 13).

- Not only should all office development in this very remote “Pipitea Precinct” require consent and economic impact reports, office construction in this precinct should be prohibited unless:
  - (i) It is an accessory to a much greater use within the particular use being developed on any site within the precinct.
  - (ii) The floor plate size is greater than any site can accommodate within the CBD; i.e. the requirement must be for a special purpose building.
  - (iii) The "use" or "user" is not a "natural" CBD use or user who would otherwise be located within the CBD if this new precinct was not available.

The City Council should give preference to large scale uses including bulk retail which cannot otherwise be accommodated in the CBD because of the relatively small lot sizes and cost of amalgamating large inner-city sites which prohibit some developments (submission 38).

- Modify the Plan, including the Planning Maps, to exclude the land north of Pipitea Street and the Pipitea Precinct (and such other areas as may be appropriate) from the Central Area Zone. These areas should be rezoned to new or existing zones to protect the compact nature of the CBD, and to recognise the area’s specific resource management issues, with any necessary changes to objectives, policies, methods and other provisions in the Plan (submission 65).
- The City Council should look to accommodate larger scale retail units in the new Pipitea Precinct as the CBD is unable to satisfy such land requirements at present. The area should not be viewed as "overspill" for the Harbour Quays development (submission 47 and 47A).
- In policy 12.2.4.2, refer to the "future integrated development" of the Pipitea Precinct (submission 49).
- In policy 12.2.4.2 and methods below, refer to "masterplanning", as a process, rather than "masterplan" as an object (submission 49).
- In the explanation below policy 12.2.4.2, second paragraph, add "most of" before "the operational port area" (submission 49).
- Add an additional paragraph of explanation following the second paragraph, that explains the extent of the master planning necessary to accompany an application (draft wording supplied) (submission 49).
- The Council needs to play a very strong role in ensuring the planning requirements for the Pipitea Precinct consider all the economic effects on the city and appropriate height restrictions be applied to this location (submission 76).
- The submitter supports the policies and rules for the Pipitea Precinct (12.2.4.2-12.2.4.4) in relation to the key transportation links desired between these areas and the central city (submission 68).

### *Discussion:*

The Pipitea Precinct covers the port and rail land located to the north of the CBD. While this land is currently used for rail and port activities, there is the potential that significant areas of land could become available for other uses in the future. New provisions have been included in DPC 48 to help manage future development of this land in the medium to long term.

The studies commissioned by Council in response to the “Harbour Quays” business park proposal informed the preparation of DPC 48. The studies noted that ideally new development should consolidate and intensify in and around the edge of the existing CBD to ensure the current benefits of a compact city centre are retained. The Pipitea Precinct is located some distance to the north of the core CBD and the Golden Mile. While it is difficult to predict future development trends within the Pipitea Precinct, it has been identified that its use for large scale office or retail activity could compromise the existing compact nature of the CBD. Accordingly, under DPC 48 within the Pipitea Precinct the development of office and retail

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activities requires consent as a Discretionary Activity (Unrestricted). Any proposal will be required to supply a masterplan for the area and demonstrate that in economic terms the proposal is complementary to, and not detrimental to the existing CBD and Golden Mile. Core rail and port activities will continue to be Permitted Activities within the Precinct.

Submission 13 was concerned that the redevelopment of Pipitea Precinct should not compromise the area's role as a key public transport corridor, particularly rail transport. The Hearing Committee agreed that any future development of the area should consider that area's role as a public transport corridor and this matter is addressed in the Pipitea Precinct Design Guide which will guide any future master-planning and development of the precinct.

Submission 38 considered that the proposed Pipitea Precinct rules should be strengthened to prohibit all office uses unless they can demonstrate that:

- (i) It is an accessory to a much greater use within the particular use being developed on any site within the precinct.
- (ii) The floor plate size is greater than any site can accommodate within the CBD; i.e. the requirement must be for a special purpose building.
- (iii) The "use" or "user" is not a "natural" CBD use or user who would otherwise be located within the CBD if this new precinct was not available.

Policy 12.2.4.4 contains assessment matters for any office or retail proposal within the Pipitea Precinct. These are:

*Any proposal to develop the Pipitea Precinct for office or retail activities will be expected to demonstrate that it will promote and enhance the overall vitality and viability of the Central Area. This will require an economic analysis of the activity, giving particular consideration to:*

- *the quantitative need for additional floor space for specific types of office and retail activities and evidence that this need cannot be met in the established part of the Central Area*
- *how the activity supports improving overall economic productivity of the Central Area*
- *how the activity supports an efficient use of resources and a compact Central Area*
- *promotes accessibility and sustainable transport choices, including reducing the need to travel and providing alternatives to car use*
- *the co-location of a range of activities and its relationship to public investment in infrastructure and public spaces*

The Hearing Committee considered that this assessment is sufficient to ensure that any future development within the Precinct enhances the overall vitality and viability of the Central Area. The suggested prohibition on certain office activities was considered to be unduly restrictive, and difficult to justify under Part II of the Resource Management Act.

Submission 65 requested that a new zone be created to cover the land north of Pipitea Street. The submitter was concerned that retaining the Central Area zoning for the land would compromise the goal of retaining the compact form of the central city. In response the Hearing Committee noted that there is no alternate zone currently in the District Plan that would be appropriate for this area. A residential zone would not sit well with the existing rail and port activities in the area. A Suburban Centre zone would permit the same range of activities as the Central Area zone. In reality the Committee considered that the proposed Pipitea Precinct will actually operate as a separate 'zone'. Within the precinct any significant office or retail development requires resource consent and must demonstrate that it will complement the existing Central Area. If Council installed a separate 'zone' to cover this area and required consent for the establishment of core CBD activities, then it is considered that the consent assessment would cover exactly the same issues that are provided for by the rules that cover the proposed Pipitea Precinct. Accordingly the Committee considered that the current Pipitea Precinct overlay and associated rules should be retained in favour of creating a new zone for the area.

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Submissions 47 and 47A suggested that Pipitea Precinct be used to house large format retail activities, as these cannot currently be easily accommodated in the central city. While the Committee agreed that there is probably some scope to house large format retail in the precinct, they considered that this needs to be carefully considered to ensure that it does not compromise the character and viability of the Golden Mile, and other established retail areas within the central city. The proposed rule structure for the Pipitea Precinct does not prohibit large format retailing, but does require that any proposal to establish such an activity should first demonstrate that the proposal can complement the vitality and viability of the existing central city. The Committee considered that the proposed rule structure is appropriate for managing future re-development within the Pipitea Precinct.

Submission 49 requested a number of minor changes to the wording and explanatory text of policy 12.2.4.2. The Committee agreed that these changes should be implemented as they improve the clarity of the policy. The submission also requested that additional text be added to the explanation of the policy to clarify extent of master-planning required. The Committee agreed that the following text should be included in the explanation to the policy:

*When considering the development of a master-plan to accompany the application, an applicant shall consult with Council officers to determine the physical extent of the area for which the master-planning is to be undertaken. In general, the area to be planned should be of sufficient extent to provide future context of the proposal in terms of pedestrian and vehicle access (and circulation), and nearby building forms and open space, and should integrate, if appropriate, with any other master-planning previously undertaken in the area.*

The support of submissions 76 and 68 was accepted.

### *Decision*

- **Accept** submission 13 insofar as it identifies the importance of the Pipitea Precinct as a key transport corridor
- **Reject** submission 38 insofar as it requests further restrictions be placed on the development of offices in the Pipitea Precinct
- **Reject** submission 65 insofar as it requests that a new zone be established to cover the land north of Pipitea Street and the Pipitea Precinct
- **Reject** submissions 47 and 47A insofar as the requests seek that the District Plan be amended to encourage large format retailing in the Pipitea Precinct
- **Accept** submission 49 insofar as they seek a number of amendments to the text of Policy 12.2.4.2
- **Accept** submissions 76 and 68 insofar as the support the policies relating to the Pipitea Precinct

### Policy 12.2.4.5 – Te Aro Corridor

Specific issues raised in submissions include:

- The submitter supports the policies and rules for the Te Aro Corridor (12.2.4.5) in relation to the key transportation links desired between these areas and the central city (submission 68).
- The NZHPT supports policy 12.2.4.5 and the guidelines for the National War Memorial Area (submission 72).
- The Ministry for Culture and Heritage seeks to ensure that any potential development of the proposed National War Memorial Park on land to the north of the National War Memorial on Buckle Street is reflected by DPC 48. The submitter requests that the proposed Park be reflected in policy 12.2.4.5 (submission 39).

### *Discussion*

The support of submissions 68 and 72 is noted and accepted.

Submission 39 requested that Policy 12.2.4.5 be amended to reflect and support the development of the proposed National War Memorial Park, on land north of the Carillon, to ensure that this significant open space area is developed for the benefit of all New Zealanders. The Hearing Committee agreed that the proposed park will be an important development along the bypass corridor, and for the City (and nation) as a whole. It considered that the following text should be added to Policy 12.2.4.5 to recognise the significance of the proposed park:

*There are also a variety of public spaces along the edge of the bypass that help to incorporate the new corridor into the existing urban environment, and which provide a range of experiences to motorists and pedestrians visiting and moving through the area. The most significant of these open spaces is the National War Memorial Park proposed to be developed to the north of the Carillon and National War Memorial. This park will serve both the City and the country by enhancing the setting of the memorial and providing a venue for public services and gatherings.*

### *Decision*

- **Accept** submissions 68 and 72 insofar as they support Policy 12.2.4.5
- **Accept** submissions 39 insofar as they request additional text in Policy 12.2.4.5 to reflect the proposed National War Memorial Park

### **3.8 Objective 12.2.5 - Effects of New Building Works.**

Specific issues raised in submissions include:

- The submitter seeks that objective 12.2.5 (and subsequent policies) be redrafted with the intent of encouraging new buildings in the Central Area, including within heritage areas (draft wording supplied) (submission 16).
- Alter the wording of Objective 12.2.5 to more closely reflect the wording of Objective 12.2.2 so that Objective 12.2.5 is encouraging of new building works, provided that adverse effects are avoided, remedied or mitigated, and to include an explanation that performance standards will be applied to control potential adverse effects of activities (submission 54).
- The NZHPT supports Objective 12.2.5 (submission 72).
- That objective 12.2.5 is adopted (submission 90).
- The submitter supports the overall philosophy of District Plan Change 48. Amend the narrative in objective 12.2.5 of the District Plan to be more explicitly about the heritage area expectations (submission 44).

### *Discussion*

This objective relates to the management of effects generated by new building works. It is currently worded as follows:

**12.2.5 To ensure that the potential adverse environmental effects of new building works are avoided, remedied or mitigated.**

Submissions 16 and 54 requested that the wording of the policy be amended to encourage and enable the development of new buildings, provided that adverse effects can be adequately managed. The Hearing Committee agreed that the objective should be worded in an enabling manner, as this would recognise the positive effects that new buildings can have on the quality and vibrancy of the central city. Submission 16 suggested the following wording:

*To facilitate the economic sustainability, vibrancy, intensity and dynamism of the Central Area by enabling significant new building works and managing the effects of building work that exceeds permitted activity building standards.*

While the intent of the suggested objective is generally supported, the Committee considered that the proposed wording should not be adopted. Specifically the second half of the proposed wording would be contrary to the methods adopted in the District Plan to manage the effects of

new buildings work. The suggested wording says that Council will only manage the effects of building works that exceed the standards in the District Plan, but there are instances in the District Plan where a building built in accordance with certain standards can have significant adverse effects; wind effects being the most common example. It is considered that the suggested wording could therefore cause confusion. As an alternative the Hearing Committee considered that Objective 12.2.5 should be amended as follows:

**12.2.5 Encourage the development of new buildings within the Central Area provided that any potential adverse effects can be avoided, remedied or mitigated.**

The support of submissions 44, 72 and 90 is accepted insofar as they continue to support the proposed amended wording.

*Decision*

- **Accept** submissions 16 and 54 insofar as they request that the wording of Objective 12.2.5 be amended to encourage new building works
- **Accept** submissions 44, 72 and 90 insofar as they support Objective 12.2.5, subject to the proposed changes

Policy 12.2.5.1 – Building Height

Specific issues raised in submissions include:

- DFL opposes the inclusion of Optimisation House (1-13 Grey St) in the proposed Post Office Square Heritage Area and opposes the excessively restrictive heritage area provisions. Remove Optimisation house (1-13 Grey Street) from the proposed Post Office Square Heritage area. Failing the removal of Optimisation House from the Post Office Square Heritage Area, amend Policy 12.2.5.1 by:
  - (a) deleting the second bullet point and replacing with: "Achieve appropriate building height and mass within identified heritage and character areas".
  - (b) amend the explanatory statement to acknowledge that significant economic benefits/positive effects can and do accrue from Central Area buildings built in accordance with the 'high city' building heights presently included in the Operative District Plan; and that a balance should be achieved, particularly where non-heritage buildings are concerned, between encouraging on-going economic sustainability and management of identified heritage resources (submission 10).
- The submitter seeks a number of changes to policy 12.2.5.1 with the intent of enabling new buildings within heritage areas (draft wording supplied) (submission 16).
- Delete explanatory text to policy 12.2.5.1 regarding height control in heritage areas. New text also suggested for this topic (wording supplied) (submission 45).
- An expert panel should be constituted to consider requests for all use of discretion, not WCC personnel who need to focus on reports to that expert panel for consideration. This should remove much of the heat which a Council Planning Officer might engender (submission 38).
- To ensure that most buildings have a visual connection to the harbour and maximum sunlight, I request that the following statement be added to policy 12.2.5.1: "maintain where ever practical the setting of height limits in stages from low at the water's edge and becoming higher in stages, moving back towards the central area boundaries" (submission 62).
- The NZHPT supports Policy 12.2.5.1 (submission 72).
- That policy 12.2.5.1 is adopted (submission 90).
- The submitter supports the overall philosophy of District Plan Change 48. Amend the narrative in policy 12.2.5.1 of the District Plan to be more explicitly about the heritage area expectations (submission 44).

### *Discussion*

Policy 12.2.5.1 is intended to guide the height of new buildings in the Central Area. It is currently worded as follows:

#### **12.2.5.1 Manage building height in the Central Area in order to:**

- **reinforce the high city/low city urban form, and**
- **maintain the built form and scale of identified heritage and character areas.**

Submissions 10 and 16 requested that the second bullet point be deleted and replaced with the following text

- *achieve appropriate building height and mass within identified heritage and character areas.*

Submissions 10, 16 and 45 also requested that the explanatory text to Policy 12.2.5.1 be amended in relation to building heights in heritage areas, to provide greater flexibility when developing new buildings within heritage areas and to acknowledge the economic benefits and positive effects that can accrue through the development of new buildings. Submission 16 suggested the following wording:

*'The Council acknowledges that building height and mass is a key factor in giving Wellington a 'big city feel' and facilitating economic sustainability, vibrancy, intensity, and dynamism within the Central Area. These are significant positive benefits. On the other hand, some management of building height and mass is desirable, particularly within identified heritage areas to assist with the protection of existing heritage buildings and manage effects of new building work on the collective value of the heritage resource. Accordingly the Council's approach is to carefully assess and optimise the positive benefits and negative effects of building height and mass beyond 'threshold' levels.*

Submission 16 requests that Council delete paragraphs 4, 5 and 6 and replace them with the following text:

*Within identified heritage areas, the Council seeks to protect existing heritage listed buildings by limiting the maximum building height, to the height of the existing listed building.*

*For additions to existing non-heritage buildings within heritage areas, and new buildings (the demolition of existing non-heritage buildings within heritage areas is permitted provided an appropriate replacement building is proposed), the height standards in 13.6.3.1.6 provide 'thresholds' that area set to trigger the need for resource consent. These thresholds are not absolute limits and additional height and associated mass may be appropriate in site specific situations.*

*Applications to exceed the height thresholds within a heritage area will therefore be considered on a site specific basis as a Discretionary Activity (Restricted). This will provide the Council with the ability to manage building height and mass so that an optimal balance is achieved between the positive benefits that are associated with the additional height and mass, and the effects on the identified heritage resource. The Council will assess whether the proposed height and mass provides for appropriate transition or complementary contrast between heritage and non-heritage areas and/or buildings to achieve desirable prominence (i.e. accentuating corner sites), or whether consistency with the existing height of relevant buildings within the heritage areas would be more appropriate. In this way, the Council will seek to manage the effects of additions to, or replacement of, non-heritage buildings within heritage areas.*

*The environmental result will be building development that reinforces the city's general urban form, facilitates economic activity, and is appropriate within identified heritage and character areas.*

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Submission 45 requested that the existing text referring to heritage areas in policy 12.5.2.1 be replaced with the following text:

*The building mass and form will be required to respond to and address the identified heritage buildings, while recognising that variation in height, scale and mass can enhance heritage buildings and values.*

The issue of managing building heights in heritage areas is considered in more detail in section 3.48. In summary the Hearing Committee considered that the heritage areas in the DPC 48 were important urban environments worthy of special consideration. However the Committee considered that the management regime put forward in DPC 48 was relatively inflexible and did not strike the right balance between retaining character and heritage values, and providing for the on-going use and development of properties within these areas. The Hearing Committee considered that the focus within heritage areas should be on achieving high quality buildings that were respectful of their context, rather than requiring rigid adherence to specific height limits. The Committee considered that the explanatory text of policy 12.2.5.1 should be amended to articulate the revised approach, and to provide additional guidance as to how height issues will be assessed within heritage areas.

Submission 38 requested that an expert panel be constituted to consider requests to apply discretion in the Central Area. The Hearing Committee agreed that DPC 48 places a greater emphasis on achieving a high quality public environment and that this requires an urban design assessment of all new building works. The Committee also agreed that this process places a greater onus on Council to have clear, efficient and transparent processes for processing consent applications. However, it noted that in most situations, time constraints and financial costs preclude the use of an independent panel to consider resource consent applications. Work is currently underway within Council to establish a pool of urban design professionals that are available to undertake independent design reviews, so applicants can request that their application be considered by an independent party. The number of independent reviewers used would likely vary depending on the scale and nature of the proposal.

Submission 62 requested that additional text be added to the explanation of the policy to note that building heights have been lowered for sites closest to the harbour. The matter of building heights close to the harbour (raised by this submitter) is dealt with in greater detail in section 3.94. In that section the Committee concluded that the heights should not be reduced. Accordingly the suggested text has not been added to the explanation to Policy 12.2.5.1.

The support of submissions 44, 72 and 90 was noted and accepted, insofar as they agree with the proposed changes to the policy and the associated explanatory text.

### *Decision*

- **Accept** submissions 10 and 16 insofar as they request that the text in the second bullet point of policy 12.2.5.1 be amended
- **Accept in part** submissions 10, 16 and 45 insofar as they seek amendments to the explanatory text in policy
- **Accept** submission 38 insofar as it requests the Council provide scope for independent, expert assessment of development proposals
- **Reject** submission 62 insofar as it seeks amended text to acknowledge lower building heights between Courtenay Place and the waterfront
- **Accept** submissions 44, 72 and 90 insofar as they support proposed policy 12.2.5.1

### Policy 12.2.5.2 – Building Mass

Specific issues raised in submissions include:

- I support the changes relating to building mass (policy 12.2.5.2) (submission 24).

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- Insert text to policy 12.2.5.2 to clarify how daylight effects are managed (submission 45).
- Delete references to heritage areas in policy 12.2.5.2 (submission 45).
- We strongly endorse the move towards a volume measurement rather than a building height maximum system, especially in conjunction with 75% site coverage and the definition for building mass where it excludes ESD initiatives (submission 48).
- Greater clarification should be provided as to when provision of rooftop features and atria might warrant consideration of an increase in building mass (submission 48).
- Add at the end of paragraph 5 of the explanation to policy 12.2.5.2, add the following text: "Similarly, the masterplan for the Port Redevelopment Precinct makes provision for building mass in a way that ensures that the effects of new building work are avoided. Therefore no building mass limits apply within this Precinct" (submission 49).
- The NZHPT supports Policy 12.2.5.2 (submission 72).
- I agree in principal with the proposals for height and mass, but would like some consideration to be given to developments that take place first that have to comply to the mass height ruling and not give unfair advantage to future developments (submission 76).
- Delete Policy 12.2.5.2 (building mass) or substantial amendment of the same to remove its incompatibility with section 5 of the Resource Management Act 1991 (submission 78).
- That policy 12.2.5.2 is adopted (submission 90).

### *Discussion*

The policy is currently worded as follows

**12.2.5.2     Manage building mass to ensure that the adverse effects of new building work are able to be avoided, remedied or mitigated on site.**

Submission 45 requested that additional text be added to the explanation of the policy to clarify how daylight effects will be managed. The suggested text was:

*Note that while access to daylight is required to be addressed by building design, access to direct sunlight is not an effect to be specifically considered except with respect to specifically identified public places (submission 45)*

The Hearing Committee agreed that the proposed text was useful in clarifying which effects the Council is seeking to manage through the building mass provision. It did however consider that the proposed text should be amended slightly to read:

*In relationship to building mass it is noted that while access to daylight is required to be addressed by building design, access to direct sunlight is not an effect to be specifically considered except with respect sunlight protection for identified public places under standard 13.6.3.4.*

Submission 45 also requested that the reference to heritage areas be deleted from policy 12.2.5.2. The Committee did not accept this submission as it considered that the text is considered important to explain why no mass standards are specified for each of the heritage areas.

Submission 48 sought greater clarification as to when the provision of rooftop features and atria might warrant consideration of an increase in building mass. The current explanatory text provides some guidance:

*Similarly the new provisions seek to encourage quality roof top features and avoid grossly utilitarian building tops. On most properly designed rooftops, there are significant volumes that contribute to the quality of the roofscape, and the design quality and coherence of the building, but which are inaccessible and have no lettable value. To encourage the development of high quality roof top features, they have been excluded from the definition of building mass.*

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*...It may also be appropriate to increase building bulk when a proposed development provides atria to increase amenity and protect access to light. This is particularly so when the enclosed atrium area is of high amenity and accessible to the public.*

The Committee considered that no additional text was required in relation to roof top features, because they are exempt from the calculation of building mass. In terms of atrium areas it considered that the explanatory text should be amended to clarify that it applies to atria that provide an amenity benefit to the public, rather than just to the occupants of the building. The Committee considered that to provide a significant public benefit the atria area must be of high quality and accessible to the public for the majority of the day. The explanatory text has been amended as follows:

*...It may also be appropriate to increase building bulk when a proposed development provides atria to increase amenity and protect access to light **or provides a publicly accessible through block link**. This is particularly so when the enclosed atrium area **or through block link** is of high amenity and is accessible to the public **for a minimum of 12 hours per day**.*

Submission 49 requested that additional text be added to the policy to note that the building mass provisions do not apply to the Port Redevelopment Precinct. The merits of applying the mass provision to the Precinct are discussed in detail in section 3.26 below. In that section the Committee decided that developments within the precinct that were in accordance with the masterplan could be considered without application of the building mass standard. However the Committee considered that building mass was a relevant consideration for any building proposal that was not consistent with the masterplan, or which was taller than 27 metres in height. The following additional explanatory text has been added to policy 12.2.5.2 to reflect this.

***Within the Port Redevelopment Precinct the building footprints provided for in the masterplan address matters of daylight retention, heritage and urban design. Accordingly the building mass provision does not apply to developments that comply with the masterplan and that are able to be considered under rule 13.2.3. Building mass is a relevant consideration for any development proposal within the Precinct that is not in accordance with the masterplan, or which exceeds 27 metres in height.***

Submission 76 supported the building mass provision in principal, but considered that developments that take place first should not be required to comply with the rules if this provides an unfair advantage to later developments. In response the Hearing Committee noted that the building mass provisions do not transfer additional benefits to later developments. This is noted in the explanatory text to the policy:

*It is important to note that the development of new buildings in the Central Area is not a case of 'first in, first served'. All new building works are expected to protect their own amenity by making suitable provision for on-going levels of daylight. New building works will not be permitted to rely on the under-development of adjacent sites as the source of their daylight access. Similarly, it is not intended that the building mass standards will be used to require new building works to set back from boundaries in order to preserve access to daylight for existing buildings on adjacent sites.*

While the Hearing Committee agreed in principle with the approach of all buildings being self-sufficient in terms of daylight, the Committee noted that the previous District Plan provisions had resulted in some apartment buildings with principle windows on or very near a shared boundary. While not wishing to install specific 'development protection' for these apartments, the Committee was of the opinion that it would be useful for any future development on neighbouring sites to consider design options that would allow the existing apartments to retain some level of daylight. The Committee considered that the following explanatory text should be added to policy 12.2.5.2 to cover this issue:

*...Similarly, it is not intended that the building mass standards will be used to require new building works to set back from boundaries in order to preserve access to daylight for existing buildings on adjacent sites. **However it is acknowledged that there are likely to be some***

situations where a development is proposed adjacent to an existing building that contains residential units with principal windows to habitable rooms located on (or very near) the common boundary. In this situation Council will work with the developer to explore whether the new building can be sited and massed in a manner that allows the neighbouring residential units to retain some degree of daylight and outlook.

Submission 78 requested that policy 12.2.5.2 be deleted, or substantially amended to remove its incompatibility with section 5 of the Act. The Hearing Committee did not consider that the proposed mass rule is inconsistent with section 5 of the RMA. The basic tenor of section 5 of the RMA is that District Plans should manage the development of natural and physical resource in a manner that enables people to provide for the social, economic and cultural wellbeing, provided that any adverse environmental effects can be avoided, remedied or mitigated.

While the current District Plan rules are achieving the efficient development of land and building resources in the central city, monitoring of the Central Area environment indicates that they have proven less effective at ensuring that adverse effects resulting from such development are avoided, remedied or mitigated. On that basis the Committee considered that the proposed building mass provision should be retained, as it will allow the potential adverse effects of new buildings to be more effectively managed. Accordingly policy 12.2.5.2 has been retained.

The support of policy 12.2.5.2 from submissions 24, 48, 72 and 90 was noted and accepted subject to the amendments proposed above.

### *Decision*

- **Accept** submission 45 insofar as it seeks clarification regarding building mass and the management of access to daylight
- **Reject** submission 45 insofar as it requests that the reference to heritage areas be deleted from policy 12.2.5.2
- **Accept** submission 48 insofar as it requests additional text clarifying increases in building mass in return for the provisions of public atria
- **Accept in part** submission 49 insofar as it requests that the building mass provisions not apply to the Port Redevelopment Precinct
- **Accept** submission 76 insofar as it supports the buildings mass provision
- **Reject** submission 78 insofar as it seeks the deletion or substantial re-wording of policy 12.2.5.2
- **Accept** submissions 24, 48, 72, and 90 insofar as they support policy 12.2.5.2

### Policy 12.2.5.3

Specific issues raised in submissions include:

- The NZHPT supports Policy 12.2.5.3 (submission 72).
- That policy 12.2.5.3 is adopted (submission 90).

### *Discussion*

Policy 12.2.5.3 notes that Council will manage building height in association with building mass to provide greater scope for new buildings to respect and respond to their context. Submission 72 and 90 support the proposed policy, and this support is accepted.

### *Decision*

- **Accept** submissions 72 and 90 insofar as they support policy 12.2.5.3

### Policy 12.2.5.4 – Over height buildings

Specific issues raised in submissions include:

- Supports policy 12.2.5.4 to a degree, but seeks changes to the bulk and location rules/mechanisms that flow from this policy (submission 45).
- The submitter does not support trade-offs that result in increased bulk, but reduced height; and opposes the proposal to increase height by up to 35% as a discretionary activity in the 'low city' or the provisions for new developments in the Lambton Harbour Area (submission 69).
- We are particularly concerned about the developer "carrot" that if the over height building "makes a positive contribution to its heritage neighbours" breaches of height will be approved. The council needs to encourage the idea of all buildings, regardless of height, making a positive contribution to the city (submission 48).
- We support the objective that over height buildings must "provide an urban design outcome that is beneficial to the public environment" (12.2.5.4), but we also consider that this needs to provide a positive public contribution to the city (e.g. high quality EDS, public amenity, public access) (submission 48).
- That the wording of policy 12.2.5.4 (building height above the standard specified) be amended as follows: "Any such additional height must be for clearly defined increased public amenity and should be restricted to a comparatively small increase above the permitted height limit" (submission 62).
- The NZHPT supports Policy 12.2.5.4 (submission 72).
- That policy 12.2.5.4 be amended to reflect concern: We are opposed to building breaching height limits set by the Plan even where the bulk of a building has been reduced. We believe these limits to be generally reasonable (except in a few cases) so believe there is no need for them to be breached in the first place (submission 90).

### *Discussion*

Policy 12.2.5.4 provides additional guidance as to when Council will support increases in building height above the maximum standard in the Central Area. When DPC 48 was being drafted there were a number of development proposals submitted to Council on sites adjacent to listed heritage items. The developments generally sought to maximise site coverage and build to the height limits specified in the District Plan, and resulted in very large buildings directly adjacent to a much smaller heritage building. The quality of the setting and context of the heritage building was significantly diminished as a result. The impact on the setting of the heritage building could have been much improved if the District Plan rules had provided scope to consider moving some of the mass of the proposed building away from the boundary shared with the heritage building, and relocating it above the permitted height limit elsewhere on the site. However, under the Operative District Plan the Council had limited scope to negotiate this outcome because the operative rules provide for up to 100% building mass 'as of right', and because discretionary height increases in the low city are capped at one storey (4.2 metres). Development above one additional storey becomes a Non-Complying Activity, with limit scope for consideration as a non-notified application.

To help ensure that Council has the appropriate planning tools to negotiate positive urban design and heritage outcomes in these situations, DPC 48 amended the standards for buildings and structures in the Central Area. In addition to the proposed building mass provision (discussed in section 3.49), the discretionary height thresholds in the 'low city' have been increased to 35% to match the existing 'high city' provisions.

While drafting DPC 48 it was identified that the proposal to increase the discretionary height threshold in the low city to 35% provided scope for the development of taller buildings. This is particularly so given that under the Operative District Plan provisions many property owners perceived discretionary height increases to be almost an entitlement. For this reason policy

12.2.5.4 was developed to clarify when Council would be likely to support proposals for increased building height.

**12.2.5.4 To allow building height above the specified height standards in situations where building height and bulk have been reduced elsewhere on the site to:**

- **provide an urban design outcome that is beneficial to the public environment, or**
- **reduce the impact of the proposed building on a listed heritage item**

**Any such additional height must be able to be treated in such a way that it represents an appropriate response to the characteristics of the site and the surrounding area.**

Submission 45 supported the proposed policy but had concerns that the rule structure that flows from it (particularly rule 13.3.8) did not provide scope to re-coup reduced building mass above the permitted height limit. The Committee noted that the submitter was referring to condition 13.3.8.14 which provided for increases in height, but not increases in mass. In this regard the Hearing Committee noted that 13.3.8.14 had been amended to provide for development that increases both height and mass by up to 15 percent, and that this may go some way to addressing the submitters concerns.

Submission 69 did not support trade-offs between mass and height that would result in larger or taller buildings. Submission 90 opposed breaches of height limits set by the plan and requested that policy 12.2.5.4 be deleted. Submission 90 considered that the height limits in the plan are reasonable and do not consider that they should be exceeded even where the bulk of the building has been reduced elsewhere on site. The proposed 35% discretionary height threshold is discussed in more detail in section 3.34 below. In that section the Hearing Committee concluded that the 35% threshold should be retained to allow Council to more effectively manage the effects of new buildings. The Committee also noted that strict adherence to absolute height limits in central Wellington was not practical. Given the variability in sites size and shape, and the variety of land uses within the Central Area, the Committee noted that overall uniformity of building height was unlikely to ever be achieved. The Committee considered that the focus should be on the delivery of high quality buildings that enhance the central city's overall urban environment and respond to its dramatic natural setting, rather than steadfastly seeking strict adherence to the height standards specified in the District Plan.

Submission 48 was concerned that policy 12.2.5.4 sends a message that only over height buildings need to make a positive contribution to the city. The submitter considered that all buildings should make a positive contribution to the city. The Committee agreed, and noted that policies 12.2.6.1 – 12.2.6.3 are targeted towards achieving high quality building design and ensuring that all new buildings in the Central Area enhance the public environment. Policy 12.2.6.2 in particular notes:

**12.2.6.2 Require high quality building design within the Central Area that acknowledges, and responds to, the context of the site and the surrounding environment.**

Submission 48 supported the objective that over height buildings must 'provide an urban design outcome that is beneficial to the public environment', but considered that they should also provide a positive public contribution to the city through high quality EDS, public amenity, public access etc.

Submission 62 requested that policy 12.2.5.4 be amended as follows:

*'Any such additional height must be for clearly defined increased public amenity and should be restricted to a comparatively small increase above the permitted height'*

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In response to these submissions the Committee agreed that the first bullet point in the policy could be clarified further. In particular additional guidance should be added regarding what constitutes an 'urban design outcome that is beneficial to the public environment'. The explanatory text to the policy has been amended as follows:

*In situations where building height and building mass are reduced to achieve a positive heritage or urban design outcome, the Council will consider applications for consent to provide additional building height elsewhere on the site. For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:*

- provision of sunlight to an identified public space, or any public space of prominence or space where people regularly congregate
- provision of a publicly accessible through block link
- provision of high quality, public open space
- retention of an identified view shaft

The Any additional building height must be able to be treated in such a way that it maintains the integrity of the buildings design, and respects the characteristics of the site and the surrounding area.

The request by submission 62 to limit any increase to only a small amount above the permitted height was not accepted by the Committee. The Committee considered that the scale of any increase should be assessed on a site by site basis with reference to the site context, and at times this may involve building to the upper limit of the 35% discretionary threshold.

Submission 75 supported the proposed policy and this support has been noted and accepted.

### *Decision*

- **Accept** submission 45 insofar as it generally supports policy 12.2.5.4
- **Reject** submission 69 and 90 insofar as they seek to have policy 12.2.5.4 deleted
- **Accept** submission 48 insofar as it supports all new buildings making a positive contribution to the city.
- **Accept** submission 48 and 62 insofar as they request greater clarity as to what constitutes an publicly beneficial urban design outcome
- **Reject** submission 62 insofar as it requests that any increase in height be capped to include only a small amount above the permitted height.
- **Accept** submission 75 insofar as it supports the proposed policy

### Policy 12.2.5.5

Specific issues raised in submissions include:

- That new buildings should make a positive public contribution to the city (e.g. high quality EDS, public amenity, public access) needs to be strongly stated in 12.2.5.5 and this should be prioritised over a generic notion of "design excellence". The submitter believes that high qualities of external appearance, contribution to streetscape, good massing and public interface should be normal expectations for buildings in Wellington city. The term 'design excellence' is also vague and potentially subject to abuse (submission 48).
- Delete the second sentence in the second paragraph of explanation under policy 12.2.5.5, as there may be circumstances where an over height building in the low city is appropriate (submission 49).
- Modify the Plan, including the Design Guide, to support and enable tall landmark buildings within the 'high' part of the Central Area in order to maximise the efficient use of space and other resources (submission 65).
- Deletion of Policy 12.2.5.5 (design excellence for over height buildings) (submission 78).

- That the policy 12.2.5.5 be amended to reflect concern: Given that the submitter is opposed to buildings breaching height limits they do not see any need for this provision. Submitter requests that the policy be deleted (submission 90).

### *Discussion*

Policy 12.2.5.5 requires that over height buildings display design excellence. During consultation on DPC 48, it was identified that a significantly over-height building within the Central Area could enhance this city's urban form if the building displayed outstanding design. The Operative District Plan policies do not provide any guidance as to when an exceptionally tall building might be appropriately located in the Central Area. In drafting DPC 48 attempts were made to clarify this situation through policy, as it is considered that Wellington could be enhanced by exceptionally tall buildings, provided they are appropriately located and of outstanding architectural quality.

Quantifying these issues in a District Plan policy proved more difficult. When DPC 48 was being drafted it contained a policy to 'Encourage the development of landmark buildings in the Central Area'. However the policy was removed because officers found it impossible to clearly articulate what constituted a landmark or iconic building. Instead policy 12.2.5.5 was drafted to clarify that design excellence would be required for any building that exceeded the height standards in the plan.

#### **12.2.5.5 Require design excellence for any building that is higher than the height standard specified for the Central Area.**

Submission 48 has requested that policy 12.2.5.5 be amended to better quantify what is anticipated in terms of 'design excellence'. The submission considers that the concept of 'design excellence' is vague and potentially open to abuse.

Submission 65 (The Property Council of NZ) considered that the Council should support the development of tall landmark buildings in the core CBD.

Submission 49 requested that the second sentence of second paragraph of explanatory text be deleted, on the grounds that tall buildings could be appropriate on sites outside the high city. The paragraph in question reads:

*Additional building height increases the visibility and prominence of the building, with very tall buildings likely to be defining elements on the City's skyline for years to come. As a rule they are more appropriately located in the high city where they would reinforce the high city/low city urban form. Done well these buildings can become landmarks, adding interest to and enhancing the overall cityscape. To ensure that over height buildings visually enhance the cityscape of the Central Area, the Council will require that they display design excellence.*

In considering submissions 48, 65 and 49 the Hearing Committee considered that there were two separate issues relating to tall buildings in the Central Area. The first relates to the potential development of exceptionally tall building(s) in excess of 130 metres. The Hearing Committee considered that the District Plan should provide scope to consider such applications, but noted that developing an exceptionally tall building would bring with it certain responsibilities. Such a building would become a landmark feature in the Wellington skyline, and a prominent feature in all future images of the city. As such the building should be truly outstanding and display a quality of design that befitted its status as one of the most visible buildings in Central Wellington.

DPC 48 noted that the core CBD was the logical location for such a building as the additional height would contribute to consolidation of the central city, and also reinforce the high city/low city urban form. Submission 49 considered that the reference to the core CBD should be deleted, to allow tall buildings to be erected throughout the Central Area. This is not supported

for the reasons given above. It is noted that the text in the policy states that as a rule tall buildings *'are more appropriately located in the high city'*, and that this text does not preclude consideration of exceptionally tall buildings in other locations. Submission 49 (CentrePort) considered that there may be scope to develop an 'exceptionally' tall landmark building within the Port Redevelopment Precinct. The officer's report noted that such a building may be appropriate in this location, acting as a 'gateway' marker to the Central Area, but that its resulting visibility would mean that the design would have to be truly outstanding. The officer's report recommended that in relation to this issue, the following text be added to the masterplan for the Port Redevelopment Precinct:

### **3.0 Design Excellence**

The redevelopment of this part of the port provides an opportunity to achieve new buildings and urban design of the highest quality. The Masterplan provides overall direction to the future urban structure of this area, however the placement and design of individual buildings and the spaces around them will also be critical to achieving a high quality and successful new city precinct. All new buildings will be designed to achieve high quality design.

The Port Redevelopment Precinct may also be suitable for one or more landmark buildings that celebrate this important northern gateway into the City and its waterfront location. Additional building height will increase the visibility and prominence of a building across a much wider area, particularly as viewed from the harbour. Any such proposals should demonstrate design excellence. The use of a design competition process may be one method of achieving the required level of design.

At the hearing CentrePort noted that an exceptionally tall building in the Port Redevelopment Precinct would require consent as a Non-Complying Activity. CentrePort expressed concern that the inclusion of text in the masterplan only, would not carry sufficient weight to allow a consent application to meet the statutory 'gateway' test contained in section 104D of the RMA. They requested that policy 12.2.5.5 be amended to allow for the possibility of an exceptionally tall building to be located outside of the 'high city'.

In their evidence to the hearing the Property Council reiterated that they supported the possibility of developing an over height landmark building in the high city as it would reinforce the intensification of the area and support the vibrancy of the CBD. The Property Council was opposed to such a building being located in the port area on the basis that it would undermine the 'high city/low city' urban form intended by the plan. The submitter considered that any proposal to develop a landmark building on port land would be better assessed by way of a plan change than a resource consent application.

While accepting that an exceptionally tall building would probably sit most comfortably within the high city, the Hearing Committee agreed that policy 12.2.5.5 should provide scope to consider buildings elsewhere in the Central Area. While acknowledging the concerns raised by the Property Council, the Hearing Committee considered that the development of an exceptionally tall building would require resource consent as a Non-Complying Activity, and that any such consent would require public notification. The Committee considered that the notified resource consent process would allow for a similar level of public involvement and scrutiny as the plan change process, and was sufficient to allow all of the potential effects of the proposal to be assessed and debated. Accordingly the Committee amended the second paragraph of policy 12.2.5.5 to acknowledge that a building built beyond the Discretionary Activity thresholds in the District Plan may be appropriate outside of the 'high city':

An exceptionally tall building would be a defining element on the City's skyline for years to come. ~~As a rule such buildings are more~~ Such buildings may be appropriately located in the high city where they would enhance the compact nature of the Central city, and reinforce the high city/low city urban form. Done well these buildings can become landmarks, adding interest to and enhancing the overall cityscape.

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The Committee also recognised that there was a second scenario in which the issue of design excellence was very relevant. This relates to buildings that are not exceptionally tall in the city-wide context, but which are tall in relationship to the surrounding neighbourhood and adjacent buildings. Though not 'exceptionally' tall, these buildings can still have a significant impact on the character of the local environment due to their high visibility and dominant built form. As such they deserve careful consideration, and should display a quality of design that corresponds appropriately to their relative visibility.

The Committee considered that Policy 12.2.5.5 should be amended as follows to better clarify what is intended by the term design excellence, and when it would be required:

*As all buildings contribute to the character and public environment of central Wellington, design quality is a fundamental consideration in the assessment of any development application (see also policy 12.2.6.2). The issue of design quality is even more important for buildings of unusual height or bulk, which due to their size, height and massing can have a significant impact on the city, both at street level and from a distance. To ensure that over height buildings visually enhance the cityscape of the Central Area, the Council will require that they display design excellence.*

*When processing a consent application for an over-height building, Council will consider both the scale of the proposed height increase and the height of the resulting building in relation to its surroundings. While all buildings in the Central Area must be of sufficient design quality that they make a positive contribution to the urban environment, the requirement to deliver design excellence applies particularly to proposals that will result in a building that is significantly higher than the surrounding built form.*

*There are two likely scenarios regarding the development of significantly over height buildings in the Central Area. The first is a building of exceptional height in comparison to every other building in the city (i.e. in excess of 130 metres in height). The second is a building that is very tall in relation to the scale of surrounding properties. Both scenarios are likely to result in a highly visible, prominent building.*

*An exceptionally tall building would be a defining element on the City's skyline for years to come. As a rule such buildings are more appropriately located in the high city where they would enhance the compact nature of the Central city, and reinforce the high city/low city urban form. Done well these buildings can become landmarks, adding interest to and enhancing the overall cityscape. Developing an exceptionally tall building would bring with it certain responsibilities. Such a building would become a landmark feature in the Wellington skyline, and a prominent feature in all future images of the city. As such the building should be truly iconic and display a quality of design that befits its status as being one of, if not the most visible building in Central Wellington.*

*Design excellence is also required for buildings that are tall in relationship to the surrounding neighbourhood. Though not 'exceptionally' tall, these buildings can still be highly visible and have a significant impact on the character of the surrounding neighbourhood. As such they require careful consideration, and should display a quality of design that corresponds appropriately to their relative visibility.*

*The environmental result will be excellence in the design of any building that exceeds the height standards specified in the District Plan.*

Submission 48 was concerned that policy 12.2.5.5 sent the message that quality design is only required for buildings that are over height. The submission noted that all Central Area buildings should feature high quality external appearance, good massing, make a positive contribution to streetscape, and maintain a positive public interface. In response the Committee noted that Central Area policies 12.2.6.1 – 12.2.6.3 are targeted towards achieving high quality building

design and ensuring that all new buildings in the Central Area enhance the public environment. Policy 12.2.6.2 in particular notes:

**12.2.6.2 Require high quality building design within the Central Area that acknowledges, and responds to, the context of the site and the surrounding environment.**

The Committee did however consider that it was worth reiterating in Policy 12.2.5.5 that all buildings in the Central Area need to be of sufficient design quality that they make a positive contribution to the urban environment. Wording to this effect has been added to the explanatory text of Policy 12.2.5.5.

Submissions 78 and 90 requested that policy 12.2.5.5 be deleted. Submission 78 did not indicate why the policy should be deleted. Submission 90 argued that the policy should be deleted because there should be no provision for height increases above the standards specified in the District Plan. These submissions were not supported by the Committee, which noted that deleting the policy would not stop applications being made for over height buildings and structures. The Committee considered that it was important that the District Plan contain clear policies that help to ensure that when over height buildings are proposed, they are undertaken in a manner that ensures that they have a positive impact on the public environment of the Central Area.

### *Decision*

- **Accept** submission 48 insofar as it requests clarification as to what constitutes design excellence
- **Accept in part** submission 49 insofar as it requests that the policy be amended to acknowledge the possibility of locating landmark buildings outside the ‘high city’.
- **Accept** submission 65 regarding the promotion of taller buildings in the high city
- **Reject** submissions 78 and 90 insofar as they request that policy 12.2.5.5 be deleted

### Policies 12.2.5.6 to 12.2.5.9 - Wind

Specific issues raised in submissions include:

- That policy 12.2.5.6, 12.2.5.7, 12.2.5.8, 12.2.5.9 are adopted (submission 90).
- We support the initiatives for the revised wind rules (submission 48).
- Deletion of Policy 12.2.5.6, 12.2.5.7, 12.2.5.8, 12.2.5.9 (wind) and the italicised text that follows (submission 78).
- While CentrePort (submission 49) does not oppose the policies as a whole, some amendments are required to the wording of the policies and explanatory text:
  - In policy 12.2.5.6 change the last word to "practicable".
  - Delete the words "are enforced to" in the third paragraph of the explanation
  - Modify the wording of the wind policies (12.2.5.6 to 12.2.5.9) and explanation as follows: Add at the end of policy 12.2.5.9 "or are provided in public space adjacent to it".
  - In paragraph 6 of the explanation, add between the words in brackets "and", the words "or are adjacent to it".
  - Change the wording of the final sentence of this paragraph to say "development may not be an appropriate response" (submission 49).
- Seeks the deletion of explanatory text in policy 12.2.5.9 relating to free standing wind mitigation measures (submission 45).

### *Discussion*

Rules to manage the effects of tall buildings on the pedestrian wind environment have been included in the Plan since the early 1980s, in recognition of the role that good building design can have in improving Wellington's naturally windy environment for pedestrians.

It is acknowledged that the Council has adopted rules designed to address the severity of the issue in order to seek an improvement to the wind environment, rather than just ensuring it does not deteriorate further. The Committee considered that this approach to managing the wind environment has long been a feature of the Plan, and so the idea that because the city is very windy the policies (and rules) should be more lenient because of Wellington's windy nature is inappropriate. Furthermore, having established that rules are to be included in the Plan to guide the assessment of a buildings effect on the environment, it is critical that policies are in place to direct how the rules will be applied to achieve the overall objective of the Plan. As a result the Committee decided it was not appropriate to delete the wind policies as proposed by submitter 78. Submissions 48 and 90 are upheld accordingly, subject to the following proposed amendments.

CentrePort (submission 49) sought two general wording amendments to Policy 12.2.5.6 and the explanatory text (refer to first two bullet points outlined above). The Committee agreed with Officers that these changes provided helpful clarification (new text underlined, deleted text stuck out):

*12.2.5.6 Ensure that buildings are designed to avoid, remedy or mitigate the wind problems that they create and where existing wind conditions are dangerous, ensure new development improves the wind environment as far as reasonably practicable ~~possible~~.*

*The Wind rules seek ~~are enforced~~ to encourage a safe and pleasant environment by decreasing the worst effects of wind. That is, a development should not make the existing wind environment dangerous or significantly worse for pedestrians.*

Submissions 45 and 49 sought amendments to the way the policy's explanatory text refers to free standing wind mitigation structures in the public environment. Submission 49 considered that such structures are appropriate in the public space and therefore should not be restricted by the policy, while submission 45 sought to ensure the council initiated weather shelter structures (usually located in the public environment and not related to any one development) are not prevented by this policy. CentrePort (submitter 49) was the only submitter to speak directly to the Hearings Committee regarding their concerns over the proposed wind policies, but specifically the reference to free standing structures being undesirable in public spaces.

The Committee considered that it was appropriate to discourage the use of public space areas to mitigate the effects of private development, but notes the particular concerns of CentrePort and agrees that the wording of the text could be amended. The Committee is however keen to ensure that developments are designed to do whatever is necessary to mitigate the wind effects within the development site first; and that use of the public environment for free-standing wind mitigation structures only occurs in exceptional circumstances. The Committee noted that the Council does have other mechanisms at its disposal to restrict or better manage the placement of structures in the public environment that it manages (ie. the encroachment process). It is considered that the revised wording also acts to clarify the concerns raised by submission 45.

*Council will look more favourably on ~~seeks to encourage~~ mitigation measures that are contained within the development site and (including measures that are integrated in-with the building design, ie. breezeways, setbacks, verandahs. These mitigation measures will also need to be ~~and~~ ~~are~~ appropriate from an urban design and heritage perspective. The Council will manage concerns about the proposed siting of free-standing wind mitigation structures resulting from a private development (ie. vertical glass upstands) in Council-owned public spaces through its*

~~**encroachment licence process.** *Locating free-standing wind mitigation structures in public spaces to mitigate the adverse effects of a private development is not an appropriate solution.*~~

### *Decision*

- **Reject** submissions 78 that seeks to delete policies 12.2.5.6-12.2.5.9 and their explanatory text.
- **Accept** submissions 90, 48 that support policies 12.2.5.6-12.2.5.9 and their explanatory text, subject to the amendments outlined below.
- **Accept** submission 48 in respect of two suggested wording changes, as outlined below:
  - **Amend** policy 12.2.5.6, by **deleting** the last word of that policy ('possible') and **replacing** it with the word '*practicable*'.
  - **Reword** the first sentence of the third paragraph of explanatory text by **deleting** the words 'are enforced' and redrafting the sentence as follows (underlined wording indicates proposed new wording): '*The wind rules seek to encourage...*
- **Accept** submissions 45 and 49 in part, by amending the explanatory text referring to freestanding structures (as outlined above).

### Policy 12.2.5.10 – Permitted Baseline

Specific issues raised in submissions include:

- Policy 12.2.5.10 is supported, but submitter notes changes should be made for sites adjacent to heritage items, as any permitted baseline scenario is extinguished by the proposed new heritage provisions (submission 45).
- We support the proposed change to the use of permitted baselines (submission 48).
- That policy 12.2.5.10 is adopted (submission 90).
- Confirm that the expression of 'permitted baseline' contained in policy 12.2.5.10 of the District Plan robustly overrides the related case law (submission 44).

### *Discussion*

Policy 12.2.5.10 clarifies how permitted baseline scenarios can be used in relation to new buildings and structures in the Central Area. The Resource Management Amendment Act (2005) made the application of permitted baseline discretionary, and provided Council with the option of stating in the District Plan when permitted baseline scenarios will and will not be considered during the assessment of resource consents.

In general the Hearing Committee considered that permitted baseline scenarios are not appropriate when considering the effects of new Central Area buildings and structures. However permitted baseline has a role in clarifying that the amenity of neighbouring properties will not be considered as an effect resulting from a new building or structure, if the new building work complies with the height and mass standards in the District Plan. Policy 12.2.5.10 states:

***12.2.5.10 Provide for consideration of 'permitted baseline' scenarios relating to building height and building bulk when considering the effect of new building work on the amenity of other Central Area properties.***

Submissions 48 and 90 supported the proposed policy and this support was noted and accepted.

Submission 45 (ING) considered that permitted baseline scenarios for sites adjacent to a listed heritage building or area would be extinguished by the proposed heritage provisions. At the hearing ING clarified that they were concerned that the proposed height limits in heritage areas (specifically the BNZ/Head Office Heritage Area) would in reality also be applied to adjacent properties in order to manage the potential impact on heritage values. ING were concerned that the heights applying to the heritage properties on the Stewart Dawsons corner, would limit the ability to develop the sites beside and behind up to the permitted height limit of 95 metres. This

issue is dealt with in detail in section 3.48. The Committee did not consider that any change to Policy 12.2.5.10 was required in response to this submission.

Submission 44 sought confirmation that the proposed policy would override case law on permitted baseline. The Committee noted that it was not possible to state that policy 12.2.5.10 would override all case law on permitted baseline, as the case law will continue to evolve over time. However the Committee noted that the majority of current case law on permitted baseline was developed when application of the baseline was mandatory (prior to the Resource Management Amendment Act 2005), and is not necessarily relevant to the application of policy 12.2.5.10.

### *Decision*

- **Accept** submissions 45, 48 and 90 insofar as they support policy 12.2.5.10
- **Reject** submission 45 insofar as it requests amendment to policy 12.2.5.10 to cover sites adjacent to listed heritage buildings and areas
- **Reject** submission 44 insofar as it requests confirmation that policy 12.2.5.10 overrides previous case law on permitted baseline

### **3.9 Objective 12.2.6 - Buildings and Public Amenity.**

Specific issues raised in submissions include:

- The NZHPT supports proposed Objective 12.2.6 (submission 72).
- That objective 12.2.6 is adopted (submission 90).
- That the plan needs to take a much more comprehensive and detailed approach to achieving high quality development based on a New Urbanist Charter (submission 80).

### *Discussion*

Objective 12.2.6 considers the relationship between new buildings and the quality of the public environment. The objective is currently worded as follows:

- 12.2.6 To ensure that new building works maintain and enhance the amenity and safety of the public environment in the Central Area, and the general amenity of any nearby residential areas.**

The objective is supported by submissions 72 and 90.

Submission 80 (Roland Sapsford) considered that DPC 48 should take a much more comprehensive and detailed approach to achieving high quality development based on the New Urbanist Charter. In his evidence to the hearing Mr Sapsford argued that the provisions in the plan needed to be clear, relevant and localised in order to achieve a positive urban environment. He was concerned that the level of development control (including height standards) did not articulate the desired outcomes in terms of urban form. The Hearing Committee agreed with the submitter regarding the importance of delivering a positive public environment within the Central Area. While acknowledging that the majority of planning controls applying to the Central Area are generic, the Committee noted that significant progress had been made in providing area specific provisions for the identified heritage areas, and along the Inner City Bypass. The Hearing Committee was comfortable that outside of the heritage areas DPC 48 contains sufficient tools and mechanisms to enable the delivery of high quality buildings and public spaces. The objectives and policies in the plan, and particularly the Central Area Design Guide are based on sound urban design principles many of which are consistent with the concept of 'new urbanism'. In general the Committee considered that it was not necessary to make substantial changes should be made to DPC 48 in order to deliver high quality development.

There is a minor typographical error in the existing objective. The reference to ‘residential areas’ at the end of the policy should relate to ‘Residential Areas’ to make it clear that it refers the residential suburbs surrounding the Central Area rather than enclaves of residential activity within the Central Area. While no specific submission was received on this issue the Hearing Committee considered that it could be amended as a minor change.

### *Decision*

- **Accept** submission 72 and 90 insofar as they support objective 12.2.6
- **Reject** submission 80 insofar as it requests amendments to objective 12.2.6 in line with the New Urbanist Charter.
- **Amend** objective 12.2.6 by replacing ‘residential areas’ with ‘Residential Areas’ as a minor amendment.

### Policy 12.2.6.1 – Design guidance

Specific issues raised in submissions include:

- That policy 12.2.6.1 is adopted (submission 90).

### *Discussion*

The policy is supported by submission 90.

### *Decision*

- **Accept** submissions 90 insofar as it supports policy 12.2.6.1

### Policy 12.2.6.2

Specific issues raised in submissions include:

- Delete text from explanatory statement in policy 12.2.6.2 regarding the inappropriateness of landmark buildings in heritage areas (submission 45).
- We do not agree that "the development of landmark buildings is generally not appropriate in heritage areas as these areas already have a strong character and a sense of place derived from the existing building stock". We believe that strong design in the vicinity of acknowledged heritage buildings is a productive addition to the area, and should not be discouraged (submission 48).
- The NZHPT supports proposed Policies 12.2.6.2 (submission 72).
- That policy 12.2.6.2 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.2 notes the requirement for all new buildings in the Central Area to demonstrate high quality design that respects the surrounding context. The current wording of the policy is:

**12.2.6.2 Require high quality building design within the Central Area that acknowledges, and responds to, the context of the site and the surrounding environment.**

Submissions 72 and 90 support the proposed policy.

Submissions 45 and 48 requested that the explanatory text regarding the inappropriateness of landmark buildings in heritage areas be deleted from the policy. Submission 48 considers that strong design in the vicinity of acknowledged heritage buildings can be a productive addition to the area, and should not be discouraged. These submissions were accepted by the Committee.

### *Decision*

- **Accept** submissions 72 and 90 insofar as they support the proposed policy
- **Accept** submissions 45 and 48 insofar as they request deletion of the text noting the inappropriateness of developing new landmark buildings in heritage areas

### Policy 12.2.6.3

Specific issues raised in submissions include:

- Support the intention of policy 12.2.6.3, but not the mechanisms that flow from the policy. Specific provisions for each heritage area should be developed (submission 45).
- The NZHPT supports proposed Policies 12.2.6.3 (submission 72).
- That policy 12.2.6.3 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.3 covers the development of new buildings and structures on sites adjacent to listed heritage buildings.

Submissions 72 and 90 supported the proposed policy.

Submission 45 (ING) supported the intent of the policy but not the mechanism that flows from it. The submitter supported the policy of having a relatively flexible approach to building height and mass to allow positive heritage outcomes, but was concerned that the rules contained in DPC 48 would have the opposite effect and were very restrictive. The submitter was particularly concerned about the onerous nature of the proposed building mass and heritage provisions. On that basis the Hearing Committee considered that the submitters support of policy 12.2.6.3 should be accepted and their concerns regarding the provisions that flow from the policy be considered in the discussion relating to buildings mass and heritage areas.

### *Decision*

- **Accept** submission 72 and 90 insofar as they support policy 12.2.6.3
- **Accept** submission 45 insofar as it supports the intent of policy 12.2.6.3

### Policy 12.2.6.4 – Sunlight protection to public spaces

Specific issues raised in submissions include:

- Retain the proposed change to policy 12.2.6.4 wording as written (submission 54).
- That policy 12.2.6.4 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.4 seeks to protect access to sunlight for identified public spaces within the Central Area.

Submitters 54 and 90 supported the proposed policy.

### *Decision*

- **Accept** submissions 54 and 90 insofar as they support policy 12.2.6.4

### Policy 12.2.6.5

Specific issues raised in submissions include:

- Delete the word "any" from policy 12.2.6.5. Add the word "important" before the words "public open spaces" in the last paragraph of the policy explanation (submission 45).

- The NZHPT supports Policy 12.2.6.5, but would like to see the grounds at Old St Paul's included in the public areas to be protected from sunlight encroachment (submission 72).
- That policy 12.2.6.5 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.5 advocates for new building works to be designed in a manner that minimises overshadowing of public open spaces of prominence, or where people regularly congregate.

**12.2.6.5 Advocate for new building work to be designed in a way that minimises overshadowing of any public open space of prominence or where people regularly congregate.**

Submission 90 supported the proposed policy. Submission 72 (Historic Places Trust) supported the proposed policy and requested that Old St Paul's be added to the list of public areas with sunlight protection. Old St Paul's currently enjoys some daylight protection due to a site specific height restriction that applies to neighbouring properties. However the height restriction was installed principally to protect the setting of Old St Paul's and to ensure that the church retained a degree of openness, and it cannot be guaranteed that it will protect existing access to sunlight.



The Committee noted that while Old St Paul's is not owned by the Council, it is owned by the New Zealand Historic Places Trust and as such probably qualifies as a 'public space' that the public are able to access. The Committee considered that the church is one of Wellington city's key historic buildings and does function as a public space. Further, the Committee considered that had it been owned by the Council then the community would have expected a sunlight protection provision to apply to it. The Committee acknowledged that no work had been done to consider the impact of a sunlight provision for Old St Paul's, and so the Committee recommends that this be carried out by the Council as further work resulting from this plan change process.

Submission 45 requested that policy 12.2.6.5 be amended by deleting 'any' from the policy, and by inserting 'important' before 'public open spaces' in the second paragraph of the explanation. In response the Hearing Committee noted that policy 12.2.6.5 does not relate to specific provisions and provides only for 'advocacy' in terms of access to sunlight for prominent public spaces and space where people congregate. As such it was considered appropriate that the policy be able to be applied to 'any' public space that fits those criteria. The submitter's second request to add 'important' to the final paragraph of the policy was also not supported by the Hearing Committee as the revised wording would do little to clarify when the policy would be applied. The Committee noted that it could be argued that if a public space is 'important' it would be covered by policy 12.2.6.4 and subject to a sunlight protection rule, which would have the effect of making policy 12.2.6.5 largely redundant.

### *Decision*

- **Accept** submission 72 and 90 insofar as they support the proposed policy
- **Reject** submission 45 insofar as it requests amendments to the wording of policy 12.2.6.5

### Policy 12.2.6.6 – Protecting Views

Specific issues raised in submissions include:

- In policy 12.2.6.6 clarify that the activity classification referred to a Discretionary 'Restricted' Activity (submission 45).

### *Discussion*

Submission 45 requested that the explanation to policy 12.2.6.6 be amended to clarify that developments which extend into the panoramic view will be dealt with as a Discretionary Activity (Restricted). This submission was supported by the Hearing Committee on the grounds that it further clarifies the policy.

### *Decision*

- **Accept** submission 45 insofar as it seeks amendments to the text of policy 12.2.6.6

### Policy 12.2.6.7

Specific issues raised in submissions include:

- Submitter is concerned with a variety of urban design issues, including views to important buildings, aesthetics of tall buildings, relationship of new buildings to existing buildings, and trees in the central area. The submitter requests the addition of the following or similar wording: "that provision be made requiring better protection of cityscapes, preserving view shafts and lines of sight to significant buildings, especially those of historic significance. Each major project should include this item at the planning stage" (submission 1).
- That views to and from each of the heritage buildings should also be controlled (submission 22).
- That Policy 12.2.6.7 (viewshafts) be amended to include "significant landmark heritage items". There are other landmark heritage items that should also have their viewshafts protected (in addition to St Gerard's Monastery) (submission 72).
- In policy 12.2.6.7 clarify that the activity classification referred a Discretionary 'RESTRICTED' Activity (submission 45).
- That policy 12.2.6.7 be amended to reflect concerns. The submitter supports this provision, but would like the intrusion of viewshafts become a Discretionary Activity (Unrestricted) given the importance of protecting these views (submission 90).

### *Discussion*

Policy 12.2.6.7 covers the protection of specific view shafts within and around the Central Area.

#### **12.2.6.7 Protect, and where possible enhance, identified public views of the harbour, hills and townscape features from within and around the Central Area.**

Submissions 1, 22 and 72 requested that the application of viewshaft protection be expanded to cover cityscapes, and to protect viewshafts to specific buildings, particularly heritage buildings. The submissions noted that St Gerard's Monastery is not the only heritage building in the city that deserved to have its view protected. The Committee agreed that there are many high quality heritage buildings within central Wellington. However unlike St Gerard's Monastery which stands prominently atop a green coastal escarpment, most of the Central Area heritage buildings are nestled into the existing cityscape, surrounding by other buildings. These heritage buildings are generally viewed from closer proximity, along existing street corridors. Because street corridors are unlikely to ever be built on, the Hearing Committee considered that viewshaft protection is not necessary in this situation. Two exceptions to this were identified however, being the viewshaft along Lambton Quay looking towards the listed MLC Building and from Whitmore Street looking towards the Beehive. These two viewshafts were suggested by Submitter 48. Section 3.69 discusses the merits of the proposed viewshafts and the Committee concluded that there was sufficient justification for their inclusion in the Plan.

## APPENDIX 1

Submission 45 requested that the explanation to policy 12.2.6.7 be amended to clarify that applications to extend into an identified viewshaft will be dealt with as a Discretionary Activity (Restricted). This submission was supported by the Committee on the grounds that it further clarifies the policy.

Submission 90 considered that breaches of viewshafts should be a Discretionary Activity (Unrestricted) given the importance of protecting these views. This submission was not supported by the Hearing Committee. Discretionary Restricted and Discretionary Unrestricted Activities, vary principally in relation to the matters that can be taken into account when assessing an application. With a Discretionary Activity (Restricted), the Council's consideration is limited to the matters over which it has reserved discretion in the plan. With a Discretionary Activity (Unrestricted) the Council can consider any matter it deems appropriate in order to manage the effects of the proposed activity. Because applications for resource consent to breach an identified viewshaft are only being considered in terms of the effect on the viewshaft, the Committee considered that this is dealt with most appropriately as a Discretionary Activity (Restricted).

### *Decision*

- **Accept in part** submissions 1, 22 and 72 insofar as they seek to protect cityscape views and have additional viewshafts created to protect views to prominent buildings, see discussion 3.69 for two additional viewshaft listings
- **Accept** submission 45 insofar as it seeks amendments to the text of policy 12.2.6.7
- **Reject** submissions 90 insofar as it requests that breaches of viewshafts be considered as Discretionary Activity (Unrestricted)

### Policies 12.2.6.8 – 12.2.6.10 – Pedestrian shelter

Specific issues raised in submissions include:

- We support the updating of the verandah network to ensure practical passage through key parts of the city for pedestrians in inclement weather (submission 48).
- We suggest that a new type of open space category be defined and allocated to maintain established 'through block' pedestrian thoroughfares located on private land, and to encourage a city which is particularly permeable for pedestrians (submission 48).
- The NZHPT supports Policy 12.2.6.9; however, we recommend that "and historic heritage" be inserted after "architectural integrity" (submission 72).
- That policies 12.2.6.9 and 12.2.6.10 be adopted (submission 90).
- Add mention of colonnades as an acceptable alternative to verandahs in the explanation accompanying the verandah policies (12.2.6.8 to 12.2.6.10) (submission 49).
- Expand policies on pedestrian shelter to include the following policies:
  - 12.2.6.X Pedestrian amenity will be ranked as paramount when evaluating controlled, discretionary and non complying activities.
  - 12.2.6.X Covered lanes and arcades are to be encouraged in the central area as a primary means of generating pedestrian amenity.
  - 12.2.6.X Particular attention is to be given to pedestrian amenity and safety within and around the carparks of large retail outlets, such as supermarkets, and outside drive-in takeaway food premises.
  - 12.2.6.X Verandahs providing shelter and shade, and in their design using materials minimising earthquake hazards, are to be mandatory throughout the central area, unless covered by a specific exclusion decided after public consultation (submission 62).

### *Discussion*

Policies 12.2.6.8 to 12.2.6.10 cover issues of pedestrian shelter.

Submissions 48 and 90 supported the proposed provisions and this support should be accepted.

Submission 72 supported policy 12.2.6.9 but requested that it be amended to include reference to historic heritage. The Hearing Committee considered that this submission should be accepted on the grounds that it identifies that there are times that the provision of a verandah on a listed heritage building is not justified because of the adverse effect it would have on the heritage value of the building.

Submission 48 (The Architectural Centre) requested that Council make provision for through block links in the District Plan. Submission 62 (Craig Parker) considered that covered lanes should be promoted. These matters are considered in more detail in section 3.83 relating to the Central Area Urban Design Guide. In that section, the Hearing Committee agreed that the Plan needs to better recognise the importance of through block links. Consequently a new policy is proposed.

**12.2.6.11 Enhance the informal pedestrian network within the Central Area, by encouraging the retention and enhancement of existing pedestrian thoroughfares, and promoting the creation of new thoroughfares where they would enhance walkability and permeability for pedestrians.**

Submission 49 (CentrePort) has requested that policies 12.2.6.8 to 12.2.6.10 be amended to provide for the development of colonnades in place of verandahs. The Council's Manager of Urban Design is generally supportive of colonnades on the grounds that when done well they provide high levels of pedestrian amenity, and help to soften the boundary between public and private spaces at the building edge. However the Hearing Committee noted that colonnades generally work better in situations where a building is defining a new street edge or the edge to a public space. Colonnades do not work as well in locations where the street edge is already clearly defined (and verandah cover is already present) because the setback required to accommodate the colonnade usually results in a break in the continuity of cover and a recessed building frontage that is not aligned to its neighbours. To recognise the potential role of colonnades in providing pedestrian shelter the Committee considered that the following text should be included in the explanatory text to policies 12.2.6.8-12.2.6.10:

*Colonnades may be used as a means of providing pedestrian shelter. As a rule colonnades are more appropriate in locations where there is little or no existing street edge definition. In situations where the street edge is already clearly defined, or where there is established verandah cover, colonnades can be difficult to integrate as they generally result in a set back from the existing street edge and a break in the prevailing patterns of shelter.*

Submission 62 requested that a number of additional policies be included in the District Plan regarding verandahs. The first requests that pedestrian amenity be ranked as paramount when considering any application for resource consent in the Central Area. While issues of pedestrian amenity are considered important in the Central Area, the Hearing Committee did not consider that they should be ranked as paramount in all situations. At times matters such as heritage or the provision of public space may override the need to provide pedestrian shelter.

Submission 62 also requested that verandahs be made mandatory throughout the Central Area. DPC 48 focuses the verandah requirement along key pedestrian routes into the central city, and along routes that link the Golden Mile to the waterfront. In principle it would be desirable to have verandahs along most, if not all, central city streets, particularly with the growth in apartments likely to result in an increase in pedestrian traffic throughout the Central Area. While the Hearing Committee did not consider that blanket application of the verandah requirement was justified for all streets in the central city, the Committee did agree that further pedestrian cover was appropriate on a number of prominent streets, as noted in section 3.96. To acknowledge the benefits arising from verandahs outside the identified network, a policy

(12.2.6.10) was included in DPC 48 to encourage the provision of pedestrian shelter along all streets and public spaces in the Central Area.

Submission 62 requested that a policy be included in DPC 48 to require pedestrian shelter to be provided around car parks associated with large retail activities and outside takeaway food premises. The Committee accepted that these operations have particular operational needs, but considered that if they chose to locate on a street with an identified verandah frontage then they will be expected to provide for pedestrian shelter in an appropriate manner, or else justify the failure to provide shelter as part of the resource consent process.

### *Decision*

- **Accept** submission 48 insofar as it supports the proposed verandah requirements
- **Accept** submission 48 insofar as it requests that DPC 48 make provision for pedestrian through block links
- **Accept** submission 72 insofar as it requests that reference be made to historic heritage in the explanatory text
- **Accept** submission 90 insofar as it supports policy 12.2.6.9 and 12.2.6.10
- **Accept** submission 49 insofar as it requests inclusion of a reference to colonnades as an appropriate form of pedestrian cover
- **Reject** submission 62 insofar as it requests inclusion of additional policies relating to pedestrian shelter, but note that the Committee has expanded the verandah requirement over some significant streets in Te Aro.

### Policy 12.2.6.11 to 12.2.6.15

Specific issues raised in submissions include:

- That policy 12.2.6.11 is adopted (submission 90).
- That policy 12.2.6.12 is adopted (submission 90).
- That policy 12.2.6.14 is adopted (submission 90).
- That policy 12.2.6.15 is adopted (submission 90).

### *Discussion*

These policies cover issues of ground floor frontages and health, safety and security in public spaces.

The support of submission 90 was noted and accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports policies 12.2.6.11, 12.2.6.12, 12.2.6.14 and 12.2.6.15

### Policy 12.2.6.16 – Lighting of public spaces

Specific issues raised in submissions include:

- That the proposed National War Memorial Park be reflected in policy 12.2.6.16 of the Proposed District Plan Change 48 (submission 39).
- That policy 12.2.6.16 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.16 seeks to ensure that all public spaces (and private spaces that operate as public spaces) are suitably lit at night time to improve safety and security.

Submission 39 (Ministry of Culture and Heritage) requested that the policy be amended to recognise that any lighting design in the vicinity of the proposed National War Memorial Park should be designed to not only to achieve public safety and security, but also to be sympathetic with the proposed park design and the Carillon. Policy 12.2.6.16 is currently worded as follows:

**12.2.6.16 Ensure that public spaces in the Central Area (including privately owned places that are characterised by public patterns of use) are suitably lit at night time to improve the safety and security of people.**

While the significance of the Carillon and the proposed war memorial park was accepted by the Hearing Committee, it was considered that the requested provision would be of little benefit on the basis that the Central Area provisions do not impose limits on light levels except at the Central Area/Residential Area zone boundary. The Council therefore has very little practical control over the levels of light generated on sites adjacent to the proposed park. The Committee also noted that there is no minimum level of lighting required for public spaces. Any lighting installed in the proposed Memorial Park can therefore be designed in such a way so as not to reduce the visual impact of the Carillon and Tomb of the Unknown Warrior during night time. The Hearing Committee considered that this matter could be adequately addressed through discussions between the Ministry, Council and the designer of the park, and did not require specific reference in the policy. The Committee also noted that the closest neighbour to the proposed park is likely to be Mt Cook School to the north, and the school is unlikely to be a significant source of light.

The support of submission 90 was noted and accepted.

### *Decision*

- **Reject** submission 39 insofar as it requests that policy 12.2.6.16 be amended to require sites adjoining the proposed War Memorial Park to consider the impact of their lighting on the park design
- **Accept** submission 90 insofar as it supports policy 12.2.6.16

### Policy 12.2.6.18 - Streetscape

Specific issues raised in submissions include:

- In respect of ground floor active frontages we seek that the District Plan should also explicitly ban residential use and car parking on the ground floor of Central Area multi-storey developments. The location of these on the ground floor kills the street, and provides a poor outlook and lack of privacy for residents. Neither promotes positive public interfaces with the building (submission 48).
- Add master-planning as a further bullet point to the Methods listed in policy 12.2.6.18, and add to the explanation wording to the effect that future parking areas are provided for in the Masterplan for the Port Redevelopment Precinct (submission 49).
- That policy 12.2.6.18 is adopted (submission 90).

### *Discussion*

Policy 12.2.6.18 addresses the creation of vacant land or ground level parking areas in the Central Area. The policy states:

**12.2.6.18 Maintain and enhance the streetscape by controlling the creation of vacant or open land and ground level parking areas.**

Submission 48 requested that the District Plan ban residential use and car parking on the ground level of Central Area multi-storey developments, on the grounds that they provide a poor public interface with the building. While the intent of this submission, to create positive public edges to buildings at ground floor level, is supported, the Hearing Committee considered that a

blanket ban on parking and residential use at ground floor would be too onerous. If these uses were banned then all new developments would have to install commercial or retail uses at ground floor. There are many locations in the Central Area where retail or commercial activities at ground floor would struggle to survive. While this may change over time as numbers of inner city residents' increase, at present it is not a feasible alternative. Rather than banning certain ground floor activities, the Hearing Committee noted that the approach taken in DPC 48 is to ensure that ground floor stud heights are sufficient to allow buildings to be retro-fitted for other uses in the future. This approach will help to ensure that buildings are able to be adapted and reused in the future in response to changes in economic and social conditions.

Submission 49 (CentrePort) requested that the explanatory text to policy 12.2.6.18 be amended to recognise that outdoor parking is provided for in the master-plan for the Port Redevelopment Precinct. The Hearing Committee agreed that the unique parking requirements of the precinct should be recognised, and the following text will be added to the explanation of policy 12.2.6.18:

*The approved master-plan for the Port Redevelopment Precinct provides for ground level parking along the edges of the internal streets and lanes. Although it is located on private land, this parking will have similar effect to short stay, on-street car parking in the remainder of the Central Area.*

The support of submission 90 was noted and accepted.

### *Decision*

- **Reject** submission 48 insofar as it requests that residential and parking at ground floor level be banned
- **Accept** submission 49 insofar as it requests that policy 12.2.6.18 make reference to the Port Redevelopment Precinct
- **Accept** submission 90 insofar as it supports policy 12.2.6.18

### **3.10 Objective 12.2.7 - Building Amenity.**

Specific issues raised in submissions include:

- Concessions and incentives are required for existing and new initiatives relating to environmental sustainability with existing established city locations preferred (submission 42).
- The submitter welcomes the positive step of introducing new policies to adopt sustainable design features in new buildings. We would also encourage the Council (possibly in conjunction with other bodies such as EECA, the Green Building Council) to encourage current building owners to review their existing properties and implement energy efficiencies and sustainable design features where possible. This could be through education or some form of incentive (financial or a rating system) (submission 47 and 47A).
- We strongly support the development of policies to promote sustainable design features and energy efficiency in the use and construction of buildings. We recommend that 12.2.7 be altered so it expires within a year to be replaced by more detail, including targets for energy-efficiency and timeframes as to when new buildings must achieve such targets. We also recommend that the council notify all commercial developers and architects in Wellington of examples of recent energy-efficient buildings (such as CH2, Melbourne). We also recommend the council institute an annual award to acknowledge the best local examples of energy-efficient new building and retro-fitted building, and to promote local developers and architects who lead this field of design in Wellington (submission 48).

### *Discussion*

This objective seeks to improve the energy efficiency and sustainability of new building design.

### 12.2.7 To promote energy efficiency and environmental sustainability in new building design.

While there are no rules included in the District Plan requiring minimum building standards for energy efficiency or building sustainability, inclusion of this objective (and the subsequent policies) means that ESD features are identified as positive attributes that can be taken into account when Council is assessing the environmental effects of new building works.

A number of submissions support the proposed objective, and noted that Council should provide incentives to encourage the adoption of energy efficiencies. While increasing energy prices are likely to make energy efficient technology more attractive to property owners in the future, it is agreed that Council can play a role in encouraging their adoption. Council recently hosted a seminary on green building design and has published its Sustainability Building Guidelines on the web, demonstrating the Council's intention to support and encourage the uptake of ESD principles through education and advocacy.

Submission 48 supports the proposed objective but requests that it be amended so that it lapses in a year to be replaced by specific, targeted provisions. This is not supported by the Committee for a number of reasons. Firstly the current plan change may still be subject to appeal within a year. Secondly, and more importantly, it is considered that specific standards relating to energy efficiency and sustainable design would be more effective if they were incorporated into the building code, rather than the District Plan. Indeed, under current legislation the District Plan may not set minimum standards for new building works that are higher than the standards contained in the building code. The Committee has recommended the wording of the Policy be amended to clarify this particular issue, and other amendments to make direct reference to ESD principles. Likewise the Committee was of the opinion that the issue of sustainability was of such importance that it should be noted as one of the main principles guiding the future development of the city (in section 12.1 of the Plan). A new principle 12.1.8 has been included under the heading 'Enhance the sustainability of the Central Area'.

#### *Decision*

- **Accept** submissions 47, 47A and 48 insofar as they support the inclusion of objectives and policies relating to building amenity
- **Reject** submissions 42, 47 and 47A insofar as they requests financial incentives to encourage energy efficient and sustainable buildings.
- **Reject** submission 48 insofar as it requests that the current provision be removed after a year to be replaced with more targeted provisions

#### Policy 12.2.7.2 – Access to natural light

Specific issues raised in submissions include:

- That policy 12.2.7.2 is adopted (submission 90).

#### *Discussion*

The support of submission 90 was noted and accepted.

#### *Decision*

- **Accept** submission 90 insofar as it supports policy 12.2.7.2

## Policy 12.2.7.3

Specific issues raised in submissions include:

- Amend policy 12.2.7.3 to include these words: Most blocks are made up of 2 rows of sites backing onto each other. Keeping the space between buildings in the centre of blocks gives access for sun and light at the backs of buildings (submission 24).
- We support the requirement that amenity is required to be built on-site for residential developments. We likewise suggest that other commercial developments (e.g. office buildings) also require on-site amenity to be designed for (submission 48).
- That policy 12.2.7.3 is adopted (submission 90).

### *Discussion*

Submission 24 requested that the following text be added to policy 12.2.7.3:

*Most blocks are made up of 2 rows of sites backing onto each other. Keeping the space between buildings in the centre of blocks gives access for sun and light at the backs of buildings.*

The Hearing Committee noted that while the proposed text had some merit, it represented only one means by which access to daylight to inner city buildings can be protected. Other options, including atria, light wells, set backs etc., may provide for the more efficient use of a site. Accordingly the Hearing Committee considered that the generic wording of the current policy should be retained, rather than highlighting specific design solutions.

Submission 48 requested that the requirement for amenity be extended to include commercial developments. The Hearing Committee considered that commercial and residential buildings have different amenity requirements. Policy 12.2.7.2 requires that all new buildings provide appropriate levels of natural light to occupied spaces within the building, and the Committee considered that this was appropriate for ensuring a reasonable level of amenity for commercial buildings.

### *Decision*

- **Accept** submission 90 insofar as it supports policy 12.2.7.3
- **Accept** submission 48 insofar as it supports policy 12.2.7.3
- **Reject** submissions 24 and 48 insofar as they seek amendments to policy 12.2.7.3

## **3.11 Objective 12.2.8 - Lambton Harbour Area.**

### Objective 12.2.8

Specific issues raised in submissions include:

- Objective 12.2.8 is supported (submission 72).
- That objective 12.2.8 is adopted (submission 90).

### *Discussion*

This objective assists in the management of the Lambton Harbour Area:

**12.2.8 To ensure that the development of the Lambton Harbour Area, and its connections with the remainder of the city's Central Area, maintains and enhances the unique and special components and elements that make up the waterfront.**

The support of submissions 72 and 90 for this objective was noted and accepted.

### *Decision*

- **Accept** submissions 72 and 90 insofar as they support objective 12.2.8.

### Policy 12.2.8.1

Specific issues raised in submissions include:

- The submitter notes the reference to NZS 4121:2001 and considers that this is equally relevant to all aspects of public space covered by the Central Area Review (submission 48).
- That policy 12.2.8.1 is adopted (submission 90).

#### *Discussion*

Submission 48 notes the reference to NZS 4121:2001 and considers that this is equally relevant to all aspects of public space covered by the Central Area. This standard relates to 'access design' and is appropriate throughout the Central Area. It is already referred to in Policy 12.2.15.1 which is the area-wide policy on access, but the reference is to 'national standard access design criteria' and does not specifically mention the number of the standard. For clarity the Hearing Committee agreed that Policy 12.2.15.1 should be amended to specifically refer to NZS 4121:2001.

The support of submission 90 was noted and accepted.

#### *Decision*

- **Accept** submission 48 insofar as it seeks to apply NZS 4121:2001 across the whole Central Area
- **Accept** submissions 90 insofar as they support policy 12.2.8.1

### Policies 12.2.8.2 to 12.2.8.4

Specific issues raised in submissions include:

- That policies 12.2.8.2, 12.2.8.3 and 12.2.8.4 are adopted (submission 90).
- Policy 12.2.8.4 is supported (submission 72).

#### *Discussion*

The support of submissions 72 and 90 was noted and accepted.

#### *Decision*

- **Accept** submissions 72 and 90 insofar as they support policies 12.2.8.2, 12.2.8.3 and 12.2.8.4 relating to the Lambton Harbour Area

### Policy 12.2.8.5

Specific issues raised in submissions include:

- The submitter supports a more comprehensive adoption of the objective to "recognise and provide for developments and activities that reinforce the importance of the waterfront's Maori history and cultural heritage" (12.2.8.5) (submission 48).
- Policy 12.2.8.5 is supported (submission 72).
- That policy 12.2.8.5 is adopted (submission 90).

#### *Discussion*

The support of submission 90 was noted and accepted.

Submission 48 supported implementation of policy 12.2.8.5 across the entire Central Area, rather than just the waterfront. Policy 12.2.8.5 covers Maori links to the waterfront:

- 12.2.8.5 Recognise and provide for developments and activities that reinforce the importance of the waterfront's Maori history and cultural heritage.**

The Hearing Committee considered that objective 12.2.16 – Tangata Whenua, and the subsequent policies provide adequate scope to address sites and precincts in the Central Area that are of significance to Maori. Accordingly the Committee decided that policy 12.2.8.5 should be retained as a waterfront specific policy.

### *Decision*

- **Accept** submissions 90 insofar as it supports policy 12.2.8.5
- **Reject** submission 48 insofar as it seeks to have policy 12.2.8.5 applied across the entire Central Area

### Policy 12.2.8.6

Specific issues raised in submissions include:

- In respect of the Lambton Harbour Areas the submitter considers that North Queens Wharf should be named Kumutoto (submission 48).
- That policy 12.2.8.6 be amended to reflect concerns: We are very concerned about the inclusion of this provision. We believe that strict limits should be put on any new buildings for now and the future (submission 90).

### *Discussion*

Submitter 48 requested that references to North Queens Wharf be amended to refer to Kumutoto. The Hearing Committee agreed that the name Kumutoto is being used with increasing frequency and should be included in the plan. However to avoid confusion it was decided that North Queens Wharf should also be retained.

Submitter 90 was concerned that the proposed policy will be used to facilitate new buildings on the waterfront. The submitter believed that strict limits should be put on any new buildings for now and the future. Policy 12.2.8.6 retains the same wording as the operative plan, however additional explanatory text has been added. This additional explanatory text resulted from the need to incorporate the assessment criteria from the Operative District Plan into the proposed policy. Accordingly it is considered that proposed policy 12.2.8.6 is consistent with the waterfront provisions contained in the Operative District Plan that were drafted following significant public consultation and Environment Court mediation.

Looking ahead to a time where the buildings outlined in the Waterfront Framework have been built, the Committee noted that should any other new building be proposed then it would require consent as a Discretionary Unrestricted Activity. As such it is highly likely that the any such consent application would be publicly notified. In assessing any such development this policy is needed, alongside the principles outlined in the Waterfront Framework, to be able to adequately assess such proposals.

### *Decision*

- **Accept** submission 48 insofar as it seeks that the name Kumutoto be added to policy 12.2.8.6
- **Reject** submission 90 insofar as it opposes policy 12.2.8.6

### Policies 12.2.8.7 to 12.2.8.9

Specific issues raised in submissions include:

- That policy 12.2.8.7, 12.2.8.8, and 12.2.8.9 is adopted (submission 90).

### *Discussion*

The support of submission 90 was noted and accepted.

## *Decision*

- **Accept** submission 90 insofar as it supports policies 12.2.8.7, 12.2.8.8 and 12.2.8.9

### **3.12 Objective 12.2.9 - Wellington Regional Stadium.**

Specific issues raised in submissions include:

#### Objective 12.2.9

- That the Council adopt the proposals, specifically objective 12.2.9 and associated policies (submission 77).

#### Policy 12.2.9.2

- The Wellington Regional Stadium Trust generally supports the Plan Change, subject to some minor amendments, with the exception of the proposed Signs Standards, which it opposes. Add a further "Method" to Policy 12.2.9.2 as follows: Thorndon Parking Management Plan; Pedestrian Management Plan (submission 15).
- The submitter also supports the policies and rules for the Wellington Regional Stadium (12.2.9.2) in relation to the key transportation links desired between these areas and the central city (submission 68).

#### Policy 12.2.9.3

- The submitter also supports the policies and rules for the Wellington Regional Stadium (12.2.9.3) in relation to the key transportation links desired between these areas and the central city (submission 68).

## *Discussion*

The support of submissions 77 and 68 was noted and accepted.

Submission 15 requested that policy 12.2.9.2 be amended to refer to the 'Thorndon Parking Management Plan; Pedestrian Management Plan' as a method by which to manage the transport effects generated by the stadium. For the sake of completeness the Hearing Committee considered that this request should be accepted.

## *Decision*

- **Accept** submissions 77 and 68 insofar as they support the objective and policy relating to Wellington Regional Stadium
- **Accept** submission 15 insofar as they request that an additional method be added to Policy 12.2.9.2

### **3.13 Objective 12.2.10 - Signs.**

#### Objective 12.2.10

Specific issues raised in submissions include:

- The submitter has created and it continues to care for the St Johns Heritage Precinct Area and the proposed controls are neither necessary nor desirable. In relation to the sign provisions;
  - i) Amend Objective 12.2.10, to include express provisions that notwithstanding anything else in the District Plan they apply to all heritage buildings, heritage precinct areas and that in the event of conflict with other parts of the District Plan these provisions apply.
  - ii) Amend all related provisions so they are consistent with this request.
  - iii) Such further or incidental relief as may be appropriate (submission 36).

## APPENDIX 1

- The Design Guide for Signage be deleted. The objectives and policy relating to signs be amended so that they are more realistic and achievable. Clarification on how Rule 13.3.9 is to be implemented (submission 40).
- Include a policy regarding the locations within the Central Area that signs are to be encouraged (submission 54).
- Objective 12.2.10 is supported (submission 72).
- That the Council adopt the proposals, specifically objective 12.2.10 and associated policies (submission 77).
- That objective 12.2.10 is adopted (submission 90).

### *Discussion*

In considering the above submissions, the Hearing Committee noted that the District Plan signage provisions are amongst the most permissive in the country. Most local authorities place relatively strict standards on the size and number of signs that are permitted as of right, thus requiring any larger/additional signage to go through the resource consent process. Most of the major cities around New Zealand also make a distinction between 1<sup>st</sup> party (building tenant/owner identification signage) and 3<sup>rd</sup> party (ie. billboard signs not relating to their specific location) signage, requiring resource consent to consider the potential impact of all 3<sup>rd</sup> party signage.

When the operative Wellington City District Plan was prepared the Council sought to introduce a more flexible, effects based approach to signage. For signs on buildings (below 4<sup>th</sup> storey) no limits were placed on the number of signs and the maximum size of signs was set at a relatively large 20 sq.m. No distinction was made between 1<sup>st</sup> party and 3<sup>rd</sup> party signage. Instead Council chose to focus on the actual effects generated by signs, particularly the effects of the signage on the host building or site. Accordingly the rules focus on ensuring new signs complement and do not detract from the host building, rather than specifying specific sign sizes or limiting numbers of signs.

The Hearing Committee noted that the approach of effects based signage control has been reasonably successful, in that it has allowed flexibility in sign design, and provided for a wide range of signs to be established without undue regulation or consent requirements. However, to an extent the current approach relies on the buy-in from all parties involved in the provision of signage. To be successful, the Council's effects based approach requires all parties to adhere to the intent of the provisions, which is that signage should respect the building or site on which it is located, which has not always proven to be the case.

The Hearing Committee considered that submission 36 raised a valid concern that there is a major discrepancy between the signage permitted under the Central Area rules, and the signage that is permitted in a heritage area (in the Central Area) under rule 21D.1.1 in the Heritage chapter. The Committee agreed that the restrictions in 21D.1.1 where any signage over 0.5m<sup>2</sup> requires resource consent are untenable in the commercial and retail environment of the Central Area.

On a similar note, submission 54 requested that the signage provisions be amended to identify locations where signage will be encouraged. The Hearing Committee agreed that this submission had some merit, but considered that given the permissive nature of the current signage provision, a more effective approach would be to identify the areas of special heritage or character significance that justify more careful consideration of the effects of new signage. This would have the effect of sending a message that signage was more appropriate in other locations.

To address both submissions 36 and 54 the Hearing Committee considered that the Central Area sign rules should be applied to areas of special heritage and character value with the following provisos:

- the current standards for sign size and placement would be retained
- signage would be restricted to signs that denote the name and/or logo of the owner or occupier of the site
- a new policy (see 12.2.10.5 in Appendix 2) to clarify that special consideration will be given to any other signage within these areas to ensure that they do not detract from the special character and/or heritage values of the area.

### **12.2.10.5 Control the number and size of signs within heritage areas and areas of special character.**

#### **METHODS**

- Rules
- Design Guides
- Other mechanisms (WCC Bylaws, Encroachment Licenses, Building Act, Advertising Standards Authority)

*Within the Central Area there are a number of areas that have been identified as having a unique character, and/or significant historic heritage values. These areas are:*

- *Cuba Street Heritage Area*
- *St John's Church Heritage Area*
- *Civic Centre Heritage Area*
- *BNZ/Head Office Heritage Area*
- *Post Office Square Heritage Area*
- *Stout Street Heritage Area*
- *Parliamentary Precinct Heritage Area*
- *Te Aro Corridor Area*

*Within these areas Council will work to ensure that the existing built form and urban character of these areas does not become overwhelmed or diminished by an over-proliferation of signage. In doing so the Council acknowledges that these areas are part of an active urban environment and that signage retains an important role in allowing people to navigate around the areas and to locate businesses, services and products.*

*The sign provisions have therefore been refined to limit permitted signage to signage that indicates the name of the owner or occupier of a site, and the products and services that are available on site.*

*Third party (billboard) signage is often larger and more visually dominant than signage associated with a specific activity. Third party signage therefore requires special consideration to ensure that it does not detract from the historic heritage values and special character of these areas. Any applications for third party signage will be assessed against the content of the Sign Design Guide.*

*The environmental result will be signage that does not detract from the existing heritage values, character and amenity of identified heritage areas and other areas of special character within the Central Area.*

This approach is consistent with the manner in which DPC 48 proposed to manage signs on sites surrounding Parliament. The Hearing Committee considered that such an approach was also be justified in the case of the proposed Central Area heritage areas (with the exception of the Courtenay Place Heritage Area) and along the Te Aro Corridor.

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Submission 40 (Craig Erskine) submitted that Objective 12.2.10 was ambiguous insofar as it was impossible to clearly assess the degree to which a sign is 'sensitive to the receiving environment'. In his evidence to the Hearing Committee, Mr Erskine also argued that the objective and subsequent policies (particularly policy 12.2.10.3) set too high a standard with respect to managing the effects that a sign has on its surroundings. The submitter was concerned that the proposed policies would make it almost impossible to construct signage that did not comply fully with the Central Area standards. Mr. Erskine also considered that the Council had overstepped the provisions of the RMA in relation to its signage provisions. Specifically, he considered that Part II of the ACT required Council to enable the development of signs, while avoiding, remedying and mitigating any adverse effects. Mr Erskine also argued that the signage policies were *ultra vires* because the Act made no provision for the 'enhancement' of the quality of the environment.

In responding to this submission the Hearing Committee noted that the signage provisions in the Central Area were extremely liberal and were therefore entirely consistent with the 'enabling' philosophy of the RMA. The Committee also noted that the RMA made specific provision for the '*maintenance and enhancement of amenity values*' under section 7, and that the definition of amenity values included '*those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*'. Accordingly the Committee did not agree that the District Plan provisions should be focused solely on 'avoiding, remedying or mitigating adverse effects' as suggested by the submitter. The Committee were also comfortable that the policies regarding the enhancement of amenity were well within the bounds of the RMA. The Hearing Committee considered that the objective and policies contained in DPC 48 should be retained, as they were reasonable and were necessary to aid the interpretation of the current rules.

The support of submissions 72, 77 and 90 was noted and accepted.

### *Decision*

- **Accept** submission 36 insofar as it requests amendments to the signage provisions applying to heritage areas
- **Accept** submission 54 insofar as it requests that Council provide greater clarification as to areas in the Central Area where signage will be encouraged
- **Reject** submission 40 insofar as it requests amendment to the signage policies
- **Accept** submissions 72, 77 and 90 insofar as they support objective 12.2.10

### Policy 12.2.10.1

Specific issues raised in submissions include:

- That policy 12.2.10.1 is adopted (submission 90).

### *Discussion*

The support of submission 90 was noted and accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports policy 12.2.10.1

### Policy 12.2.10.2

Specific issues raised in submissions include:

- Amend Policy 12.2.10.2 with respect to the management of the scale, intensity and placement of signs by deleting the words "and enhance" from the first bullet-point of the policy (submission 75).
- That policy 12.2.10.2 is adopted (submission 90).

### *Discussion*

Submission 75 requested that the phrase ‘and enhance’ be removed from policy 12.2.10.2. In response the Hearing Committee noted that the signage policies are only referred to when considering an application for resource consent for a sign that does not meet the standards specified in the District Plan. In this situation the Committee considered that it was appropriate that the Council should seek to achieve signage that maintains and enhances that visual amenity of the host building or site.

The support of submission 90 was noted and accepted.

### *Decision*

- **Reject** submissions 75 insofar as seeks amendment to the text of policy 12.2.10.2
- **Accept** submission 90 insofar as it supports policy 12.2.10.2

### Policy 12.2.10.3

Specific issues raised in submissions include:

- Delete first paragraph of policy 12.2.10.3 explanation (signage) and amend the final bullet point in the policy to the effect that protection from visual effects of signage from all public spaces is excessive, but that it is appropriate for adjoining residential areas (submission 45).
- Policy 12.2.10.3 is supported (submission 72).
- That policy 12.2.10.3 is adopted (submission 90).

### *Discussion*

Submission 45 requested amendments to the explanatory text of policy 12.2.10.3. The Hearing Committee agreed that the first paragraph of the explanatory text should be deleted on the basis that the wording is overly subjective and potentially inflammatory, and the information included in the paragraph is adequately covered elsewhere in the policy.

Removal of the reference to ‘public spaces’ in the last bullet point was not supported as the Committee considered that it was appropriate to consider whether a non-complying sign will be visually obtrusive when viewed from adjoining public spaces.

The support of submissions 72 and 90 was noted and accepted.

### *Decision*

- **Accept** submission 45 insofar as it requests deletion of the first paragraph of explanatory text in policy 12.2.10.3
- **Reject** submission 45 insofar as it requests deletion of the term public spaces from the final bullet point in policy 12.2.10.3
- **Accept** submissions 72 and 90 insofar as they support policy 12.2.10.3

### Policies 12.2.10.4 to 12.2.10.6

Specific issues raised in submissions include:

- That policies 12.2.10.4 and 12.2.10.6 be adopted (submission 90).
- Policy 12.2.10.5 is supported (submission 72).

### *Discussion*

The support of submissions 90 and 72 was noted and accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports policies 12.2.10.4 and 12.2.10.6

- **Accept** submissions 72 insofar as it supports policy 12.2.10.5

### 3.14 Objective 12.2.11 - Subdivision.

Specific issues raised in submissions include:

#### Policy 12.2.11.1

- While we support the sound design of subdivisions, we are not sure why subdivision design is an issue for the Central Area (12.2.11.1). If subdivisions are to occur within the Central Area we suggest the Subdivision Design guide is more relevant than the Central Area Design Guide (submission 48).
- Include an explanation under Policy 12.2.11.1 that recognises subdivisions may occur in the Pipitea Precinct where, due to safety and security concerns, public access along the waterfront may not be provided (submission 49).

#### *Discussion*

Policy 12.2.11.1 is worded as follows:

#### **12.2.11.1 Ensure the sound design, development and servicing of all subdivisions.**

Submitter 48 questioned why subdivision design is an issue in the Central Area given the layout of blocks and properties is already largely determined. If subdivision design is to be considered then the submitter considered that the Subdivision Design Guide would be a more relevant document to assess against.

While the Hearing Committee agreed that subdivision design in much of the Central Area is largely predetermined by existing property and block layout, it noted that there are areas of the Central Area (particularly the port and railway areas) where there is little or no existing public space structure. In these areas it is important that any future subdivision be carefully considered so that it does not preclude the efficient development of the wider area. In this instance the Committee considered that the Central Area Design Guide, particularly Appendix 1 – Pipitea Precinct, is the most relevant assessment tool as it addresses issue of public space structure, access, connection in a Central Area context.

Submission 49 (CentrePort) requested that the explanation to Policy 12.2.11.1 be amended to note that subdivisions may occur in the Pipitea Precinct where, due to safety and security concerns, public access along the waterfront may not be provided. At the hearing CentrePort argued that the requirement to consider public access to the waters edge should not apply to the Pipitea Precinct, because the port's operational constraints mean that public access is likely to be restricted in the foreseeable future.

The Hearing Committee noted that public access to the waters edge is currently limited in the Pipitea Precinct due to the presence of operation port activities. However they noted that subdivision design can have long-term implications regarding land use and access and considered that options for future public access to the waters edge should be explored if subdivision occurs in the Pipitea Precinct. If at all possible subdivision design should not preclude public access as a future option. The Committee noted that access issues would be particularly relevant if the land to be subdivided within Pipitea Precinct was no longer needed for operational port activities. Accordingly the Committee did not consider that subdivision within the Pipitea Precinct should be wholly exempt from considering the issue of public access to the waters edge. However in light of the submitters concerns the Committee considered that the following sentence should be added to the explanatory text of policy 12.2.11.1:

*.....Important matters for land subdivision adjoining the coastal environment are to maintain and enhance public access to this area and the natural and conservations values of the coastal environment. Within the Pipitea Precinct public access to the coastal environment is restricted*

by the operational requirements of the port. As a result providing public access to the water's edge may be inappropriate as long as the land to be subdivided is required for operational port activities.

The Committee did note that if it is not practical or desirable to permit public access to the coastal environment due to safety and security concerns, then this is something that can be managed by CentrePort as the landowner.

### *Decision*

- **Reject** submission 48 insofar as they request amendments to policy 12.2.11.1
- **Accept** submission 49 insofar as they request amendments to policy 12.2.11.1

### **3.15 Objective 12.2.12 - Coastal Environment.**

Specific issues raised in submissions include:

#### Objective 12.2.12

- That the proposed objective 12.2.12 be amended to better reflect the policy direction given by the NZ Coastal Policy Statement (NZCPS) in particular policies 3.5.1, 3.5.2 and 3.5.3 (submission 68).
- That objective 12.2.12 is adopted (submission 90).
- Supports concept of Port Redevelopment and Pipitea precincts but makes several suggestions to ensure the outcomes desired are achieved; including: - An esplanade should be a minimum of 20m, rather than a maximum (submission 48).

#### Policy 12.2.12.2

- Policy 12.2.12.2 should be made clear to ensure that the policy gives effect to NZ Coastal Policy Statement policies 1.1.1 through to 1.1.5 (protection of natural character), policy 2.1.3 (the contribution that open space makes to coastal amenity values) and policy 3.2.4 (cumulative effects of activities are not adverse) (submission 68).

#### Policy 12.2.12.3

- Policy 12.2.12.3 should be made clear to ensure that the policy gives effect to NZCPS policies 1.1.1 through to 1.1.5 (protection of natural character), policy 2.1.3 (the contribution that open space makes to coastal amenity values) and policy 3.2.4 (cumulative effects of activities are not adverse) (submission 68).

### *Discussion*

The National Coastal Policy Statement sets policies for the management of the coastal environment around New Zealand. Policies 1.1.1-1.1.5 focus on protecting and preserving the natural character of the coastal environment. Policy 2.1.3 refers to characteristics of special value to tangata whenua, while policy 3.2.4 seeks to manage the potential for cumulative adverse effects on the coastal environment.

In relation to the coastal environment the District Plan covers the area on the landward side of mean high water springs (MHWS). Greater Wellington Regional Council has jurisdiction beyond MHWS.

The coastal environment in the Central Area stretches from the Kaiwharawhara reclamation in the north to the Herd Street Boat Harbour in the south. This environment is heavily modified being a mixture of wharfs and reclaimed land. As a result Objective 12.2.12 focuses on issues of public access and environmental quality, rather than specifically natural character. However policy 12.2.12.2 does address the issue of natural character:

### **12.2.12.2 Enhance the natural values of the urban coastal environment by requiring developers to consider the ecological values that are present, or that could be enhanced, on the site.**

The coastal policies in the District Plan do not specifically refer to characteristics of value to tangata whenua, this matter is picked up in objective 12.2.16 and associated policies.

On balance, given the highly modified nature of the coastal environment in the Central Area, the Hearing Committee considered that the wording of the current objective and policies in the District Plan was appropriate.

Submission 48 considered that the Council should require esplanade land of at least 20 metres along the entire edge of the coastal marine area with no exception. The Committee noted that the 20 metre specification for esplanade reserves is stipulated in the Resource Management Act, and considered that the 20 metre provision should be retained on the basis that it is consistent with the requirements of the Act.

#### *Decision*

- **Reject** submission 68 insofar as it requests amendments to the wording of the objective and policies for the coastal environment.
- **Reject** submission 48 insofar as it requests that the District Plan require esplanade reserves of more than 20 metres
- **Accept** submission 90 insofar as it supports objective 12.2.12

### **3.16 Objective 12.2.14 - Hazardous Substances and Contaminated Sites.**

Specific issues raised in submissions include:

- GWRC recommends that the use of the Wastetrack system for the disposal of both waste liquid and solid hazardous substances be included as one of the methods to achieve policy 12.2.14.2 (submission 68).
- The site management plan does not appear to address any off site disposal options and that tracking of waste disposed off site (policy 12.2.14.5). These should be included as one of the key matters to be considered in assessing an application for a resource consent application (submission 68).
- Provide a more explicit reference to the MFE Contaminated Land Management Guidelines 1-5 in policy explanation 12.2.14.7 (submission 68).
- Require applicants to provide a full site history of activities that have occurred on site as part of any land use or subdivision consent application, ie. sections 3.2.2.6 and 3.2.3.5 (submission 68).
- Modify the explanation to Policy 12.2.14.6 and 12.2.14.7 to clarify that the rule only applies to parts of sites that are known to be contaminated, or are highly likely to be contaminated, and add a methodology which relates to the definition of "contaminated site" that is currently in the Plan, to enable demonstration of lack of contamination which would then exclude landowners from the rule (submission 49).

### *Discussion*

The submission by GWRC (submitter 68) requests that a new tracking system for liquid and hazardous wastes be recognised as a method to achieve Policy 12.2.14.2. WasteTRACK is an internet based database used to track liquid and hazardous wastes from generation, through its transportation to treatment or disposal sites. The system was officially implemented by the Ministry for the Environment in May 2006. At the hearing, the Committee heard that the submitter was satisfied with the Officer's recommendation to list WasteTRACK as a Method under Policy 12.2.14.2 and provide additional explanatory text and so on this basis we endorse the offices recommendations. The following explanatory text is to be added to Policy 12.2.14.2:

*A tracking system (such as WasteTRACK) has a number of benefits, primarily the safer transportation of wastes by approved transport providers to approved disposal facilities. Active monitoring of such waste will help to prevent unauthorised or accidental discharges into the environment.*

At the hearing, GRWC also endorsed the recommendation by Officers regarding off-site disposal options and tracking of waste disposed off-site in Policy 12.2.14.5. It is agreed that this be adopted, and that the following underlined changes are made to two bullet points within that policy:

- Transport of hazardous substances to and from the site, including the tracking of waste where it is disposed off-site.
- Whether adequate arrangement has been made for the environmentally safe disposal of any hazardous substance or hazardous wastes generated, including whether off-site disposal is a more appropriate solution.

GRWC also sought a more specific reference to the MfE guidelines in the explanation to Policy 12.2.14.7. Again, this is a useful clarification and it is agreed that the change be made:

.....The Ministry for the Environment has published several guidelines for the management of contaminated sites and it is expected that applicants will adhere to these guidelines (particularly Contaminated Land Management Guidelines 1-5 as appropriate) in completing.....

The Committee notes the advice of Officers that, as these three policy changes will lead to inconsistent wording of these generic policies in the other chapters of the Plan, these changes will need to be made to all other generic policies also be amended at the next convenient opportunity.

GRWC also sought a change to section 3.2.2.6 and 3.2.3.5 so that all applicants must supply a history of all activities that have occurred on the site, in order to assist the Council to vet the site for potential site contamination. The change requested affects a part of the Plan that is not within the scope of the Plan change and for this reason the change cannot be made as part of this Plan Change. That technicality aside, for reasons outlined below, it is proposed that a comprehensive review of the contaminated sites management regime occur as part of the rolling review of the Plan. It is suggested that this proposal be picked up and thoroughly considered as part of that review. At the hearing, the submitter agreed that this was an appropriate course of action and so the Committee endorsed the view that this issue be considered more fully as part of a subsequent review of the contaminated sites provisions.

CentrePort (submitter 49) sought that the policy explanation be amended to allow a pragmatic approach to assessing applications for work on large sites that are noted as being contaminated, but where the proposed work would not actually affect the contaminated area. This submission touches on a broader issue recently identified with the contaminated sites rule regime (specifically the link between the definition of a contaminated site and the point at which a site is regarded as being triggered by the rules). As a result, it is now recognised that a more thorough review of the entire contaminated sites management regime is required. At the

hearing, the submitter noted the intention of the Council to review the contaminated sites regime which would help to resolve its concern over this policy and its associated rules.

As noted above, the Committee agreed that there are unresolved issues with the current contaminated sites rules in the Plan that should be looked into as soon as reasonably practicable. The Committee understood that this rule review is part of the Policy Planning Team's current work programme and that the review is intended to be undertaken in 2008.

### *Decision*

- **Accept in part** submission 68, that seek amendments to policies 12.2.14.2 and 12.2.14.5 and 12.2.14.7 as outlined above.
- **Reject** the submission point by submitter 68 that seeks to amend the information requirements for every resource application, pending a review of the contaminated sites management rule regime.
- **Reject** the submission by submitter 49 that seeks to amend the explanatory text for Policy 12.2.14.6 and 12.2.14.7, pending a review of the contaminated sites management rule regime.
- That the Planning Policy Team commences a review of the contaminated sites planning regime, understood to be occurring in 2008.

### **3.17 Objective 12.2.15 - Access.**

#### Objective 12.2.15

Specific issues raised in submissions include:

- Supports Objective 12.2.15. Adopt as notified (submission 54).
- GWRC supports a number of transportation principles identified in the plan change and supported by its objectives, policies, methods and design guides (including 12.2.15), and seeks that the general provision for cyclists be stronger and more explicit in some of the precinct design guides and provisions (submission 68).
- That the Council adopt objective 12.2.15 and associated policies (submission 77).
- That objective 12.2.15 is adopted. (submission 90)

### *Discussion*

The support of submission 54, 68, 77 and 90 was noted and accepted.

Submission 68 requested that stronger provision be made for cyclists. The Hearing Committee noted that this point has been picked up in the Central Area Design Guide.

### *Decision*

- **Accept** submissions 54, 68, 77 and 90 insofar as they support objective 12.2.15

#### Policy 12.2.15.1

Specific issues raised in submissions include:

- We support the aim to improve access by public transport etc (12.2.15.1), but also see a need to protect existing and future rail links, for example waterfront trams or light rail routes (submission 48).
- GWRC supports a number of transportation principles identified in the plan change and supported by its objectives, policies, methods and design guides (including 12.2.15.1) (submission 68).
- That policy 12.2.15.1 is adopted (submission 90).

### *Discussion*

The support of submissions 48, 68 and 90 was noted and accepted.

In relation to submission 48 the Hearing Committee noted that while provision of alternate transport options around the Central Area is generally supported, the current Waterfront Framework makes no provision for a waterfront tram or other forms of public transport. It was therefore considered inappropriate to make reference to this in the policy.

### *Decision*

- **Accept** submissions 48, 68 and 90 insofar as they support policy 12.2.15.1
- **Reject** submission 48 insofar as it seeks provision for light rail and waterfront trams in policy 12.2.15.1

### Policy 12.2.15.3

Specific issues raised in submissions include:

- GWRC supports a number of transportation principles identified in the plan change and supported by its objectives, policies, methods and design guides (including 12.2.15.3) (submission 68).

### *Discussion*

The support of submission 68 was noted and accepted.

### *Decision*

- **Accept** submission 68 insofar as it supports policy 12.2.15.3

### Policy 12.2.15.5

Specific issues raised in submissions include:

- Add a section to the explanation of Policy 12.2.15.5 which acknowledges the existing levels of access i.e. the port areas (submission 49).

### *Discussion*

Policy 12.2.15.5 provides for the consideration of new roads and access points into the Pipitea Precinct to enable development of the precinct. Submission 49 requested that the existing levels of access be recognised in the policy. The Hearing Committee considered that this was unnecessary given the policy is targeted towards new roads and access points.

### *Decision*

- **Reject** submission 49 insofar as it requests amendments to policy 12.2.15.5

### Policies 12.2.15.6 – 12.2.5.8

Specific issues raised in submissions include:

- Add explanation to Policy 12.2.15.6 to recognise that the Operational Port Area is exempt from parking limitations, the Masterplan for the Port Redevelopment Precinct provides for on-street parking and that use of areas for temporary or commuter parking may be an efficient use of the land (submission 49).

### *Discussion*

The Hearing Committee agreed that the Port Redevelopment Precinct created a unique situation in relation to provision of car parking, because the master-plan for the precinct provides for a degree of outdoor parking that will function in much the same way as street side parking in the remainder of the Central Area. Accordingly it was agreed that the explanation to policy 12.2.15.6 should be amended as follows:

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*It is recognised that there may be a need for car parking associated with development in the Port Redevelopment Precinct and Pipitea Precinct. However, the use of this car parking for commuters who work outside the Precincts will be discouraged.*

### *Decision*

- **Accept** submission 49 insofar as it requests amendment to the text of policy 12.2.15.6

### Policies 12.2.15.10 and 12.2.15.11

Specific issues raised in submissions include:

- Supports Policy 12.2.15.10. Adopt as notified (submission 54).
- Supports Policy 12.2.15.11. Adopt as notified (submission 54).

### *Discussion*

The support of submission 54 was noted and accepted.

### *Decision*

- **Accept** submission 54 insofar as it supports policies 12.2.15.10 and 12.2.15.11

### Policy 12.2.15.12

Specific issues raised in submissions include:

- Add explanation to policy 12.2.15.12 that recognises existing levels of access to the Port and what is provided for by the Masterplan (submission 49).

### *Discussion*

The Hearing Committee agreed that the explanation to policy 12.2.15.12 should be amended to acknowledge that the access points identified in the master plan for the Port Redevelopment Precinct are appropriate. The following text has been added to the policy:

*The access points onto Waterloo Quay shown in the master plan for the Port Redevelopment Precinct are considered to be appropriate.*

### *Decision*

- **Accept** submission 49 insofar as it requests acknowledgement of the Port Redevelopment Precinct in the explanation to policy 12.2.15.12

### Policy 12.2.15.14

Specific issues raised in submissions include:

- That policy 12.2.15.14 is adopted (submission 90).

### *Discussion*

The support of submission 90 was noted and accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports policy 12.2.15.14

## **3.18 Objective 12.2.16 - Tangata Whenua.**

Specific issues raised in submissions include:

- Objective 12.2.16 is supported (submission 72).
- Policy 12.2.16.1 is supported (submission 72).
- Policy 12.2.16.3 is supported (submission 72).

### *Discussion*

The support of submission 72 was noted and accepted.

### *Decision*

- **Accept** submission 72 insofar as it support Objective 12.2.16 and associated policies.

## **Chapter 13 - Rules**

### **3.19 General.**

Specific issues raised in submissions include:

- The Trust strongly recommends that the Council should establish an independent Design Review Committee to which all significant developments should be referred prior to being considered by Council as a way to reduce reliance of decision making on individual council officers, and to ensure robust decisions (submission 13).
- An explicit recognition by Council (by way of recorded comment in the decision report on Plan Change 48) of the need to provide funding through the Annual Plan process to support the employment of an adequate number of qualified 'in house urban design and heritage advisors (submission 86).
- That landscaping should be part of all Resource Development Applications and that a landscaping design guide be developed by the WCC (submission 32).
- That Wellington buses should have better noise and emission controls including breaking squeal (submission 32).
- The submitter considers that hospitality, as an important industry in the Central area, needs to be explicitly acknowledged in the plan. In many instances (e.g. 12.1.3, 12.2.1.2.) hospitality is excluded as an important inner city function (submission 48).
- Additional relief including rates relief, grants relating to heritage restoration, and no fees for processing resource consent applications (submission 50).
- I do not support provision for new developments on the Lambton Harbour Area because the area between the sea and the quays is too narrow for large, bulky buildings which are aesthetically unappealing in this part of the city (submission 69).
- The District Plan should recognise Transit New Zealand as an affected party to be consulted in relation to the masterplan for the Pipitea Precinct and resource consent applications that affect the inner city bypass (submission 77).
- That the distinction between heritage and character be expunged from the plan and any character assessments must include a heritage assessment (submission 80).

### *Discussion*

Submission 13 suggested that an independent urban design review panel be convened to review all significant developments in the Central Area. Submission 86 requested that explicit recognition be made through the Annual Plan process to fund adequate urban design and heritage advisors. The Hearing Committee acknowledged that elevating the urban design assessment to a Discretionary Activity (Restricted) will increase the importance of pre-application meetings between developers, architects and Council's urban design team, which is likely to increase workloads within Council. The Committee noted that Council has recently reviewed its internal processes to ensure that they are sufficient to deliver high quality urban design advice in a timely manner. Whereas previously Council's process was to have one urban designer comment on each consent application, the process has been amended to provide for:

- Internal peer review of all applications to ensure consistent advice on all applications
- Group consideration of significant proposals by the entire Urban Design Team to provide robust analysis and consistent advice
- Establishment of a pool of urban design professionals that are available to undertake *independent design reviews*. Applicants can request that their application be considered

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by an independent party. The number of reviewers may vary depending on the scale and nature of the proposal.

In an attempt to improve the effectiveness of Council's interaction with customers the following changes are also proposed:

- Clarification of the role of pre-application meetings to help manage the expectation of all parties
- Offering 'site exploration workshops' to applicants to enable potential development issues to be identified early in the process
- The preparation of urban design guidance notes to provide additional, more detailed advice on matters such as the provision of design excellence.

In light of the above, the Committee did not consider that was necessary to establish an independent design panel as requested by submission 13 and instead endorsed the changes that had been made to the Council's internal design assessment processes. It considered that every consent application is unique and that there was a need to respond accordingly. It felt that the flexibility introduced by these internal design assessment changes would allow for an appropriate degree of assessment depending on the nature of the consent application submitted. While interested in the Auckland model of an urban design panel, the Committee noted that this Council had built up a large body of experience in urban design matters, having had design guides in place for more than 10 years (unlike Auckland City Council). Likewise, the Committee noted that the changes proposed are expected to come out of the existing operational budget for the Councils Urban Design Team, and that this budget is reviewed on an annual basis.

Submission 32 sought that every application be required to include landscaping. The Committee noted that the Information Requirements of the Plan (section 3.2.2.7.2) already require that every application show how the proposal will be landscaped. The Committee considered that no further change was necessary.

Submission 32 was also concerned about the noise generated by Wellington buses. The Committee noted that this was not a matter which can be controlled by the District Plan and for this reason it was not possible to accept submission 32 in this regard.

Submission 48 sought explicit reference to the hospitality industry in sections 12.1.3 and 12.2.1.2. The Committee noted that these sections already refer to the CBD as hosting a wide variety of functions including 'business, commercial, government, retail, housing, education, entertainment and tourism'. It was considered that 'hospitality' was more generally covered by those phrases and that no amendment was required.

Submission 50 requested that Council explore additional options to encourage the retention of heritage buildings such as rates relief, grants and reduce consent fees. The submitter presented evidence to the hearing regarding the costs involved in owning and maintaining heritage buildings. The submitter noted that retention of heritage was principally a 'public good', but that private owners ended up meeting most of the costs. The submitter considered that the costs were likely to increase over time due to earthquake strengthening and building code requirements. The Hearing Committee noted that the use of rates relief to off-set the costs of owning heritage buildings had been considered by Council twice and rejected both times. The first occasion was during the consideration of the Council's Built Heritage Policy (2005) when rates relief was an option put forward to help mitigate the cost of owning and maintaining a listed heritage building. More recently the issue of providing rates relief for properties within an identified heritage area was considered by the Revenue and Financial Working Party. Use of rates relief was rejected on the grounds that rating differentials or rates reductions on development sites within the heritage areas is a poorly targeted option that can lead to the wrong properties being rewarded due to the rates calculation being based on capital values. Rates

relief can result in unfair cross-subsidisation by other property owner, and would be expensive to administer.

However, in addition to the above, the Hearing Committee noted that work was currently underway within Council to consider options for providing financial assistance to owners of heritage buildings. This work is due to be reported back to the Strategy and Policy Committee in late 2007. Rates relief is one of the options being reviewed in the current study. In recognition of the work currently underway the Hearing Committee considered that no specific amendments should be made to DPC 48 in response to this submission.

In relation to the Lambton Harbour Area the Committee noted that the current District Plan provisions were only made operative in 2004. Those changes were the result of a long, public consultation process resulting from the Wellington Waterfront Framework. The Committee was comfortable the DPC 48 should adopt those provisions unchanged, on the grounds that they had recently been through a robust public consultation process.

Submitter 77 (Transit NZ) requested that they be considered as an affected party to any application along the Inner City Bypass, or consulted during the preparation of a masterplan in the Pipitea Precinct. The Committee noted that Transit New Zealand was the requiring authority for all land that is designated along the inner city bypass. This meant that no person could do anything to the land that would affect the bypass without first gaining consent of Transit. In respect of the Pipitea Precinct, the Committee agreed that Transit should be made aware of such applications, but that the decision on who was an affected party is made on a case-by-case basis by the Council's consent planners. The Committee considered that proposals for works in the Pipitea Precinct (eg. 13.4.7) should be forwarded to Transit for their information, rather than nominating Transit is an affected party, as that decision was better made at the time of any consent application.

Submission 80 requested that the distinction between character and heritage should be expunged from the Plan, but this was not regarded as appropriate by the Committee. There are many situations of areas that have a character not derived from the history of buildings. This distinction does become more important in residential areas for example, where a particular suburb is perhaps characterised more by the extent of bush and trees in proportion to the buildings, than the age or similarity of buildings itself. The Committee considered that submission 80 should be rejected in respect of this point.

### *Decision*

- **Reject** submissions 13, 86, 32, 48, 50 and 80.
- **Accept** in part submission 77, by amending rule 13.4.7 to require that copies of all resource consent applications under that rule are made available to Transit.

## **Section 13.1 - Permitted Activities**

### **3.20 Rule 13.1.1 - Activities.**

Specific issues raised in submissions include:

- Commercial sex activities are listed under permitted activities (13.1.1), and reference is made to see rule 13.4.2. This appears to be a typographical error as 13.4.2 is for the creation of parking areas, the reference should be to 13.4.3, where it notes commercial sex activities as Discretionary Activity (Unrestricted) which contradicts the former (submission 48).
- That rule 13.1.1 be amended so that only, the creation of vacant land, open land or parking areas at ground level, which are visible from a public space, are Discretionary Activities (Unrestricted) (submission 82).

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- In respect of rule 13.1.1 make the following changes: Add at the end of bullet point 2, the words "except where exemptions stated in that section apply", or similar. Add at the end of bullet point 3, the words "except where it can be demonstrated that risk of contaminant release is low", or similar (submission 49).
- Add the words "and the Port Redevelopment Precinct" after the Operational Port Area in bullet point 5. Add the words "except for office activities associated with operational port purposes" after "activities". Note that an amendment to the definition as sought in submission point 4, would be a satisfactory alternative outcome (submission 49).
- Number the bullet points (submission 49).

### *Discussion*

Submission 48 requested that an incorrect cross reference in rule 13.1.1 be corrected. The Committee agreed that in the second to last bullet point of rule 13.1.1 (relating to commercial sex activities) the reference to Rule 13.4.2 should be changed to be 13.4.3.

Submission 82 requested that the rule regarding the creation of open space be amended so that it relates only to the creation of open space that is visible from public spaces. This amendment was supported by Committee on the grounds that the open space rule is intended to manage the potential effect of new open spaces (and ground level car parking) on the quality of the urban environment. The Committee agreed that if the open space(s) is not visible from surrounding public space then the impact on the quality of the urban environment would be minimal. Distinguishing between open spaces that are visible or not visible from public spaces was also consistent with the way that additions to existing buildings are managed under rule 13.1.2.

Submission 49 requested that the list of activities that are exempt from the HFSP in section 3.5.2.1 (and consequently from the hazardous substances rules in the Plan) be recognised in some form alongside the second bullet point in rule 13.1.1. The Committee noted that the submitter was satisfied with the relief suggested by officers when this issue was raised at the hearing. On that basis the Committee agreed that a margin note be added alongside the bullet point in rule 13.1.1 to act as a reminder that certain activities do not require resource consent. The wording for the right hand margin note is:

***Note: that the activities listed in section 3.5.2.1 do not require a HFSP assessment and are consequently exempt from the hazardous substances provisions of the Plan.***

Submission 49 requested that the Port Redevelopment Precinct be added to the area where the creation of vacant land, open land and parking areas is a Permitted Activity, subject to rule 13.1.1. This submission was supported by the Committee on the grounds that implementation of the approved master plan for the Port Redevelopment Precinct will inevitably involve the creation of some open space, and the provision of ground level car parking.

At the hearing submitter 49 noted that its written submission regarding a modification to bullet point 3 had not been addressed in the Officers report. The submitter had requested that the bullet point (which refers to an exemption to the list of permitted activities for any activity that disturbs or alters the ground of a contaminated site) be amended so that it does not exempt sites where it is demonstrated that the risk of contaminant release is low. The Committee believed that issue would be more properly considered as part of the comprehensive review of the contaminated sites regime and so does not support the submitter's request at this time. As noted previously, it has been decided that a review of these rules is to be conducted by Council Officers and the Committee is keen to see this happen as scheduled.

Submission 49 requested that the bullet points in rule 13.1.1 be numbered. This was not supported by the Committee on the grounds that the rules in DPC 48 have been structured to use bullet points for lists of exemptions. Numbering the bullet points would remove that convention.

### *Decision*

- **Accept** submission 48 insofar as rule 13.1.1 is amended to correct a cross reference in the bullet point relating to commercial sex activities
- **Accept** submission 82 insofar as it seeks clarification regarding the visibility of new ground level open spaces from adjoining public spaces
- **Accept** submission 49 in part, by adding a right hand margin note to the Plan alongside rule 13.1.1 that seeks to address the concerns raised, as outlined above.
- **Accept** submission 49 insofar as it requests that the Port Redevelopment Precinct be added to the fifth bullet point of rule 13.1.1
- **Reject** submission 49 regarding the proposal to amend the third bullet point to allow activities to occur on contaminated sites where the risk of contaminant release is demonstrated to be low.
- **Reject** submission 49 insofar as it seeks to have the bullet points in rule 13.1.1 numbered

### **3.21 Rule 13.1.2 - Buildings and Structures.**

Specific issues raised in submissions include:

- The margin note associated with rule 13.1.2.1 needs to acknowledge that offices for operational port activities are exempt (submission 49).
- The margin note associated with 13.1.2.2 appears to apply a restriction to the Operational Port Area. Note that the Operational Port Area is largely in the Pipitea Precinct, but also includes part of the Port Redevelopment Precinct (submission 49).
- I support the provisions of Proposed District Plan Change 48 in general; and I commend the Council's response to CentrePort's 'Harbour Quays' initiative. However, concerns remain regarding possible future development of buildings to house non-port activities on the major part of the Operational Port Area remaining exempt from District Plan controls. An uncontrolled proliferation of non-core use buildings could result in an unsightly Seaview-type industrial site, centred on the inner harbour and highly visible from Wellington's CBD and its amphitheatre of hills. The submitter requests that the Council adopt a pro-active strategy with a view to introducing controls, similar to those of District Plan Change 48 and as relevant, over any building developments proposed for non-port activities on the Operational Port Area at present (submission 5).
- Supports rule 13.1.2, particularly the provision that permits work under verandah level, or that is not visible from a public space as a Permitted Activity (submission 54).
- The submitter is concerned that PC48 will create additional cost and uncertainty for potential house developments within the central area. The increased consenting requirements will have both monetary and time implications for HNZA, and are considered unnecessary and inappropriate. Retain Rule 13.1.2 wording as currently written (submission 55).

### *Discussion*

Rule 13.1.2 proscribes those building works that can be undertaken as a Permitted Activity in the Central Area.

Submission 5 was concerned that the rule will lead to the development of unsightly industrial buildings on port land, and requested that the Council impose greater control in new buildings in the Operational Port Area that are for non-core port use. The Committee noted that Rule 13.1.2 allowed port related buildings to be established in the Operational Port Area as a Permitted Activity. Port related buildings and structures in the Operational Port Area are exempt from many of the provisions in the District Plan in recognition of the Port's operational constraints and its role as a key strategic transport asset for the city. Non-core port related buildings within the Operational Port Area would be subject to the standard Central Area urban design assessment under rule 13.3.4. A master plan is required before a building for office or

retail activities can be established within the Pipitea Precinct. Accordingly the Hearing Committee considered that the submitters concerns were adequately addressed by DPC 48.

Submission 49 requested a number of amendments to the margin notes to rule 13.1.2 regarding the status of port related buildings and structures. The Hearing Committee considered that the requested changes would help clarify the intent of the rules and it agreed that they be adopted. The following text is proposed:

*In the Pipitea Precinct all buildings and structures for office and retail use are Discretionary Activities (Unrestricted), except when they are directly associated with Operational Port Activities.*

*13.1.2.2 applies to that area of the Operational Port Area all of the Operational Port Area, including that portion that also forms part of the Port Redevelopment Precinct.*

Submission 54 supported proposed rule 13.1.2.

Submission 55 was concerned that rule 13.1.2 would cause additional cost and uncertainty when undertaking developments in the Central Area. The submission requested that the existing permitted building rule be retained. In response, the Committee noted that while rule 13.1.2 has been reworded in DPC 48, the thresholds for permitted building works remained the same as those contained in the Operative District Plan. Accordingly the Committee considered that proposed rule 13.1.2 should be retained as it the wording was less ambiguous than the operative rule, and avoids the double negatives contained in the operative plan provisions.

### *Decision*

- **Accept** submission 5 insofar as it requests that non-port related buildings in the Operational Port Area be subject to an urban design assessment
- **Accept** submission 49 insofar as it requests changes to the margin text to rule 13.1.2
- **Accept** submission 54 insofar as it supports proposed rule 13.1.2
- **Reject** submission 55 insofar as it requests that rule 13.1.2 from the Operative District Plan be retained.

### **3.22 Rule 13.1.3 - Signs.**

Specific issues raised in submissions include:

- In relation to the sign provisions;
  - i) Amend Rule 13.1.3 to include express provisions that notwithstanding anything else in the District Plan they apply to all heritage buildings, heritage precinct areas and that in the event of conflict with other parts of the District Plan these provisions apply.
  - ii) Amend all related provisions so they are consistent with this request.
  - iii) Such further or incidental relief as may be appropriate (submission 36).
- That rule 13.1.3 is adopted (submission 90).

### *Discussion*

Submission 36 (St John's in the City Council) sought clarification regarding the signage rules that apply to listed heritage buildings and within identified heritage areas. At the hearing the submitter noted that the current sign rules applying to heritage areas were so onerous that the changing the details on the church's notice board could require resource consent. The Hearing Committee agreed that the signage rules applying to heritage areas were onerous and impractical. This issue is discussed further in section 3.13 above, where the Hearing Committee agreed to amend the sign rules that apply to areas of special heritage and character value. The effect of these changes will be to apply the normal Central Area sign provisions to heritage areas in the Central Area, with the following proviso:

For any sign located in the following areas:

- Cuba Street Heritage Area
- St John's Church Heritage Area
- Civic Centre Heritage Area
- BNZ/Head Office Heritage Area
- Post Office Square Heritage Area
- Stout Street Heritage Area
- Parliamentary Precinct Heritage Area
- Te Aro Corridor Area

the information that may be displayed on the sign is limited to the building name, the name/logo of the business, owner or occupier of the building (or site) on which the sign is located, and/or the product or service available on site.

The Hearing Committee noted that the sign rules applying to listed heritage buildings were addressed under DPC 43 – Heritage Rules.

Submission 90 supported proposed rule 13.1.3.

#### *Decision*

- **Accept** submission 36 insofar as it requests that the Central Area sign rules be expanded to cover listed heritage areas
- **Accept** submission 90 insofar as it supports rule 13.1.3

### **3.23 Rule 13.1.4 - Subdivision.**

Specific issues raised in submissions include:

- Amend the second bullet point by adding the words "except where such land provides a balance lot only", or similar wording (submission 49).

#### *Discussion*

Submission 49 requested that text be added to rule 13.1.4 to clarify that subdivision that occurs outside the Pipitea Precinct, but which involve certificates of title that extend into the precinct, is permitted. Subdivision within the Pipitea Precinct is a Discretionary Activity (Restricted) in recognition of the areas unique character. The Pipitea Precinct covers existing port and rail land that may be developed for other uses at some stage in the future. The area is unique because the majority of the precinct lacks an established public space structure (roads, footpaths, public spaces, block layout etc), and little in the way of infrastructure. The District Plan contains a requirement that any future development within the precinct (other than core port and rails activities), be accompanied by a master-plan which shows the public space structure and layout of the proposal. Accordingly it is considered appropriate that subdivision within the precinct remain a discretionary activity.

However the Hearing Committee considered that submission 49 raised a valid point. Subdivisions that occur outside the precinct, but which involve titles that extend into the precinct, would not compromise options for future development within the Precinct. The Committee considered that additional text should be added to the second bullet point in rule 13.1.4 to cover this eventuality.

- **Subdivision within the Pipitea Precinct (shown in Appendix 3) which is a Discretionary Activity (Restricted). Subdivision that occurs outside the Pipitea Precinct, but which involves titles that extend into the Pipitea Precinct, is a permitted activity provided that no new allotments are created within the Pipitea Precinct.**

## *Decision*

- **Accept** submission 49 insofar as it requests provision of permitted activity status for subdivision of land surrounding the Pipitea Precinct

## **Section 13.2 – Controlled Activities**

### **3.24 Rule 13.2.1 - Activities.**

Specific issues raised in submissions include:

- Add after the word "substances" in Rule 13.2.1 the words "except where exemptions apply in that section", or similar wording (submission 49).

## *Discussion*

For the same reasons as outlined under rule 13.1.1, the Hearing Committee considered that a margin note should be included in the Plan alongside Rule 13.2.1 to explain that certain activities are exempt from the hazardous substances provisions of the Plan.

## *Decision*

- **Accept** submission 49 in part, by adding a right hand margin note to the Plan alongside rule 13.2.1 that seeks to address the concerns raised.

### **3.25 Rule 13.2.2 - Buildings and Structures (Queens Wharf Special Height Area).**

Specific issues raised in submissions include:

- That rule 13.2.2 (including 13.2.2.1) is adopted (submission 90).

## *Discussion*

The support of submission 90 was noted and accepted.

## *Decision*

- **Accept** submission 90 insofar as it supports rule 13.2.2.

### **3.26 Rule 13.2.3 - Buildings and Structures (Port Redevelopment Precinct).**

Specific issues raised in submissions include:

- Supports concept of Port Redevelopment and Pipitea precincts but makes several suggestions to ensure the outcomes desired are achieved. Reconsider the 'controlled activity status' of development in the Port Redevelopment Area. They should be 'discretionary restricted activities'. (submission 48).
- Exclude the Port Redevelopment Area from Rule 13.2.3.2 in its entirety. Delete Rule 13.2.3.4 and replace it with a note, or a reference to the information requirements. Modify the information requirements to provide for the intent of the rule (submission 49).
- Amend Rule 13.2.3.9 to be less confusing. Revise as drafted below: "for any additional storeys above ground floor level, no more than 20 percent of the width of a frontage facing a road, boardwalk, park square or land ... shall be blank space" (submission 82).

## *Discussion*

Submission 48 supported the Port Redevelopment Precinct concept but considered that the assessment of new buildings and structures should be a Discretionary Activity (Restricted), rather than the proposed Controlled Activity. The Hearing Committee noted that shifting the consent category to Discretionary Activity (Restricted) had some merit in that it would create a level playing field throughout the Central Area. However when DPC 48 was prepared the

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assessment of new buildings within the Port Redevelopment Precinct was made a Controlled Activity on the grounds that a master-plan had been prepared for the layout of buildings, streets and public spaces within the Precinct. Additionally CentrePort and Wellington City Council had signed a Memorandum of Understanding (MoU) regarding future development of the Precinct to ensure it delivered a high quality, mixed use central city precinct. Compared to the rest of the Central Area, the master-plan and MoU provided additional tools by which to deliver quality urban design outcomes in the Port Redevelopment Precinct. On that basis the Committee considered that the Controlled Activity status is sufficient to manage new buildings and structures in the Port Redevelopment Precinct, provided they are consistent with the agreed masterplan.

Submission 49 (CentrePort) requested that the building mass provision not be applied to new building works in the Port Redevelopment Precinct. In their evidence to the Committee, CentrePort argued that the building footprints in the master-plan make adequate provision for issues relating to building mass. They noted that the building mass provision is intended to allow better management of effects relating to daylight, wind, heritage and urban design. The Port Redevelopment Precinct masterplan shows large building footprints occupying entire blocks. CentrePort considered that this layout limits the need to consider mass in relation to daylight because every site has access to light on all sides. Similarly, they felt that the masterplan and MoU are sufficient to allow effects relating to urban design to be appropriately managed. CentrePort also considered that the mass provision was not required in order to manage effects on heritage items within the Port Redevelopment Precinct because of the separation distance between buildings provided for in the masterplan. It was the opinion of CentrePort that the only remaining effect, that of ground level wind, could be managed by the wind rules and did not require separate controls on building mass. CentrePort did acknowledge that the masterplan was developed on the basis of buildings 27 metres in height. They agreed that consideration of building mass would be appropriate for any portion of a building that extended above this height.

The Hearing Committee agreed with the submitter that the masterplan for the Port Redevelopment Precinct had already addressed issues of daylight and heritage, and that a mass provision was not required to further manage these issues. Likewise, the Committee agreed that managing wind effects could be adequately addressed through application of the wind standards. Accordingly the Committee considered that developments within the precinct that are in accordance with the masterplan could be considered without application of the building mass standard. However the Committee considered that building mass was a relevant consideration for any building proposal that was not consistent with the masterplan, or which was taller than 27 metres in height.

Submission 49 also requested that the requirement to provide details of associated open space (13.2.3.4) be removed from rule 13.2.3. This provision requires that a consent application to build new buildings include details regarding development of adjacent public space. The Hearing Committee noted that the MoU signed between Council and CentrePort for the development of the Port Redevelopment Precinct included details as to which public spaces are associated with which building footprints. In signing the MoU both parties agreed that the public spaces would be developed in stages as the associated buildings are constructed. On the grounds that the quality of the public spaces is a key element in creating a quality urban environment in the Precinct, the Committee considered that rule 13.2.3.4 should be retained, as it will allow the detail of the public spaces to be assessed at the time that new building(s) are being developed on adjacent sites.

Submission 82 requested that rule 13.2.3.9 be amended to improve its clarity. The rule currently reads:

**13.2.3.9 Any additional storeys above ground floor level the building must have no more than 20 percent of the length of its primary frontage area, and no more than 20**

percent of the length of any frontage to a road, boardwalk, park, square or lane (excluding service lanes 1, 3, 4, 7 & 8) as blank space. Blank space means portions of the building façade without windows, significant modulation, voids or other architectural features.

The Committee agreed that the wording of the rule could be improved, and directed that the following wording be included in the plan:

**13.2.3.9 For primary frontage areas, and any frontage to a road, boardwalk, park, square or lane (excluding service lanes 1, 3, 4, 7 & 8), storeys above ground floor level must have no more than 20 percent of their length as blank space. Blank space means portions of the building façade without windows, significant modulation, voids or other architectural features.**

### *Decision*

- **Accept** submission 48 insofar as it supports the Port Redevelopment Precinct concept
- **Reject** submission 48 insofar as it requests that buildings and structures in the Port Redevelopment Precinct be considered as a Discretionary Activity (Restricted)
- **Accept** submission 49 insofar as it requests that the provisions relating to building mass (13.2.3.2) be deleted from rule 13.2.3
- **Reject** submission 49 insofar as it requests that the provisions relating to open space (13.2.3.4) be deleted from rule 13.2.3
- **Accept** submission 82 insofar as it requests that rule 13.2.3.9 be amended to provide greater clarity

### **3.27 Rule 13.2.4 - Subdivision.**

Specific issues raised in submissions include:

- The Wellington Branch of the NZ Institute of Surveyors generally supports the proposed changes subject to a number of amendments contained in the submission. That the last paragraph of rule 13.2.4 (subdivision compliance standards) should be rewritten to operate more effectively (draft wording supplied) (submission 66).
- That the last paragraph of rule 13.2.4. (subdivision) be amended as follows: "The requirement to meet these standards [will] be waived if resource consent has been sought and granted for those aspects that do not comply [or the building has existing use rights under section 10 of the RMA]" (submission 82).

### *Discussion*

Rule 13.2.4 provides for company lease, cross lease, and unit title subdivisions as a Controlled Activity. Submissions 66 and 82 requested amendments to the wording of the rule to improve its clarity. The rule is currently worded as follows:

**provided that all activities, buildings, structures and signs comply with the standards in section 13.6 relating to vehicle parking, servicing and site access; buildings and structures; and signs. The requirement to meet these standards may be waived if resource consent has been sought and granted for those aspects that do not comply.**

Submission 66 requested that this text be deleted and replaced with the following:

provided that all activities, buildings and structures comply with the subdivision standards in section 13.6.5.1.1. The requirement to meet these standards may be waived if resource consent has been granted or is concurrently sought and granted, for those aspects that do not comply.  
(Submission 66)

Submission 82 asked that the following text be added at the end of the current text to recognise existing buildings that rely on existing use rights for aspects of non-compliance with the current District Plan rules:

or the building has existing use rights under section 10 of the RMA. (submission 82)

The Hearing Committee considered that both of the requested amendments were worthwhile as they outline the requirements of the rule more clearly than the current wording. However the Committee considered that the text put forward by submitter 66 should be amended to refer to all the standards in 13.6.5.1, not just 13.6.5.1.1. It also noted that including the text from submission 66 would necessitate a consequential change to the Subdivision standards in 13.6.5.1 to make reference to the sign standards. The Committee decided that the following text should be added to rule 13.2.4:

**provided that all activities, buildings and structures comply with the subdivision standards in section 13.6.5.1. The requirement to meet these standards may be waived if resource consent has been granted or is concurrently sought and granted, for those aspects that do not comply, or if the building has existing use rights under section 10 of the RMA.**

The following text has also been added to 13.6.5.1:

**13.6.5.1.10 Any proposed unit intended for the provision of signage must comply fully with the standard for signage specified in 13.6.4.**

### *Decision*

- **Accept** submissions 66 and 82 insofar as they request amendments to the wording of rule 13.2.4

## **Section 13.3 – Discretionary Activities (Restricted)**

### **3.28 13.3 Introduction.**

Specific issues raised in submissions include:

- That the reference in the 2nd paragraph of 13.3 to 13.61 be amended to be 13.6.1 (submission 66).

### *Discussion*

Submission 66 requested that a typographical mistake in the introduction to section 13.3 be corrected. The Committee accepted this submission and directed that the reference to '13.61' be amended to become '13.6.1'.

### *Decision*

- **Accept** submission 66 insofar as it requests that an incorrect cross reference in the introduction to section 13.3 is amended.

### **3.29 Rule 13.3.1 - Activities (vehicle parking).**

Specific issues raised in submissions include:

- In rule 13.3.1 add, after the word "Precinct", the words "(where such parking is permitted)", or similar wording (submission 49).
- GWRC supports a number of transportation principles identified in the plan change and supported by its objectives, policies, methods and design guides (including 13.3.1) (submission 68).

### *Discussion*

Submission 49 requested clarification that the Operational Port Area and Port Redevelopment Precinct were not subject to rule 13.3.1. The Hearing Committee agreed that the masterplan for

the precinct anticipated the provision of over 70 car parks and that this should be recognised in rule 13.3.1.

**Any activity involving the provision of more than 70 vehicle parking spaces per site (except for sites within the Operational Port Area or Port Redevelopment Precinct **where such parking is a Permitted Activity**), is a Discretionary Activity (Restricted) in respect of:**

The support of submission 68 was accepted.

### *Decision*

- **Accept** submission 49 insofar as they seek clarification as to how rule 13.3.1 is applied to the Operational Port Area or Port Redevelopment Precinct
- **Accept** submission 68 insofar as it supports rule 13.3.1

### **3.30 Rule 13.3.3 - Activities (that do not meet required standards).**

Specific issues raised in submissions include:

- That Rule 13.3.3 be amended to clarify what activities are Discretionary (Restricted) Activities (submission 67).
- That the first reference to Discretionary Activity (Restricted) in rule 13.3.3 be removed (submission 82).

### *Discussion*

Submissions 67 and 82 requested amendments to Rule 13.3.3 to clarify how the different activity status's interrelate. The current wording of the rule is:

*Activities which are Permitted, Controlled or Discretionary (Restricted) Activities and do not meet one or more of the standards outlined in section 13.6.1 (Activities, Buildings and Structures) and 13.6.2 (Activities), are Discretionary Activities (Restricted). Discretion is limited to the effects generated by the standard not meet*

The Hearing Committee accepted that the confusion appeared to result from the double reference to Discretionary (Restricted) Activities in the rule. While the submitters concerns are acknowledged, the Committee considered that the current wording should be retained. The double reference to Discretionary Activities is required so that activities covered by rules 13.3.1 and 13.3.2, can be considered under rule 13.3.3 if they do not meet the relevant standards specified in section 13.6 of the District Plan.

### *Decision*

- **Reject** submissions 67 and 83 insofar as they request amendments to the wording of rule 13.3.3

### **3.31 Rule 13.3.4 - Buildings and Structures (new buildings and structures).**

Specific issues raised in submissions include:

- The submitter expresses concern at the amount of discretion council has now over new buildings, given the change in activity status to discretionary restricted. Transfer rule 13.3.4 into 13.2 so that these activities (i.e. construction of buildings) remain a Controlled Activity (submission 40).
- Remove rule 13.3.4 from the plan change and retain the controlled activity status for construction or alteration of, and addition to, buildings and structures in the Central Area, as per provisions in the Operative District Plan (submission 54 and 55).
- The relocation of the provisions of Rule 13.3.4 "Buildings and Structures" into rule 13.2 so that the activities stipulated in rule 13.3.4 become Controlled Activities as they essentially

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are under the Operative District Plan and the deletion of references to building mass from those provisions (submission 78).

- Delete all references to building mass from rule 13.3.4. The concept of building mass is not supported and the submitter believes the Central Area design guides can be used to achieve the same outcome (submission 45).
- Incorporate clear "assessment criteria" under Rule 13.3.4,
  - (i) any economic and other effects on building owners through the imposition of heritage and public amenity objectives; and
  - (ii) Council's policy on earthquake prone buildings (submission 30).
- In rule 13.3.4 add at the words "Except in the Port Redevelopment precinct ...", at the start of Rule 13.3.4.2, or similar wording (submission 49).
- Modify the Plan to include clear reference to the Central Area Design Guide to ensure that it is taken into account when assessing resource consent applications (submission 65).

### *Discussion*

Rule 13.3.4 requires that proposals for new buildings and structures within the Central Area apply for resource consent to allow an urban design assessment to be undertaken. There are a number of exceptions to the rule, but the majority of new building work in the Central Area is covered by this rule.

By way of background the Hearing Committee noted that when the operative District Plan was prepared a number of design guides were put in place to help ensure that new development in the Central Area was of high quality, responded to the context in which it was located, and enhanced the public environment. The design guides were implemented as a Controlled Activity, for which consent cannot be declined, in order to give a degree of certainty to applicants.

In conjunction with the introduction of the design guides, the operative District Plan controls dramatically increased the overall development potential of nearly every site in the Central Area. This was done by removing the previous plot ratio controls, and providing for 100 percent site coverage up to the stated maximum heights. The rationale for removing the controls on development intensity, was that it was better to assess the appropriateness of every building on a site by site basis through an urban design assessment, rather than continue with the 'design by numbers' approach that tended to occur under the plot-ratio system. Although the design guides were implemented as a Controlled Activity it was anticipated that they would carry significant weight and could be used to moderate maximum heights and building bulk when necessary to respect the existing character of the surrounding area. However this was not borne out in the results of the plan effectiveness monitoring undertaken in relation to urban design. Instead, the advent of the legal concept of 'permitted baseline' during the life of the plan has meant that the permitted activity standards regarding height, site coverage and servicing have dominated issues of context and design.

Many consent applications lodged with the Council prior to DPC 48 contained an argument that the overall height and bulk of a building are defined by the permitted activity standards, and that in considering the '*design, external appearance and siting*' of a proposal the Council is restricted to consideration of façade detail and minor modifications to the building design. In this environment achieving positive urban design outcomes became very dependent on the applicant's willingness to work with the Council. The construction of apartments buildings with windows located in boundary walls is one example of how the combination of rules in the Operative District Plan are not always sufficient to guarantee positive urban design outcomes.

Monitoring of the quality of new building developments in the Central Area from 2001-2004 indicates that approximately 60% of new buildings have a design quality above average. While this figure is higher than could have been anticipated if no design assessment was undertaken for new buildings, it indicates that there is scope for improvement in the way that Council

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undertakes the design assessment for new building works. The monitoring report concluded that a significant barrier to achieving better overall building design was the Controlled Activity status of the design assessment rule in the Operative District Plan. The monitoring report also noted:

- There was unnecessary duplication between design guides.
- The content of many of the design guides was dated and out of context.
- Some design guides covered too large an area and their impact was diluted as a result.
- There were issues about when the main Central Area Design Guide and the Character Area Design Guides were applied in relation to each other.

As a result DPC 48 proposed to elevate the status of the design assessment rule to Discretionary Activity (Restricted). This status would mean that the Council's discretion remains limited to the design aspects of new building works, but would enable the Council to decline applications that were inconsistent with the provisions of the Central Area Design Guide and detrimental to the quality of the public environment in the Central Area.

Submissions 40, 54, 55 and 78 requested that urban design assessments (rule 13.3.4) remain as a Controlled Activity. Submitter 40 (Craig Erskine) was concerned at the amount of discretion Council now has over new buildings. This concern was echoed by the Property Council (submitter 65), Housing NZ (submitter 55), Ulysses Trust (submitter 30), OEC Trust (further submitter 16) and Primeproperty Group (submitter 54) in their evidence to the Hearing Committee.

Housing NZ was concerned that the proposed provisions would increase uncertainty for applicants and drive up consenting costs in the Central Area. While they supported Council's goal of achieving a high quality built environment, Housing NZ considered that this would be best achieved by developing better standards, revising the content of the design guides, and retaining the Controlled Activity provisions to ensure certainty and clarity for property owners.

Ulysses Trust and OEC Limited considered that the move to discretionary activity status created an unreasonable level of uncertainty for building owners when upgrading or redeveloping buildings. They were also concerned that the increased uncertainty about development potential would diminish the value of central area properties at the expense of the owner.

Primeproperty was concerned that the increased discretion open to Council could be open to abuse, and could potentially be used to stall projects, thus forcing applicants to accepted Council initiated changes to building design. The submitter was concerned that the new rule structure would increase development costs and that these would need to be transferred on to tenants or future owners.

While acknowledging the submitters concerns the Hearing Committee was strongly of the view that the Discretionary Activity status of rule 13.3.4 was necessary to ensure that new developments make a positive impact on the public environment through the integration of quality urban design. The Committee considered that achieving good urban design and enhancing the quality of the public environment was essential for the long term success of the city. Each new building (or addition and alteration) presents an opportunity to enhance the public environment, and the goal of the District Plan is to ensure that over time each new building results in an incremental improvement in the quality of the public and built environment. While the Committee acknowledged that many high quality developments had occurred over the life of the operative District Plan, they also noted that a number of sub-standard applications had been granted consent as a result of the urban design assessment being undertaken with a Controlled Activity status. The Hearing Committee was satisfied that quality proposals, designed by competent professionals, would face no greater hurdles under the

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proposed Discretionary Activity rule structure. However the new rule structure would allow Council to better manage proposals that were at the lower end of the spectrum in terms of design quality.

The Hearing Committee did note that the new discretionary activity status placed a greater onus on the Council to provide consistent, timely and transparent urban design advice during the pre-application and consent process. It also acknowledged that elevating the design assessment to a Discretionary Activity (Restricted) would increase the importance of pre-application meetings between developers, their architects and Council's urban design team. Council has recently undertaken a review to ensure that its internal processes are sufficient to deliver high quality urban design advice to customers in a timely manner. Whereas previously Council's procedure was to have one urban designer comment on each consent application, the process has been amended to provide for:

- Internal peer review of all applications to ensure consistent advice on all applications
- Group consideration of significant proposals by the entire Urban Design Team to provide robust analysis and consistent advice
- Establishment of a pool of urban design professionals outside of Council that is available to undertake independent design reviews. Applicants can request that their application be considered by an independent party. The number of reviewers may vary depending on the scale and nature of the proposal.

In an attempt to improve the effectiveness of Council's interaction with customers the following changes are also proposed:

- Clarification of the role of pre-application meetings to help manage the expectation of all parties
- Offering 'site exploration workshops' to applicants to enable potential development issues to be identified early in the process.

In recognition of the proposed Discretionary Activity status for urban design assessments, the Hearing Committee noted that significant time and effort was spent reviewing the Central Area policies for urban design. Given the importance placed on achieving a high quality built environment in central Wellington the Operative District Plan provides comparatively little guidance as to the type and quality of outcomes that the Council was seeking to achieve.

The Committee also considered that the new, expanded policies on urban design and urban form in the Central Area would provide all parties with greater clarity as to the built outcomes that the Council is seeking to achieve in the Central Area. The revised policies provide a much more robust framework for assessing applications for new buildings and structures. The revised policies also provide a more affirmative direction for new building work. They acknowledge the potential positive effects of buildings that are of high design quality, even if those buildings are not in strict accordance with the standards specified in the District Plan. The policies (and design guide) also provide guidance as to the circumstances in which a high quality landmark building is appropriate. The Hearing Committee were strongly of the view that good design could not be delivered solely through the application of rules and standards. The process of assessing urban design therefore necessitated some degree of discretion. The Committee considered that the provision of clear policy guidance was the most effective way to ensure that the discretion was used appropriately.

The Committee was confident that the consent assessments undertaken by Council involved the application of widely accepted urban design principles and would present no barriers for well designed buildings that acknowledged their context. However the Committee noted that not all applications lodged with Council demonstrated such a commitment to achieving quality urban design. It was in those situations that the discretionary activity status became important as it would allow Council to decline clearly sub-standard applications that could not be resolved through negotiation.

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Submitters 78 and 45 requested that references to building mass be removed from rule 13.3.4. In the case of submitter 78 this was part of a wider request that all references to building mass be expunged from the plan change. The building mass provisions are discussed in more detail in section 3.49. On the basis that the building mass provisions are to be retained, the Committee considered that submission 78 should be rejected.

Submitter 45 (ING (NZ) Ltd) and further submitter 16 (OEC Limited) considered that the building mass provisions should be deleted on the basis that the Central Area Design Guide (implemented as a discretionary activity) was sufficient to manage issues of building bulk. ING and OEC Limited appeared at the hearing and argued that the application of the design guide would allow issues of building bulk and mass to be resolved through negotiation with Council at the pre-application stage. The submitters considered that this would allow urban design improvements to be achieved without the rigidity of the massing rules and the potential inequity that could arise from a perception that the massing rule had to be applied in all cases. ING did however note that to be successful the negotiation process relied on 'the application of competent architects and experienced and facilitative Council urban planners'. The Hearing Committee agreed with the submitter that in many cases the urban design discussions held between Council and applicants are sufficient to resolve site specific design issues. This was particularly so when both parties were open to consider alternative options and when the discussions commenced early in the design process. However the Committee noted that pre-application discussions were not feasible in all circumstances and that this made relying solely in the pre-application negotiation process to resolve issues of building mass problematic.

The Committee was of the view that if there was no specific provision in the District Plan relating to mass, developers would rightfully expect that their site could be developed to access 100% mass. Any request from Council to reduce mass would be likely to be perceived as lost development rights and the resulting negotiation process was likely to be antagonistic and costly for all parties. The Committee considered that property owners that were required to reduce building mass would likely feel aggrieved when other sites in the Central Area were permitted to develop up to 100%. The Committee also noted that relying on the design guide may have the unforeseen result of requiring some sites to reduce mass below the proposed level of 75%.

The Hearing Committee were aware that most property owners and developers look for certainty in the District Plan provisions. The Committee considered that relying on the Central Area Design Guide to manage issues of building mass would increase uncertainty for building owners and developers, as total development potential could only be confirmed through dialogue with Council. This would make it very difficult to value properties, and would create problems for potential property owners trying to calculate an appropriate purchase price for central area properties.

While acknowledging the benefits of open discussions between applicants and Council, the Hearing Committee considered that a more robust and transparent approach to managing mass was to have a set standard, with clear guidance as to when it is appropriate to exceed that standard. With a building mass provision in place property owners can plan on the basis that 75% mass is a given, and that additional mass may be accessed if effects relating to daylight, wind, heritage and design can be appropriately managed. The Committee therefore considered that submission 45 should be rejected.

Submission 30 has requested that additional assessment criteria be added to rule 13.3.4. The requested criteria relate to the economic effects on building owners resulting from heritage and public amenity objectives, and the Council's policy on earthquake prone buildings. The Hearing Committee agreed that in coming years the Council's policy on earthquake strengthening was likely to become a pressing issue for many property owners. Owners of at risk buildings will be faced with the option of either demolishing and rebuilding, or

strengthening the existing building so that it meets the new code requirements. The ability to undertake an addition to a heritage building may be the difference, making it financially viable to retain and strengthen the building. As such the Committee considered that the impact of the earthquake strengthening policy should be considered when assessing applications on works in heritage areas. The Committee noted that assessment criteria are now contained in the policies contained in Chapter 12. The following text will be added to policy 12.2.5.1, relating to building height in heritage areas:

- whether the proposed work will enable an existing heritage building to be earthquake strengthened.
- whether the work will facilitate the on going retention of an existing heritage building.

The Hearing Committee also noted that it is proposed to amend policy 12.2.5.4 to recognise that Council will generally support increases in building height when a portion of the building is set down below the height standard to protect a public amenity such as sunlight to a public space, or an identified view shaft. The Committee considered that this clarification should meet submission 30's request that DPC 48 provide scope to consider the economic effects of rules protecting public amenity.

Submission 49 (CentrePort) requested that text be added to rule 13.3.4 to clarify that the assessment of the placement of building mass does not apply to developments in the Port Redevelopment Precinct. At the hearing CentrePort clarified that consideration of building mass would be appropriate for any portion of a building that extended above 27 metres, as that was the height that was used as a benchmark when the masterplan for the area was developed. This issue is considered in greater detail in section 3.26 above, where the Committee considered that developments that complied with the masterplan for the Port Redevelopment Precinct could be made exempt from the building mass provision. The Committee considered that any proposal that was inconsistent with the masterplan or which extended to a height of greater than 27 metres should be assessed in terms of the effect of building mass.

Submission 65 requested that a clear reference be made to the Central Area Design Guide in rule 13.3.4 to ensure it is taken into account in assessing consent applications. The Hearing Committee agreed that, for the sake of clarity, a reference to the Central Area Design Guide should be added to margin text beside rule 13.3.4.

### *Decision*

- **Reject** submissions 40, 54, 55, and 78 insofar as they request that urban design assessments be undertaken as a Controlled Activity
- **Reject** submissions 78 and 45 insofar as they seek deletion of all references to building mass in rule 13.3.4
- **Accept** submission 30 insofar as it requests that the economic impact of public amenity rules and the earthquake strengthening policy be included in the District Plan assessment criteria
- **Accept in part** submission 49 insofar as it requests that the building mass provision not be applied to the Port Redevelopment Precinct
- **Accept** submission 65 insofar as it requests that rule 13.3.4 contain a cross reference to the Central Area Design Guide

### **3.32 Rule 13.3.5 - Buildings and Structures (minor works Lambton Harbour Area).**

Specific issues raised in submissions include:

- That rule 13.3.5 be amended to reflect concerns: That minor additions and alterations to existing buildings in the Lambton Harbour area become a Discretionary Activity

(Unrestricted). Given the sensitive nature of this area, even minor additions (such as adding to a building's height by 10%) can be quite significant (submission 90).

- The NZHPT supports restricting discretion to heritage among other matters in Rule 13.3.5, though perhaps the term 'historic heritage' would be clearer (submission 72).

### *Discussion*

Submission 90 requested that minor additions and alterations to existing buildings in the Lambton Harbour Area be made a Discretionary Activity (Unrestricted). Minor additions and alterations are defined in the plan as:

- additions and alterations that do not add more than 10% to the height of the existing building
- additions and alterations that do not extend the footprint of the existing building by more than 5%
- additions and alterations that do not involve the total or partial demolition, destruction or removal of any listed building or listed façade or other listed element of a building.
- additions and alterations that do not result in an additional floor beyond the existing building envelope

While the Hearing Committee agreed that the Lambton Harbour Area was a sensitive environment, it considered that the limited scale of work provided for as minor additions and alterations was such that it was appropriate that any applications could be appropriately dealt with as a Discretionary Activity (Restricted).

Submission 72 requested that the reference to heritage in rule 13.3.5 be amended to read 'historic heritage'. This change was supported as 'historic heritage' is the term used in the RMA, and use of the same term in rule 13.3.5 would avoid confusion.

### *Decision*

- **Reject** submission 90 insofar as it requests that rule 13.3.5 be made a Discretionary Activity (Unrestricted)
- **Accept** submission 72 insofar as it requests that the reference to heritage in rule 13.3.5 be amended to read 'historic heritage'

### **3.33 Rule 13.3.6 - Buildings and Structures (within Hazard Area).**

Specific issues raised in submissions include:

- Delete all references to building mass from rule 13.3.6. The concept of building mass is not supported and the submitter believes the Central Area design guides can be used to achieve the same outcome (submission 45).

### *Discussion*

Submission 45 requested that the reference to building mass be deleted from rule 13.3.6. The issue of building mass is considered in more detail in section 3.49 below, where the Hearing Committee decided that the building mass standard should be retained. Accordingly the Committee considered that the reference to building mass in rule 13.3.6 should be retained.

### *Decision*

- **Reject** submission 45 insofar as it requests that the reference to building mass be removed from rule 13.3.6

### **3.34 Rule 13.3.8 - Buildings and Structures (that do not meet required standards).**

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Specific issues raised in submissions include:

- Transfer rule 13.3.8 into 13.2 so that these activities (i.e. construction of buildings) remain a Controlled Activity (submission 40).
- That Rule 13.3.8 be amended to clarify what activities are Discretionary (Restricted) Activities (submission 67).
- In rule 13.3.8 add ", Controlled" after "Permitted", in the Rule, or similar wording. Add the words "Except in the Port Redevelopment Precinct" at the start of Rule 13.3.8.5 (submission 49).
- An expert panel should be constituted to consider requests for all use of discretion, not WCC personnel who need to focus on reports to that expert panel for consideration. This should remove much of the heat that a Council Planning Officer might engender (submission 38).
- With respect to the discretionary height: delete 13.3.8.14 "maximum building height must not be exceeded by more than 35%, and the building mass standard must not be exceeded". Discretionary height increases should be limited to 10% (submission 24).
- The submitter is very concerned about possible increases in building height in the low city, particularly in relation to the overall mixed-use character of the Central Area (submission 48).
- That the maximum height should not be exceeded by not more than 10%, rather than the 35% proposed in rule 13.3.8.14, (and consequential rule 13.4.9.1) as proposed below: "Maximum building height must not be exceeded by more than 10% and only in those exceptional circumstances where there is a clearly defined increase in public amenity. The building mass standard must not be exceeded" (submission 62).
- The submitter does not support trade-offs that result in increased bulk, but reduced height; and opposed the proposal to increase height by up to 35% as a discretionary activity in the 'low city' (submission 69).
- The submitter believes the removal of 25% of development potential is overly onerous and will have an impact on the future development of the CBD. It is considered that standards 13.3.8.14 and 13.3.8.15 should be amended to allow for an increase in the discretionary height limits to compensate for the loss of building potential (submission 52).
- It is submitted that this increase in height should be combined with an increase in the permitted mass of buildings for those parts of the building above the permitted height threshold. This function will provide for additional height without compromising the overall building footprint (submission 52).
- Conditions 13.3.8.14 and 13.3.8.15 do not provide for a building which is slightly over the permitted height limits and also slightly over the permitted mass limits. Provision should be made for buildings which are slightly over both of these limits to be a discretionary activity. We suggest the following: - maximum building height must not be exceeded by more than 15 percent, and the building mass standard must not be exceeded by more than 15 percent (submission 82).
- Delete rule 13.3.8.15 relating to discretionary increases in building mass (submission 43).
- Delete all references to building mass from rule 13.3.8 . The concept of building mass is not supported and the submitter believes the Central Area design guides can be used to achieve the same outcome (submission 45).
- The section on maximum building height and mass (13.3.8.14/15) needs to be cross referenced to the relevant Appendix regarding Mass (13.6.3.2) and must be made clearer. This is potentially most important rule yet the wording is currently open to confusion. Greater clarification should be provided as to when provision of rooftop features and atria might warrant consideration of an increase in building mass (submission 48).
- That the council maintain a flexible approach to height increases, with greater scope to increase height where the resulting building will cast shadows only on roads or sloping hills and other areas (submission 48).
- The submitter has concerns with the calculation used for the discretionary height allowance and seeks consistency between the high city and low city areas. Amend DPC48 to change

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the application of discretionary height allowance in the High City from height above mean sea level to height above ground (building height as defined in building mass calculations) (submission 37).

- Either modify the percentage height discretion in rule 13.3.8 to a flat height discretion of 16 metres throughout the Central Area, or provide this discretion throughout the Operational Port Area and the Port Redevelopment Precinct (submission 49).
- Provide a separate condition in rule 13.3.8 which relates only to height (and not to building mass) within the Port Redevelopment Precinct, taking into account the proposal above (submission 49).
- Delete rule 13.3.8.16, or provide the same discretionary condition as elsewhere in the Port Redevelopment Precinct and the Operational Port Area, or modify in line with the outcome of the submission above (submission 49).
- Ulysses Trust's interests (45A-55 Courtenay Place, 45 Tory Street, 128-132 Courtenay Place, 104-106 Cuba Street, 168-174 Cuba Street) will be significantly and detrimentally affected by the proposed Courtenay Place and Cuba Heritage Areas and the sun access rules to 'Clock Park'. Incorporate clear "assessment criteria" under Rule 13.3.8,
  - (a) any economic and other effects on building owners through the imposition of heritage and public amenity objectives; and
  - (b) Council's policy on earthquake prone buildings (submission 30).
- The submitter is concerned that when existing buildings that do not presently incorporate any display windows/active building edge frontages are adapted for new uses, flexibility must be exercised in the application of rule 13.6.3.7. The inclusion of an assessment criterion under Rule 13.3.8 relating to the flexible implementation of the display window/active building edge standards when existing buildings that do not have display windows are being adapted for new uses (submission 19).
- That rule 13.3.8.18 be amended to reflect concerns: Given the importance of preserving the integrity of the viewshafts, the percentage of intrusion should be set at 0% (submission 90).

### *Discussion*

Rule 13.3.8 is used to assess new building works that do not comply with the standards set down in section 13.6 of the District Plan. While most breaches of the standards are dealt with under rule 13.3.8 irrespective of the scale of the breach, the rule as notified contained conditions for height, mass, height in relation to residential area boundaries and viewshafts that trigger more significant breaches to Discretionary (Unrestricted) or Non-Complying Activity status.

Submission 40 requested that rule 13.3.8 be moved to section 13.2 so that it became a Controlled Activity. The Hearing Committee noted that Controlled Activity status would mean that Council could not decline an application for resource consent. In this instance the Committee considered that use of the Controlled Activity status was not appropriate as there were likely to be occasions when Council would need to be able to decline applications that breach standards, because the adverse effects resulting from the breach are significant and unable to be adequately avoided, remedied or mitigated. The Committee noted that the corresponding rule in the Operative District Plan had the status of Discretionary Activity (Restricted).

Submission 67 requested amendments to Rule 13.3.3 to clarify how the different activity status's interrelate. The current wording of the rule is:

**The construction or alteration of, and addition to buildings and structures which are Permitted or Discretionary (Restricted) Activities and do not meet one or more of the following standards outlined in section 13.6.1 (Activities, Buildings and Structures) and 13.6.3 (Buildings and Structures), are Discretionary Activities (Restricted). Discretion is limited to the effects generated by the standard(s) not meet:**

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The Hearing Committee noted that a degree of confusion appeared to result from the two references to Discretionary (Restricted) Activities in the rule. While the submitters concerns were acknowledged, the Committee considered that the current wording should be retained. The double reference to Discretionary Activities was required so that buildings and structures covered by Discretionary Activity rules 13.3.4 to 13.3.7, can be considered concurrently under rule 13.3.8 if they do not meet the relevant standards specified in section 13.6 of the District Plan.

Submission 49 requested that rule 13.3.8 be amended by adding ", Controlled" after "Permitted", in the Rule, and by adding the words "Except in the Port Redevelopment Precinct" at the start of Rule 13.3.8.5. The Committee agreed that 'Controlled' should be added to rule 13.3.8 in recognition of the Controlled Activity rule that is used to manage new buildings and structures in the Port Redevelopment Precinct. The rule would read:

**The construction or alteration of, and addition to buildings and structures which are Permitted, Controlled or Discretionary (Restricted) Activities and do not meet one or more of the following standards outlined in section 13.6.1 (Activities, Buildings and Structures) and 13.6.3 (Buildings and Structures), are Discretionary Activities (Restricted). Discretion is limited to the effects generated by the standard(s) not meet:**

Submission 49 also requested that rule 13.3.8 be amended to clarify that the building mass provisions did not apply to the Port Redevelopment Precinct. This issue is considered in greater detail in section 3.26 above, where the Committee considered that developments that complied with the masterplan for the Port Redevelopment Precinct could be made exempt from the building mass provision. The Committee considered that any proposal that was inconsistent with the masterplan or which extended to a height of greater than 27 metres should be assessed in terms of the effect of building mass. Because such a proposal would be considered under rule 13.3.8 the Committee considered that the building mass provisions of rule 13.3.8 should remain as notified.

Submission 38 requested that an expert panel be constituted to consider requests for all use of discretion, not WCC personnel who would instead focus on preparing reports to that expert panel for consideration. The submitter considered that this would remove much of the heat from the resource consent process. The Committee noted that the creation of an expert panel could have both benefits and costs. While it could potentially reduce the pressure that came to bear on Council officers, it would be likely to increase the cost and timeframes involved in the planning process. Also if an expert panel were formed, Council officers would still be required to prepare reports containing recommendations to the panel, so many of current the pressures from interested parties would remain. In any event, the Hearing Committee considered that the formation of a panel cannot be facilitated through the DPC 48 process, but noted that Council had recently amended its internal processes to provide scope for independent urban design reviews.

Submissions 24, 48, 62 and 69 were opposed to the provision of height increases of up to 35% as a Discretionary Activity, particularly in the low city where the previous limit was one additional storey (taken as being 4.2 metres). Submitter 48 was concerned that taller buildings, particularly in the low city area of Te Aro, could detract from the existing character of the area. The Hearing Committee agreed that existing neighbourhood character was a matter that should be taken into account when considering applications for over height buildings. The Committee considered that stronger consideration of neighbourhood character did not necessarily require a reduction in the discretionary height limit of 35%, but rather it required stronger policy guidance as to when it was (and was not) appropriate to take advantage of the additional height. With this in mind the Committee noted that this matter was not adequately covered by policy 12.2.5.1 as notified. Policy 12.2.5.1 outlines the reasons that the Council manages building height in the Central Area, and the Committee considered that it should be amended to make

explicit reference to neighbourhood character. The policy was amended as follows, with associated text also being added to the explanation of the policy:

### 12.2.5.1 Manage building height in the Central Area in order to:

- reinforce the high city/low city urban form, and
- **ensure that new buildings acknowledge and respect the form and scale of the neighbourhood in which they are located; and**
- maintain the built form and scale of identified heritage and character areas.

Submission 62 (Craig Palmer) requested that the proposed limit for discretionary height increases be reduced from 35% to 10%. Mr Palmer was concerned that the proposed discretionary limit placed too much power in the hand of Council officers when it came to granting consent to taller buildings. The Hearing Committee took onboard Mr Palmer's concerns and noted that building height was an issue in which many members of the public took an interest. The proposal put forward in DPC 48 included scope for Council to approve height increases of up to 35% without requiring public notification, was therefore debated at length by the Committee.

In response to the points raised in Mr Palmer's submission, the Hearing Committee questioned two central area building developers that appeared at the hearing (ING (NZ) Limited and Primeproperty Ltd), on the issue of discretionary increases in building height. When asked whether they considered the potential for public notification when submitted resource consent applications both ING and Primeproperty agreed that the public notification process placed severe risk on commercial development in the Central Area. Based on their experience they noted that most commercial developments would not move beyond the design stage unless a principal tenant had been secured for the new building. Securing tenants was very difficult unless the developer was able to provide solid assurances about when the tenant could take occupation of the building. These assurances could not be provided if a notified consent was required because a consent might take years to resolve if Council's decision was appealed to the Environment Court. Primeproperty in particular considered that the threat of public notification would kill off most proposals for commercial development in the Central Area.

The Committee noted that at the time DPC 48 was being drafted there were a number of development proposals submitted to Council on sites adjacent to listed heritage items. The developments generally sought to maximise site coverage and build to the height limits specified in the District Plan, and resulted in very large buildings directly adjacent to a much smaller heritage building. As a result the quality of the setting and context of the heritage building was significantly diminished. The impact on the setting of the heritage building could have been much improved if the District Plan rules had provided scope to consider moving some of the mass of the proposed building away from the boundary shared with the heritage building, and relocating it elsewhere on the site possibly above the permitted height limit. However, under the Operative District Plan Council had limited scope to negotiate this type of outcome because the rules provide for up to 100% building mass 'as of right', and because discretionary height increases in the low city are capped at one storey (taken to be 4.2 metres). Development above one additional storey becomes a Non-Complying Activity, with limited scope for consideration as a non-notified application.

The Hearing Committee noted that such negotiations were only likely to be successful if the resulting proposal could be consented as a non-notified application. The requirement to publicly notify a consent application could well motivate an applicant to revert to a proposal that complied fully with the height and mass provisions but which resulted in much poorer outcomes in terms of heritage and urban design.

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The Hearing Committee did acknowledge the unease some submitters felt at the prospect that height increases of up to 35% could be granted without public notification. In this regard the Committee noted that significant work had been done by Council officers to clarify when it was appropriate to grant consent for additional building, and to document the obligations for applicants that sought to develop over-height buildings. Policy 12.2.5.4 in particular provides additional guidance as to when Council would support increases in building height in the Central Area.

Submissions 52 and 82 requested amendments to the discretionary limits for building height and mass. Submission 52 requested that there be greater scope to increase height and mass as a means of compensating for the 25% lost development potential caused by the new mass provision. Submission 82 suggested adding an additional clause to allow scope for new buildings to be developed, both 15% over height and 15% over mass, as a Discretionary Activity (Restricted).

The Hearing Committee noted that DPC 48 introduced a maximum standard for building mass, to enable Council to better manage the potential adverse effects resulting from building bulk. The rationale behind the mass provision is considered in more detail in section 3.49 below. The proposed building mass provision set the permitted standard at 75% of a theoretical 'maximum' for each development site. The theoretical maximum is the equivalent of a building being built up to every boundary of the site and up to the maximum permitted height. It is calculated by multiplying the site area by the maximum height standard. While the permitted mass standard was set at 75% applicants can apply for resource consent to increase mass up to 100% and above. To gain consent such an application would need to be able to demonstrate that effects relating to wind, daylight, design and heritage effects can be adequately managed on-site.

The Hearing Committee felt it was important to stress that a key element of the proposed Central Area provisions was that the new mass standard would be applied in conjunction with the height standard to better manage the effects of new buildings, and to provide a more flexible regime for managing the total mass of building that is developed on any given site. The proposed rule structure would allow for increases in building height (up to 35% above the specified standard) as a Discretionary Activity (Restricted) if the mass standard is complied with. The rationale behind the new rule structure was that building height and mass are closely related in terms of the overall effects created by a new building. The provisions are based on the premise that there is increased scope to consider taller buildings if the increase in height is not accompanied by an increase in mass because the manipulation of building bulk provides greater opportunities to avoid, remedy or mitigate any potential adverse effects that might result from the building.

The Committee also noted that the new height and mass provisions will assist Council to negotiate setbacks and reductions in building bulk to achieve positive heritage and urban design outcomes. The intention is that where setbacks or reductions in bulk are required to respect the setting of a heritage item or achieve a positive urban design outcome, the floor space can be recovered elsewhere on site above the maximum height standard.

Because the building height and building mass provisions are intended to work in unison, the Hearing Committee considered that the discretionary height threshold of 35% should be retained. The Committee noted that while the new provision is likely to result in some taller buildings in the 'low city' with corresponding effects on the city's urban form and on adjoining properties. However it considered that the increased discretion provided significant benefits in terms of Council's ability to negotiate positive urban design and heritage outcomes. As the result the Committee decided that submissions 24, 48, 62 and 69 should be rejected insofar as they opposed the discretionary height limit of 35%.

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Submissions 52 and 82 requested that rule 13.3.8 be amended to make provision for buildings that increase both height and mass. The Hearing Committee supported these submissions to a degree. The Committee considered that on balance the rule structure proposed in DPC 48 was overly restrictive in that a development proposal that sought to increase height by 5%, but also to increase mass by 5% would become a Discretionary Activity (Unrestricted). The Committee considered that there was merit in the request of submission 82 that requested that rule 13.3.8.14 be amended to provide for a scale of work that increased both height and mass. The following text was suggested:

**13.3.8.14 maximum building height must not be exceeded by more than 35 percent, and the building mass standard must not be exceeded, ~~or~~**

**maximum building height must not be exceeded by more than 15 percent, and the building mass standard must not be exceeded by more than 15 percent.**

This wording would retain the intent of existing rule which is to manage building height and mass together in a manner that acknowledges that the effects of new building works are generally greater as the overall bulk (height plus mass) of the building increases.

Given the amendments made to the wording of rule 13.3.8.14, the Hearing Committee considered that rule 13.3.8.15 should be deleted, as it was no longer required as a means of triggering proposals to increase building mass to the status of Discretionary Activity (Unrestricted).

Submissions 43 and 45 requested that all references to building mass be deleted from rule 13.3.8 on the grounds that they opposed the new mass provision. The concept of building mass is considered in detail in section 3.49 below, where the Hearing Committee decided that the provision was an important tool that would allow Council to better manage effects relating to daylight, wind, heritage and urban design. Accordingly, the Committee concluded that the references to building mass should be retained in rule 13.3.8, and that these submissions should be rejected.

Submission 48 requested that rule 13.3.8.14 be cross referenced to the mass standard in section 13.6.3.2. This submission was supported as it would add clarity to the rule. The Committee directed that a reference to section 13.6.3.2 be added to the margin text of rule 13.3.8.14.

Submission 48 requested that the Council maintain a flexible approach to height increases with greater scope to increase height where the resulting building will cast shadows only on roads or sloping hills. In response the Hearing Committee noted that the approach to managing height in the District Plan is inherently flexible as there are no prohibited activities. Application for resource consent may be made for any development proposal and it will be assessed according to the environment effects that it generates.

Submission 49 requested that the 35% discretionary height threshold be replaced by a set threshold of 16 metres throughout the Central Area. The submitter considered that the percentage threshold unfairly impacted on properties with lower height limits. Height limits in the Central Area range from 10.2 metres (above ground level) on the edge of the low city, to 95 metres (above sea level) in the heart of the high city. The Committee noted that it is therefore very hard to apply a flat discretionary height threshold that would work well on all sites. The current percentage height threshold was preferred because it links the scale of discretionary height increase to the scale of building that is anticipated by the height standards specified in the plan.

Submission 37 requested clarification regarding the application of the 35% discretionary height threshold in the high city. Heights in the high city are specified in metres above sea level. The

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submission noted that in areas such as The Terrace where ground levels are in the vicinity of 20-30 metres above sea level, the heights standard of 85 metres (above sea level) would result in a building 55-65 metres above ground level. The submission considered that the 35% discretionary height threshold should be taken to be 35% of the height of the building above ground level and not 35% of the height above sea level as the rule is currently interpreted. While this submission had merit in that it links the scale of discretionary height increase to the physical height of the building, the Committee considered that the current practise of applying 35% of the height above sea level should be retained. This was because calculating increases above ground level would make the system more complicated and would not significantly alter the scale of buildings being developed in this area of the city. The rule would be more complex to administer as existing ground level would need to be ascertained prior to calculating the discretionary height threshold. Also many properties in the Terrace area are sloping sites, the question arises as to whether the threshold should be calculated using the higher or lower ground level.

In terms of influencing the scale of the discretionary threshold, calculating the discretionary height threshold based on ground level rather than sea level would likely lower the threshold by no more than 10-12 metres. The Committee did not think that this change was overly significant given the scale of buildings in this area, and the scale of buildings that are anticipated on sites fronting Lambton Quay immediately to the west. While continuing to calculate the threshold based on height above sea level would potentially provide for slightly taller buildings on elevated sites around the Terrace and Boulcott Street, the Committee considered that the resulting buildings would still be in line with the high city / low city urban form promoted by the District Plan, and be of a scale that is consistent with surrounding buildings.

Submission 49 requested that rule 13.3.8.16 be amended to match the discretionary height thresholds provided for in the remainder of the Central Area. Rule 13.3.8.16, which applies to the rail-ferry terminal and Kaiwharawhara reclamation, limits discretionary height increases to a maximum height of 20 metres. The maximum height standard for this area is 18.6 metres, so the discretionary height threshold is approximately 7 percent, compared to 35 percent for the rest of the Central Area. The Committee understood that the current height limits were installed following resolution of an appeal to the Environment Court. The appeal focused on the development potential of the area and the potential impact of that development on cars travelling along the motorway, and residential properties on the hills to the west of the motorway. In conjunction with the site specific height limits, a 35% site coverage standard was also installed to help ensure that the site was not develop in a manner that completely blocked views to the harbour. Applying the standard 35% discretionary height threshold to this area would provide scope to consider buildings up to 25 metres in height. While in the greater scheme of things this increase in height is not particularly large, the Hearing Committee considered that the existing discretionary height threshold should be retained on the grounds that it was an agreed through the Environment Court process.

Submission 30 considered that applications for additional building height should consider any economic effects on building owners resulting from the imposition of heritage or other public amenity objectives, and also the implications of Council's policy on earthquake prone buildings. This matter is considered in detail in section 3.31 above, where the Committee agreed that additional text should be added to policies 12.2.5.1 and 12.2.5.4 to address these issues.

Submission 19 requested that some flexibility be built into rule 13.3.8 in situations where buildings that do not presently incorporate display windows and active building frontages, are adapted for new uses. In this situation the Committee considered that it was most appropriate that the specific scenario be considered against the test for existing use rights contained in section 10 of the Resource Management Act, rather than by including a new provision in the rules.

Submission 90 requested that rule 13.3.8.18 be amended to note that the percentage intrusion into an identified view shaft should be set at 0 percent. The Committee noted that the current threshold of 15% has some disadvantages in that applicants assume that they can take advantage of the discretionary increase and design their building to intrude by 15%. The Committee considered that having no discretionary threshold would remove this assumption and ensure that any new development was designed in response to its impact on the viewshaft, rather than being designed to comply with an arbitrary 15% intrusion. On balance the Committee considered that the discretionary threshold for viewshaft intrusions should be removed so that all applications for intrusion are assessed on their merits, based on the impact on the quality of the viewshaft. As a consequential change it was also decided that the non-notification statement should be removed for view shaft intrusions.

### *Decision*

- **Reject** submission 40 insofar as it requests that rule 13.3.8 be made a Controlled Activity
- **Reject** submission 67 insofar as it requests deletion of the double reference to Discretionary (Restricted) Activities in rule 13.3.8
- **Accept** submission 49 insofar as it requests that reference to Controlled Activities be included in rule 13.3.8
- **Reject** submission 49 insofar as it requests that the building mass provisions not apply to the Port Redevelopment Precinct
- **Reject** submission 38 insofar as it requests that an expert panel be convened to make decisions on resource consent applications
- **Reject** submission 24, 48, 62 and 69 insofar as they opposes the proposed discretionary height threshold of 35 percent
- **Accept** submission 48 insofar as it sought greater recognition of the importance of neighbourhood character when assessing applications for over height buildings
- **Accept** submissions 52 and 82 insofar as the request the rule 13.3.8 be amended to provide scope to consider developments that increase both height and mass
- **Reject** submission 43 and 45 insofar as they seek to have all references to building mass removed from rule 13.3.8
- **Accept** submission 48 insofar as it requests that a cross reference to the building mass standards be added to rule 13.3.8.14
- **Accept** submission 48 insofar as it suggests a flexible approach to managing increases in building height in the Central Area
- **Reject** submission 49 insofar as it seeks a flat discretionary height threshold of 16 metres
- **Reject** submission 37 insofar as it seeks that discretionary height thresholds in the high city be calculated using height above ground level
- **Reject** submission 49 insofar as it seeks that the ferry-terminal area be subject to the same discretionary height provisions as the rest of the Central Area
- **Accept** submission 30 insofar as it seeks additional assessment criteria relating to the economic effects of heritage objectives, and the implications of the Council's earthquake strengthening policy
- **Reject** submission 19 insofar as it seeks increased flexibility to permit the re-use of buildings that do not currently have display windows and active frontages
- **Accept** submission 90 insofar as it requests amendments to the threshold for intrusion into an identified viewshaft

### **3.35 Rule 13.3.9 - Signs (that do not meet required standards).**

Specific issues raised in submissions include:

- In relation to the sign provisions;

- i) Amend Rule 13.6.4 to include express provisions that notwithstanding anything else in the District Plan they apply to all heritage buildings, heritage precinct areas and that in the event of conflict with other parts of the District Plan these provisions apply.
  - ii) Amend all related provisions so they are consistent with this request.
  - iii) Such further or incidental relief as may be appropriate (submission 36).
- The submitter is very concerned at the proposed signage rules and that the sign design guide is unnecessary. Clarification should be provided as to how Rule 13.3.9 is to be implemented (submission 40).
  - Delete the margin note to rule 13.3.9 relating to signs that encroach over public space (submission 40).
  - That rule 13.3.9 is adopted (submission 90).

### *Discussion*

Submission 36 (St John's in the City Council) sought clarification regarding the signage rules that apply to listed heritage buildings and within identified heritage areas. The Hearing Committee considered that the submitter raised a valid point regarding the discrepancy between the Central Area signage provisions and the signage provided for under rule 21D.1.1 in the Heritage Chapter. This issue is discussed further in section 3.13 above, where it is recommended that the Hearing Committee amend the sign rules that apply to areas of special heritage and character value.

Submission 40 (Craig Erskine) considered that the Design Guide for Signs was unnecessary and sought clarification as to how signs will be assessed under rule 13.3.9. The purpose of the sign design guide is discussed in greater detail in section 3.13 above. The Hearing Committee noted that applications for consent for signs that do not comply with the specified standards will be considered on a case by case basis against the District Plan policies and the content of the Design Guide for Signs.

Submission 40 also requests deletion of the margin note relating to encroachment licenses for signs above public space. The Committee considered that this note should be retained on the basis that it is consistent with the Council's encroachment bylaw.

Submission 90 supported proposed rule 13.1.9 and this support was accepted.

### *Decision*

- **Accept** submission 36 insofar as it requests reconsideration of the sign rules applying to Central Area heritage areas
- **Reject** submission 40 insofar as it requests deletion of the Design Guide for Signs
- **Reject** submission 40 insofar as it requests deletion of the margin note to rule 13.3.9
- **Accept** submission 90 insofar as it supports rule 13.3.9

### **3.36 Rule 13.3.10 - Subdivision.**

Specific issues raised in submissions include:

- Add after the first closed bracket in Rule 13.3.10 the words "except as provided for as a permitted activity in Rule 13.1.4" or similar words (submission 49).
- Delete all words after "structure", in Rule 13.3.10.2 (submission 49).

### *Discussion*

Submission 49 requested a number of changes to the wording of rule 13.3.10. The Hearing Committee accepted that the requested amendments on the grounds that they would help to clarify the rule.

Deleting ‘*and public space design*’ from 13.3.10.2 was also considered appropriate as the design of the public space is not a matter relevant to consideration of a subdivision proposal.

### *Decision*

- **Accept** submission 49 insofar as it requests amendments to the wording of rule 13.3.10

### **3.37 Rule 13.3.11 - Contaminated Sites.**

Specific issues raised in submissions include:

- Modify rule 13.3.11 to provide for the situation where only areas of land that are known to be, or have a high likelihood of being contaminated are subject to its provisions (submission 49).

### *Discussion*

This issue was addressed more fully in relation to the policy that sits above this rule (specifically Policy 12.2.14.6 and 12.2.14.7). In that discussion it was explained that the submission raised a broader issue recently identified with the contaminated sites rule regime (specifically the link between the definition of a contaminated site and the point at which a site is regarded as being triggered by the rules). As a result, it is now recognised that a more thorough review of the entire contaminated sites management regime is required. For this reason, the Committee rejected this submission in the interim, pending a comprehensive review of the rules where the issue of large sites can be better considered. The Committee noted that the submitter welcomed the future rule review when this issue was raised at the hearing.

### *Decision*

- **Reject** the submission by submitter 49 that seeks to amend Rule 13.3.11, pending a review of the contaminated sites management rule regime.

## **Section 13.4 – Discretionary Activities (Unrestricted)**

### **3.38 Rule 13.4.2 - Activities (creation of vacant land).**

Specific issues raised in submissions include:

- The provisions of rule 13.4.2 should recognise that a National War Memorial Park is proposed for the land in Buckle St between Taranaki St and Tory/Tasman Sts and that the above provision needs to accommodate the creation of the proposed park (submission 39).
- Add the words "and the Port Redevelopment Precinct" before the final closed bracket in rule 13.4.2, or wording of similar intent (submission 49).
- That the activity status of the creation of car parking under Rule 13.4.2 be amended from a Discretionary Activity to a Restricted Discretionary with discretion limited to the same factors as for Rule 13.3.1 (submission 67).
- That rule 13.4.2 be amended so that only, the creation of vacant land, open land or parking areas at ground level, which are visible from a public space are Discretionary Activities (Unrestricted) (submission 82).

### *Discussion*

Rule 13.4.2 addresses the creation of vacant land, open land or parking areas (at ground level) within the Central Area.

Submission 39 requested that the rule be amended to recognise the proposed National War Memorial Park opposite the Carillon. The Committee noted that the site was now largely cleared in anticipation of a park being developed. Accordingly, there is little benefit in amending the rule to make specific reference to the proposed park.

Submission 49 requested that the exemption in rule 13.4.2 be applied to the Port Redevelopment Precinct as well as the Operational Port Area. This was considered sensible as the implementation of the master-plan for the Port Redevelopment Precinct would require the creation of some areas of ground level open space and ground level car parking.

Submission 67 requested that rule 13.4.2 be made a Discretionary Activity (Restricted) with the same discretionary items as rule 13.3.1. The Committee did not support this submission primarily because it considered that the matters which the Council may need to exercise control over in respect of the creation of vacant land may be very broad and could change depending on the site involved. As the effects of such an activity are not able to be predetermined (as required by the Discretionary Restricted Activity category) the Committee was confident that the appropriate level of consent was the Discretionary Unrestricted Activity category. In addition, it noted that Rule 13.3.1 (consideration of the effects of car parks exceeding 70 spaces on the movement of vehicular traffic to and from, and around the site) was not necessarily the relevant set of criteria to consider. This is because the Council controls the creation of vacant land in the Central Area primarily for urban design reasons (as noted in Policy 12.2.6.8). Accordingly, it the Committee considered that it was appropriate that this rule remain as a Discretionary Activity (Unrestricted).

Submission 82 requested that rule 13.4.2 be amended so that it only covered the creation of vacant land, open space and ground level car parking that was visible from public spaces. The Committee agreed that this was an appropriate change given that the rule seeks to control the effects of vacant land/carparking areas on the public environment. The definition of public space includes both private and public land that is accessible to the public, and so includes all legal road.

### *Decision*

- **Reject** submission 39 insofar as it requests recognition of the proposed War Memorial Park in rule 13.4.2
- **Accept** submission 49 insofar as it requests that the Port Redevelopment Precinct be exempt from rule 13.4.2
- **Reject** submission 67 insofar as it requests that rule 13.4.2 be made a Discretionary Activity (Restricted) subject to the same discretionary elements as rule 13.3.1
- **Accept** submission 82 insofar as it requests that rule 13.4.2 only apply to areas visible from public spaces

### **3.39 Rule 13.4.5 - Activities (open space in Lambton Harbour).**

Specific issues raised in submissions include:

- That rule 13.4.5 is adopted (submission 90).

### *Discussion*

The support of submission 90 was noted and accepted.

### *Decision*

- **Accept** submission 90 insofar as it supports rule 13.4.5

### **3.40 Rule 13.4.6 - Buildings and Structures (new buildings in the Lambton Harbour Area).**

Specific issues raised in submissions include:

- That rule 13.4.6 is adopted (submission 90).

## *Discussion*

The support of submission 90 was noted and accepted.

## *Decision*

- **Accept** submission 90 insofar as it supports rule 13.4.6

### **3.41 Rule 13.4.7 - Buildings and Structures (office and retail buildings in Pipitea Precinct).**

Specific issues raised in submissions include:

- Add either the word "relevant" or the word "appropriate" before "master-plan" in rule 13.4.7.1, or other modifications to achieve the outcome sought (submission 49).

## *Discussion*

Submission 49 (CentrePort) requested that an amendment be made to rule 13.4.7.1 to clarify that a master-plan was only required to cover that portion of the precinct that was being developed (and the immediately surrounding area) and not the entire precinct. This change was considered appropriate as it was not intended that a master-plan cover the entire precinct if only a portion of the precinct was being considered for development. It is recommended that the wording of rule 13.4.7.1 be amended as follows:

- 13.4.7.1 **an appropriate masterplan for the development of the Pipitea Precinct must be deposited with Council before any landuse consent can be assessed.**

At the hearing, CentrePort noted that further clarity could be provided by adding a margin note that directed readers to Policy 12.2.4.2. The Hearing Committee agreed that this was sensible and directed that the following margin note be added in the rule:

*The extent of the area to which a specific masterplan shall apply will be determined in accordance with policy 12.2.4.2. Office and retail activities are defined in Chapter 3.10.*

## *Decision*

- **Accept** submission 49 insofar as it requests an amendment to rule 13.4.7.1 to clarify the extent of master-plan required to be submitted

### **3.42 Rule 13.4.8 - Buildings and Structures (over height in heritage areas or adjacent to Old St Pauls).**

Specific issues raised in submissions include:

- DFL opposes the inclusion of Optimisation House (1-13 Grey St) in the proposed Post Office Square Heritage Area and opposes the excessively restrictive heritage area provisions. Remove Optimisation house (1-13 Grey Street) from the proposed Post Office Square Heritage area. Failing the removal of Optimisation house from the Post Office Square Heritage Area, providing for the construction of new buildings and structures, or the alteration of, and addition to existing non-heritage buildings in heritage areas as a Discretionary Activity (Restricted) and not as a Discretionary Activity (Unrestricted), as proposed by rule 13.4.8, in respect of building height and placement of building mass; and with the presumption of non-notification and service to apply (submission 10).
- Amend 13.4 Discretionary Activities (Unrestricted) so any activities which do not comply with 13.6.3.1.5 and 13.6.3.1.6 are not Discretionary Activities (Unrestricted). Make such further or incidental relief as may be appropriate (submissions 34, 35 & 36).
- Delete rule 13.4.8 and replace with a Discretionary (Restricted) Rule (draft wording supplied) (submission 16).

- Categorise any application for development within a heritage area as a Discretionary (Unrestricted) Activity, rather than only those that fall outside the range created by the stated height limits. Further, amend Rule 13.4.8 (or any replacement of it) to establish an explicitly expectation that any such application be publicly notified (submission 44).
- The NZHPT supports rule 13.4.8 (submission 72)

### *Discussion*

Height standards in heritage areas are discussed in detail in section 3.48 below. In that section the Hearing Committee agreed that there should be greater scope for flexibility when considering the height of new building works located in the identified heritage areas.

Submissions 10, 16, 34, 35 and 36 requested for sites in heritage areas, that increases in building height, beyond the limits specified in standards 13.6.3.1.5 and 13.6.3.1.6 should be considered as Discretionary Activities (Restricted). In response the Hearing Committee noted that the revised height regime (outlined in section 3.48) provided scope to consider additional building height as a Discretionary Activity (Restricted).

Submission 44 considered that any development within a heritage area should be a Discretionary Activity (Unrestricted) under rule 13.4.8, not just building works that fall outside the height limits specified in standards 13.6.3.1.5 and 13.6.3.1.6. Under the provisions of DPC 43 (Heritage) the principal assessment of new building works in heritage areas will be undertaken under rule 21B.2.1, as a Discretionary Activity (Restricted).

The Committee noted that the key difference between Restricted and Unrestricted, Discretionary Activities is the range of matters that the Council can take into account when assessing an application. With a Discretionary Activity (Restricted), the Council's consideration is limited to the matters over which it has reserved discretion in the plan. With a Discretionary Activity (Unrestricted) the Council can consider any matter it deems appropriate in order to manage the effects of the proposed activity. Because the effects of new buildings within a heritage area can be adequately assessed using a specified set of criteria, the Committee considered that these applications are most appropriately dealt with as a Discretionary Activity (Restricted).

Submission 72 supported proposed rule 13.4.8 and was accepted.

### *Decision*

- **Accept** submissions 10, 16, 34, 35 and 36 insofar as they request that there be scope to consider increases to the height limits in heritage areas as Discretionary Activity (Restricted)
- **Reject** submission 44 insofar as requests that all building works in a heritage area be made a Discretionary Activity (Unrestricted)
- **Accept** submission 72 insofar as it supports rule 13.4.8

### **3.43 Rule 13.4.9 - Buildings and Structures (exceeding height and mass standards).**

Specific issues raised in submissions include:

- That rule 13.4.9 is amended to refer to standards 13.3.8.14 and 13.3.8.15 instead of 13.3.9.14 and 13.3.9.15 (which do not exist) (submission 18).
- That rule 13.4.9 be amended to correct the cross references to 13.3.9.14 and 13.3.9.15 (submission 66).
- In relation to rule 13.4.9, that the Council correct reference to rules (8 instead of 9), and align rule 13.4.9.1 with outcome of CentrePort's submission 26 (submission 49).
- Amend 13.4.9 to read: "the construction of and alteration of, and addition to buildings and structures which are Discretionary Activities (Restricted) and do not meet the conditions

specified in 13.3.9.15 are Discretionary Activities (Unrestricted) subject to compliance with the following condition: 13.4.9.1 maximum building height must not be exceeded by more than 10%" (submission 24).

- The relocation of the rule 13.4.9 into rule 13.3 so that these activities become Discretionary Activities (Restricted) as they largely are now under the Operative District Plan (submission 78).
- Delete all references to building mass from rule 13.4.9. The concept of building mass is not supported and the submitter believes the Central Area design guides can be used to achieve the same outcome (submission 45).

### *Discussion*

Rule 13.4.9 applies to building developments that seek to exceed both the building height and building mass standards specified in the plan. The rule is drafted as follows:

**13.4.9 The construction or alteration of, and addition to buildings and structures which are Discretionary Activities (Restricted) and do not meet the conditions specified in 13.3.9.14 or 13.3.9.15 are Discretionary Activities (Unrestricted).**

subject to compliance with the following condition:

**13.4.9.1 maximum building height must not be exceeded by more than 35%.**

Submissions 18, 49 and 66 noted that the cross references in the rule to 13.3.9.14 and 13.3.9.15 were incorrect and should refer to 13.3.8.14 and 13.3.8.15. These submissions were supported. The Committee directed that reference to 13.3.9.14 be amended to read 13.3.8.14, and that the reference to 13.3.9.15 be deleted in line with the amendments made to rule 13.3.8 in section 3.34 above.

Submission 49 requested that rule 13.4.9 be amended in line with its submission. The submission considered that building mass provisions should not apply to the Port Redevelopment Precinct, and that relying on a percentage of maximum building height to define discretionary limits unfairly restricted properties in the low city. These matters are considered in detail in section 3.34, where the Committee decided that no change should be made to the discretionary height threshold and the building mass provisions.

Submission 24 requested that rule 13.4.9 be amended so that the maximum building height must not be exceeded by more than 10%. DPC 48 deliberately amended the threshold for discretionary height increases to be 35% for the whole Central Area, allow for more effective management of the effects of new building works. This matter is discussed further in section 3.34, where Committee decided that the proposed 35% limit on height increases should be retained on the grounds that it would enhance the Council's ability to negotiate positive design and heritage outcomes when considering consents for future buildings.

Submission 78 requested that rule 13.4.9 be made a Discretionary Activity (Restricted) to more closely match the Operative District Plan. This submission was not supported by the Committee. Sections 3.48 (building height) and 3.49 (building mass) provide further details regarding the revised approach to managing the effects of new building works. DPC 48 seeks to more closely align issues of building height and building mass to more effectively manage the potential adverse effects of new buildings relating to wind, daylight, heritage and urban design. The Committee considered that making all building height increases a Discretionary Activity (Restricted) would undermine the intent of the new approach.

Submission 45 requested that all references to building mass be removed from rule 13.4.9 as the submitter did not support the concept of building mass. While the Hearing Committee considered that the building mass provisions should be retained in DPC 48, it noted that the amendments to rule 13.3.8 resulting from section 3.34 would result in the reference to building mass (13.3.9.15) being deleted from rule 13.4.9.

### *Decision*

- **Accept** submissions 18, 49 and 66 insofar as they requests that the cross reference in rule 13.4.9 be corrected
- **Reject** submission 49 insofar as it requests that the Discretionary Activity (Restricted) height increase threshold be changed from a percentage to a flat figure for the whole Central Area
- **Reject** submission 49 insofar as it requests that the reference to building mass in rule 13.4.9 not apply to the Port Redevelopment Precinct
- **Reject** submission 24 insofar as it requests that increases in building height be limited to 10%
- **Reject** submission 78 insofar as it requests that rule 13.4.9 be made a Discretionary Activity (Restricted)
- **Accept** submission 45 insofar as it requests that reference to building mass be deleted from rule 13.4.9

## **Section 13.6 – Central Area Standards**

### **3.44 Noise (fixed plant) (13.6.1.1).**

Specific issues raised in submissions include:

- The submitter has concerns with the provisions relating to fixed plant noise, as they are unnecessarily restrictive, impracticable to comply with, and therefore unreasonable in the context of Central Area development. Delete Rule 13.6.1.1 (Fixed Plant) (submission 7).
- Delete Rule 13.6.1.1 (Fixed Plant) (submission 33).
- Either that the proposed definition of 'Fixed Plant' in Chapter 3 and Rule 13.6.1.1 be deleted; or such other relief to like effect to remedy the submitters concerns; and any consequential amendments necessary as a result of the amendments to grant the relief sought above (submission 41).
- The submitter (a noise consultant) recommends a number of changes to the proposed new noise rules. Deletion of Rule 13.6.1.1 (Fixed Plant) and deletion of paragraph 5 to the 'explanation' to Policy 12.2.2.4 commencing "Fixed plant noise within the Central Area" (submission 61).
- Reconsideration of the decision to delete Rule 13.1.1.1.2 and 13.1.1.1.3 from the Operative District Plan (submission 33).
- Exempt activities and plant within the Operational Port Area and the Port Redevelopment Precinct from the requirements of Rule 13.6.1.1 (submission 49).
- That rule 13.6.1.1 (fixed plant) is amended so it does not apply to industrial activities located within the Operational Port Area (submission 85).

### *Discussion*

DPC 48 introduced noise standards for fixed plant. Fixed plant is generally defined as any mechanical or building service equipment that is permanently built into a building, including ventilation, extraction units, heating systems, boilers, lifts etc. Because fixed plants operates reasonably continuously it tends to contribute to ambient, 'background' noise levels, rather than being a source of sporadic, discernable noise.

Council had identified that plant noise was a contributing factor in 'noise creep' within the Central Area. Noise creep occurs where numerous sources of noise combine to gradually increase the background, ambient noise levels in the Central Area. Noise creep is becoming more of an issue as greater numbers of people choose to live in the Central Area.

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In managing noise in the Central Area the Hearing Committee noted that Council must try and achieve a balance between facilitating a full range of Central Area activities, whilst also providing 'reasonable' levels of amenity for inner city residents.

In preparing DPC 48 the Council was mindful that inner city residents should not expect 'suburban' levels of amenity in relation to noise. The Council also noted that in managing residential noise levels in the Central Area the onus was on the residential uses (and other noise sensitive activities) to insulate themselves from external noise sources. This approach is consistent with Plan Change 23 (introduced in 2003) which introduced noise insulation and ventilation standards for noise sensitive activities in the Central Area.

However, it was considered that the District Plan should not rely solely on the insulation of noise sensitive activities to manage noise in the Central Area. This was because:

- i) there are numerous noise sensitive activities in the Central Area that were established prior to Plan Change 23, and which have little if any noise insulation.
- ii) Plan Change 23 dealt only with bedrooms and did not require provision of ventilation to the living areas of new apartments. Many apartments need to open windows and exterior doors in order to ventilate the living areas, exposing them to external noise.

To help manage general noise levels in the Central Area, DPC 48 introduced the following noise standards for fixed plant noise:

- 13.6.1.1.1 Noise emission levels from fixed plant shall not exceed the following at or within the boundary of any land parcel, or at the outside wall of any building on any site, other than the building or site from which the noise is emitted:

7am to 7pm	55dBA L10
7pm to 10pm	50dBA L10
10pm to 7am	45dBA L10
10pm to 7am	70dBA Lmax

Fixed plant noise was put forward as a specific noise provision because it was identified that significant gains could be made, particularly if noise generated by fixed plant was considered when new buildings were being designed and built.

Submissions 7, 33, 41 and 61 requested that rule 13.6.1.1 relating to fixed plant noise be deleted. The submitters noted that the proposed standard sets different noise levels at different times of the day. However because fixed plant often operates for 18-24 hours a day, the submitters noted that in reality the majority of fixed plant has to be designed to comply with the stricter night time levels.

In considering these submissions the Hearing Committee noted the advice from Council Noise Compliance officers. The officers noted that the proposed night time level of 45dBA L10 was probably set too low as this level was exceeded by background ambient noise levels in much of the Central Area. The officers noted that in some parts of the Central Area the night time ambient noise levels dropped below 45 dBA L10 but that monitoring indicated that this was the exception to the rule. During night time the officers indicated that relying solely on the standard noise activity level of 60dBA L10 could still create a nuisance. The Committee considered that the proposed fixed plant noise limits were too onerous, but that relying solely on the generic noise standards was also not an appropriate solution. The Hearing Committee considered that fixed plant noise levels should be 5dBA L10 lower than the general activity noise standard to avoid creeping ambient noise levels. This 5 dBA L10 difference was currently imposed in residential and rural areas of the city. Consequently, rather than deleting the proposed fixed plant standard, the Committee agreed that a standard of 55dBA L10 should be applied 24 hours a day. The Committee noted that while some fixed plant would have struggled to comply with

the previous standard of 45dBA L10, the revised standard of 55dBA L10 should be able to be achieved.

Submission 33 requested that the Council reconsider its decision to delete rules 13.1.1.1.2 and 13.1.1.1.3 from the Operative District Plan. These rules provided for the measurement of noise inside a building in situations where it is impractical to take a noise reading outside the building. When measurements are taken inside the building, the applicable noise standard is lowered by 15 dBA. The submitter considered that the rules provided a practical means by which to ascertain noise levels when the standard measuring procedures could not be followed. While acknowledging the practical benefits of this approach, the Committee agreed with the advice of the Council's noise officers (who recommended that these provisions not be reinstated) on the grounds that measuring noise indoors was inherently difficult, and that the 15 dBA reduction did not always reflect a reasonable noise environment for people within the building. Also some apartments in the Central Area are insulated and some are not, so applying the same interior noise standard was inappropriate. The Committee accepted that in situations where measuring noise levels is difficult it is often more effective to manage noise under the provisions of section 16 of the RMA, which requires all land occupiers to adopt best practicable option to avoid generating unreasonable noise.

Submission 85 requested that the fixed plant noise rule not be applied to the Operational Port Area. Submission 49 requested that both the Operational Port Area and Port Redevelopment Precinct be exempt from the fixed plant rules. The Hearing Committee agreed that the fixed plant provisions should not apply to the Operational Port Area on the basis that this area has been specifically identified in the District Plan as having unique operational constraints. This area of the Central Area is also unlikely to be home to noise sensitive activities (at least in the short-medium term), so there is little scope for issues of reverse sensitivity. On that basis, the following text is to be added to rule 13.6.1.1.3:

**13.6.1.1.3 The noise limits set in standard 13.6.1.1.1 do not apply to fixed plant located in the Operational Port Area.**

However the Hearing Committee did not consider that the same exemption should be applied to the Port Redevelopment Precinct. It is intended that this precinct will, over time, evolve into a vibrant, mixed use urban neighbourhood, and it is appropriate that noise within the Precinct is managed in a manner consistent with the remainder of the Central Area.

### *Decision*

- **Reject** submissions 7, 33, 41 and 61 insofar as they request that standard 13.6.1.1 be deleted
- **Accept** submissions 7, 33, 41 and 61 insofar as their concerns have been acknowledged in the revised standard 13.6.1.1
- **Accept** submissions 49 and 85 insofar as they request that standard 13.6.1.1 not be applied to the Operational Port Area
- **Reject** submission 49 insofar as it requests that standard 13.6.1.1 not be applied to the Port Redevelopment Precinct
- **Reject** submission 33 insofar as it requests reinstatement of rules 13.1.1.1.2 and 13.1.1.1.3 from the Operative District Plan

### **3.45 Noise Insulation and Ventilation (13.6.1.2).**

Specific issues raised in submissions include:

- The submitter considers that the noise insulation standards are too low (Appendix 6: Noise Insulation Construction Schedule). The submitter suggests a number of alternatives (submission 48).

- Reconsideration of Rule 13.1.1.1.2 and 13.1.1.1.3 deletion (submission 61).

### *Discussion*

Standard 13.6.1.2 contains requirements for the insulation and ventilation of noise sensitive activities in the Central Area. These standards were first introduced into the District Plan in 2003 by way of Plan Change 23. Rule 13.6.1.2 requires a minimum performance standard for noise insulation of:

$$D_{nT,w} + C_{tr} > 30 \text{ dB}$$

Submission 48 had requested that the Council employ a higher standard for noise insulation in the Central Area. Under Variation 3, a higher standard of 35 dB had been applied to noise sensitive activities located near the operational port, but the level was set at 30 dB for the rest of the Central Area.

The Committee agreed with submission 48 noting its particular concern about reverse sensitivity effects of inner city apartments and other noise sensitive activities on legitimate activities in the Central Area that help to create a lively and vibrant central area. There was particular concern expressed about the inadequate insulation provided for noise sensitive activities in the city's primary entertainment areas. The Committee believed that such noise sensitive activities should provide for their own amenity; a view that was consistent with the proposed objectives, policies and rules for the Central Area. Those provisions, endorsed by the Committee, collectively send the message that the Central Area does not provide the same protection of 'residential type' amenity values compared with the protection provided for such values in residentially zoned areas.

In considering this submission, the Committee felt that the first priority was to install a higher insulation requirement for the Courtenay Place Area (see Appendix 1, Chapter 13) of 35dB, and provisions have been included in this decision to that effect. It was considered that there is sufficient monitoring evidence to support a higher insulation requirement in that area. The Committee wished to signal, however, that it also had concerns about the reverse sensitivity effects from noise sensitive activities in other parts of the city (in particular Cuba Street which currently supports a number of live music venues). Such venues are an important feature of the central city and so the Committee looked forward to further work investigating the noise levels in other parts of the central city to determine whether they also justify a noise insulation standard of 35dB.

The Committee was aware that this higher insulation requirement would add additional costs to building construction, but considered that the general principle of people providing for their own amenity in the Central Area was appropriate and that the ongoing benefits for residents living in these apartments would outweigh the initial costs.

Submission 33 requested that the Council reconsider its decision to delete rule 13.1.1.1.2 and 13.1.1.1.3 from the Operative District Plan. This matter is considered in more detail in section 3.44 above.

### *Decision*

- **Accept in part** submission 48, by adopting a higher insulation standard for the Courtenay Place Area (ie. 35dB instead of 30dB), and note that the Committee expects further work to be done for other parts of the Central Area to see whether a higher noise insulation standard can reasonably be justified in those locations (Cuba Street is of particular importance in this regard).
- **Reject** submission 61 insofar as it requests reinstatement of rules 13.1.1.1.2 and 13.1.1.1.3 from the Operative District Plan

## 3.46 Vehicle parking, servicing and site access (13.6.1.3).

Specific issues raised in submissions include:

- Amend the vehicle clearance standard to be 4.6m to ensure the full range of vehicles (and loads) can access loading areas. That there be an exception to the maximum verandah height for loading areas to ensure sufficient clearance is able to be provided. That section 1 of ASNZ standard 2890.1 - 2004 Parking facilities also be included in PC48, alongside sections 2, 3 and 5 (submission 18).
- Clarify wording of the vehicle access standard (13.6.1.3.14) as outlined in submission (submission 45).
- Reduce the height clearance required by rule 13.6.1.3.8 to relate to a specified maximum sized vehicle using the service area (e.g. if only to be accessed by courier vans the height would be lower - based on say 1 metre clearance above the largest vehicle to be using the space) (submission 49).
- Add the word "individual" before site in Rule 13.6.1.3.15, or add a note that clarifies that this limit does not apply to future road intersections (submission 49).
- In rule 13.6.1.3.17 exclude the Port Redevelopment Precinct from the rule in respect of all but arterial streets (submission 49).
- That site access standard (13.6.1.3.14) be deleted or amended so as to not apply to loading areas (submission 66).
- Amend Rule 13.6.1.3 with respect to vehicle parking so that the standard reads: "1 space per 50m<sup>2</sup> gross floor area" (submission 75).
- TCB considers that requirement 13.6.1.3.14 (vehicle access) should be deleted as it will be impossible to achieve on many central Wellington sites (submission 82).

### *Discussion*

Submission 18 requested that standard 13.6.1.3.2 be amended to also refer to section 1 of the ASNZ standard 2890.1 – 2004. This submission was accepted as it would allow for the more effective management of parking facilities in the Central Area.

Submission 18 requested that the minimum clearance for servicing areas be increased from 4.2 metres to 4.6 metres. Submission 49 requested that the minimum clearance provision be revised to relate to the size of vehicles that would be servicing the proposed building.

The requested height of 4.6 metres was calculated using the legal maximum height for a medium rigid truck (4.25m) with scope for reasonable clearance (0.35m). The current rule was drafted on the basis that all developments should provide a loading facility capable of accommodating a medium rigid truck, with scope to grant dispensations in situations where it is demonstrated that a development could be adequately serviced using smaller vehicles. Submission 49 requested that the rule be amended to take into account the scale of vehicle that will be used to service a development. The Council's Infrastructure Team indicated that they favoured the current approach as it allowed the ongoing servicing requirements of a building to be considered when a resource consent application is lodged to provide 'sub-standard' servicing. While the Committee noted that the approach did generate a large number of generally minor resource consents, it allowed scope for robust consideration of the loading requirements over the life span of the building, rather than just the initial tenants. Accordingly the Committee considered that the current 'minimum standard' approach should be retained.

Submission 45 has requested that standard 13.6.1.3.14 be re-worded as follows:

Both the entry and exit of vehicles at the boundary **onto the carriageway of the most adjacent street** shall be in a forward direction.

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Submission 66 requested that standard 13.6.1.3.14 be amended so it did not apply to loading areas. Submission 82 requested that standard 13.6.1.3.14 be deleted on the basis that it is impossible to achieve on many Central Area sites.

Standard 13.6.1.3.14 previously applied only to the Te Ara Haukawakawa Area, but was applied throughout the Central Area under DPC 48. The Council's Infrastructure Team noted that forward entry and exit onto a site was the desired outcome for all sites. While they acknowledged that it would not be achievable in all locations, but considered that it was inappropriate to attempt to specify specific exemptions. The proposed rule would enable the consideration of waivers on a site by site basis and ensure that appropriate levels of safety are maintained. The Committee considered that the revised wording suggested in submission 45 should be accepted on the basis that it clarified that it is forward access onto the carriageway that is of primary concern.

Submission 49 requested that the word 'individual' be added before the word 'site' in standard 13.6.1.3.15. This amendment was not supported on the basis that amending the term 'a site' to 'an individual site' does not add to the clarity to the existing standard.

Submission 49 requested that standard 13.6.1.3.17 be amended to note that it did not apply to the internal street and lanes in the Port Redevelopment Precinct. This submission was supported on the grounds that the internal streets within the Port Redevelopment Precinct were unlikely to carry the levels of traffic generally found on central city street.

Submission 75 requested that the parking standard in 13.6.1.3 be amended to lower the maximum parking standard to 'one space per 50m<sup>2</sup> gross floor area'. The current standard of one space per 100m<sup>2</sup> is based on reasonable requirements for Central Area offices uses. The requested change would provide for double the amount of carparking associated with Central Area activities as a permitted maximum. The Committee noted that this could encourage the provision of additional spaces for commuter parking which would run counter to policy 12.2.1.5.6 which is to 'manage the supply of commuter parking'. Rather than lowering the permitted maximum standard in the District Plan the Committee considered that the current standards should be retained and that requests to exceed the standard are assessed on a case-by-case basis to ensure that the additional parking will be restricted to short-stay customer parking.

### *Decision*

- **Accept** submission 18 insofar as it requests amendment to standard 13.6.1.3.2
- **Accept** submission 18 insofar as it requests that the minimum clearance standard for servicing areas be increased to 4.6metres
- **Reject** submission 49 insofar as it requests individual consideration of servicing areas based on specific vehicle type
- **Accept** submission 45 insofar as it requests amended wording to standard 13.6.1.3.14
- **Reject** submission 66 insofar as it requests amended wording to standard 13.6.1.3.14 to exclude loading areas
- **Reject** submission 82 insofar as it requests that standard 13.6.1.3.14 be deleted
- **Reject** submission 49 insofar as it requests amendments to the wording of standard 13.6.1.3.15
- **Accept** submission 49 insofar as standard 13.6.1.3.17 is amended so that it does not apply to internal streets and lanes in the Port Redevelopment Precinct
- **Reject** submission 75 insofar as it requests that the parking standard be lowered to one space per 50m<sup>2</sup> gross floor area

### **3.47 Noise (13.6.2.1).**

Specific issues raised in submissions include:

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- The submitter generally supports the noise provisions in chapter 13. However in relation to construction noise the standard referred to in 13.6.2.1 should be replaced with a reference to NZS6803, 1999 Construction Noise, along with any other consequential changes for that standard (submission 14).
- Use of Leq acoustic parameter rather than L10 for rule 13.6.2.1.3 (submission 33).
- Use of Leq acoustic parameter rather than L10 for Rule 13.6.2.1.3 (submission 61).
- Implement specific provisions relating to port noise. Modify the provisions of rule to provide for the Port Noise Standard approach to noise management of port related activities (submission 49).
- Add to rule 13.6.2.1.10 (iii) the words "on any one day" so that the rule reads as follows: (iii) a total period not exceeding three hours on any one day (submission 15).
- The submitter considers the proposed activity standard in Rule 13.6.2.1.3 (regarding noise in public spaces) is far too generous. Submitter requests that proposed rule 13.6.2.1.3 be deleted, alongside a prohibition of such noise activities in the city bylaws. Alternatively, if the suggested solution is too extreme, then reduce the activity standard level to 10 dBA L10 (submission 70).
- The submitter supports the provisions relating to noise (submission 69).

### *Discussion*

Standard 13.6.2.1 sets down the noise standards for activities in the Central Area.

Submission 14 requested that in relation to construction noise, the reference to New Zealand Standard NZS6803P:1984 be replaced with NZS6803:1999. The Committee agreed with the view of Council noise officers that NZS6803:1999 should not be adopted in the District Plan because it does not provide an exemption for night time work. This is particularly relevant for road work, which must be undertaken at night to avoid day time traffic congestion. Under NZS6803:1999 night time road work would require consent.

Submissions 33 and 61 requested that the Plan Change provisions be drafted using the Leq acoustic parameter, rather than L10. The Committee noted the view of officers that in the longer term Council's noise provisions would move towards measurement in Leq and agreed that it would be more appropriate to address this matter in a separate, but comprehensive review of the noise rules in every chapter of the Plan. From a noise management perspective it would not be ideal to have one acoustic parameter in the Central Area, and another in the surrounding residential and suburban centre zones.

Submission 49 requested that specific provisions be implemented to provide for the Port Noise Standard. The Committee noted that since DPC 48 was publicly notified, the Council had notified Variation 3 that dealt with management of port noise. That Plan Change has been through the hearing stage and a decision is due out at the same time as the decision on this Plan Change.

Submission 15 (Wellington Regional Stadium Trust) requested that the noise rules relating to Special Entertainment Events at Wellington Regional Stadium be amended. The current rules provide for up to 3 hours of sound testing in relation to a Special Entertainment Event. The testing may occur on the day of the event or up to three days before the event. The requested amendment would provide for up to 3 hours of testing per day in the three days leading up to an event, and on the day of the event. The submitter cited that many artists who appear at the stadium were commencing world tours and therefore required a reasonable degree of flexibility in terms of the length of time that they used to prepare for performances.

In their evidence to the Hearing, the Stadium Trust noted that the Stadium had not breached District Plan Noise Rules at any event since its opening in 2000. Additionally, the submitter explained that the community liaison committee (including boundary residents and members of



### *Decision*

- **Reject** submission 14 insofar as it requests that standard 13.6.2.1 refer to NZS6803:1999
- **Reject** submissions 33 and 61 insofar as they request that noise in the Central Area be managed as Leq, but note that the Committee expects a future plan change to be initiated which will address the concerns of these submitters.
- **Accept** submission 49 insofar as matters of port noise have been address through Variation 3 to the District Plan.
- **Accept** submission 15 insofar as it requests amendments to the special entertainment event sound testing provisions in 13.6.2.1.10.
- **Accept in part** submission 70 by imposing significantly tighter restriction on the use of existing outdoor speakers in public spaces and by controlling new speakers as non-complying activities.
- **Accept** submission 69 insofar as it supports standard 13.6.2.1

### **3.48 Height (13.6.3.1).**

#### Central Area Height - General

Specific issues raised in submissions include:

- Building height within the CBD should be unlimited. Recognition should be given that the intensification of the city, outweighs potential negative effects including shading, heritage, wind etc (submission 42).
- Building Height in Te Aro: each block ought to permit a single tall structure (10-16 storeys) on the basis that it does not dominate the block (i.e. no greater than 15% of the plan area of the block) (submission 42).
- Building height in Harbour Quays, Thorndon and Pipitea should be proscribed as to use. Mixed use within any one block or development needs to be the overriding consideration so that the needs of the local environment are balanced with the benefits available to the city (and region) through central city intensification. Residential use in these locations need to be more intense and much greater height concessions are required than presently indicated (submission 42).
- The submitter considers that careful consideration needs to be given to the growth and urban form of central Wellington. The CBD and Fringe areas of the city are already congested and will need careful planning into the future if Wellington is going to take its place as one of the better cities of the world. That the building heights are not increased as this is not necessary (submission 32).
- Landscaping and/or architectural enhancement of roof spaces should be encouraged (submission 32).
- Amend standard 13.6.3.1.1 to provide for additions to existing buildings, or for buildings which are already over the specified height limits (wording supplied) (submission 82).
- To reject any proposed amendment to the proposed height limits, other than a reduction in the maximum heights proposed (submission 46).
- Add the words "or passenger" between "cargo" and "handling" in Rule 13.6.3.1.1 (consistent with wording in Rule 13.6.3.3.2) or similar wording (submission 49).
- Height Control standards (13.6.3.1.1, 13.6.3.1.2 and 13.6.3.1.3) refer to the building height limits on map 32, but should also refer to the additional proposed map 32A (submission 66).

### *Discussion*

Submissions on building height constituted a significant proportion of the submissions and evidence presented on DC 48, and it was an issue that the Hearing Committee gave considerable time to during deliberations. In general terms the Committee noted that monitoring of the Central Area undertaken prior to preparing DPC48 had indicated that the height limits in the Operative District Plan (which were focused on reinforcing the high city/low city urban form)

were generally appropriate, and sufficient to accommodate anticipated levels of office, commercial and residential growth in the Central Area over the life of the proposed District Plan and beyond.

On this basis the Committee noted that DPC 48 did not significantly alter the height regime in the District Plan other than in identified **heritage areas**. In these areas lower maximum heights were proposed to reflect and reinforce the existing built form of each area.

The height limits in the 'high city' range from 90-95 metres in the core CBD, through to 55-60 metres at the fringes. The current heights were set by the Planning Tribunal in the 1980's to respect views from the top of the Cable Car, but they also serve to maintain Wellington City's 'high city/low city' urban form and enhance the natural amphitheatre setting of the CBD. The height range provides for a peak in the centre of the CBD (around the Lambton Quay - Willis Street intersection) with lower heights at the edges to allow a transition to the Waterfront and the low city areas of Te Aro and Thorndon.

The development potential within the high city is significant. The Operative District Plan permits 100% site coverage, providing scope for buildings to occupy the full dimensions of their site up to the maximum height. In addition consent may be sought (as a Discretionary Activity (Restricted)) to extend building height by up to 35% above the maximum height specified, providing for heights up to 128 metres in the centre of the high city.

The Hearing Committee considered that it was important to note that there are no prohibited activities within the Central Area. Consent may be sought for any development proposal, although proposals that extend more than 35% above the height standards are considered as Non-Complying Activities. While consent for a building significantly taller than the height standard may need to be publicly notified, the Committee noted that good proposals can gain consent based on their merits. An example referred to during the hearing was the Watermark Development proposed for the Rialto Theatre site which was significantly over height, but which was approved by Council as a (publicly notified) Non-Complying Activity, and later endorsed by the Environment Court, largely because of the quality of the building design and its appropriateness for the site.

In essence, the Committee noted that building heights specified in the District Plan were not absolutes, rather they should be considered as thresholds. If a building remains below the heights specified in the plan then Council can be reasonable confident that the impact of the building, both on the surrounding environment and on the City's wider urban form, will be acceptable. It may be that taller buildings can be accommodated on some sites with no significant adverse effect, but it was appropriate that the potential impact was considered on a case by case basis through the resource consent process.

In reviewing the Central Area provisions as part of DPC 48 it was identified that the operative Central Area policies did not provide any guidance for applicants as to when and where it may be appropriate to develop a significantly over-height, 'landmark' building in central Wellington. For this reason the following policy was proposed as part of the Central Area Review, to acknowledge the positive benefits that may be gained with landmark buildings.

#### **12.2.5.5 Require design excellence for any building that is higher than the height standard specified for the Central Area.**

##### **METHODS**

- Rules
- Design Guides

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*As all buildings contribute to the character and public environment of central Wellington, design quality is a fundamental consideration in the assessment of any development application (see policy 12.2.6.2). The issue of design quality is even more important for buildings of unusual height or bulk, which due to their size, height and massing can have a significant impact on the city, both at street level and from a distance. To ensure that over height buildings visually enhance the cityscape of the Central Area, the Council will require that they display design excellence.*

*When processing a consent application for an over-height building, Council will consider both the scale of the proposed height increase and the comparative height of the resulting building in relation to its surroundings. While all buildings in the Central Area must be of sufficient design quality that they make a positive contribution to the urban environment, the requirement to deliver design excellence applies particularly to proposals that will result in a building that is significantly higher than the surrounding built form.*

*There are two likely scenarios regarding the development of significantly over height buildings in the Central Area. The first is a building of exceptional height in comparison to every other building in the city (i.e in excess of 130 metres in height). The second is a building that is very tall in relation to the scale of surrounding properties. Both scenarios are likely to result in a building of significant visibility and prominence.*

*An exceptionally tall building would be a defining element on the City's skyline for years to come. As a rule such buildings are more Such buildings may be more appropriately located in the high city where they would enhance the compact nature of the Central city, and reinforce the high city/low city urban form. Done well these buildings can become landmarks, adding interest to and enhancing the overall cityscape. Developing an exceptionally tall building would bring with it certain responsibilities. Such a building would become a landmark feature in the Wellington skyline, and a prominent feature in all future images of the city. As such the building should be truly iconic and display a quality of design that befits its status as being one of, if not the most visible building in Central Wellington.*

*Design excellence is also required for buildings that are tall in relationship to the surrounding neighbourhood. Though not 'exceptionally' tall, these buildings can still be highly visible and have a significant impact on the character of the surrounding neighbourhood. As such they require careful consideration, and should display a quality of design that corresponds appropriately to their level of visibility.*

*The environmental result will be excellence in the design of any building that exceeds the height standards specified in the District Plan.*

This policy is discussed in more detail in section 3.8 above.

Submission 42 requested that unlimited height be provided for in the CBD on the basis that the benefits of urban consolidation outweighed any other effects relating to shading, heritage, wind etc. The Hearing Committee agreed with the submitter that Wellington could well benefit from one or more exceptionally tall buildings and that the core CBD was the logical location for such a building. However the Hearing Committee did not consider that the potential adverse effects generated by such a building should be discounted or ignored. The Committee noted that developing an exceptionally tall building would bring with it certain responsibilities. Such a building would become a landmark feature in the Wellington skyline, and a prominent feature in all future images of the city. As such the building should be truly iconic and display a quality of design that befits its status as being one of, if not the most visible building in Central Wellington. The building should also be able to appropriately manage the effects relating to shading wind and heritage etc. On balance the Hearing Committee considered that any building of exceptional height should be considered through the resource consent process, and was confident that the revised policies contained in DPC 48 would allow the potential positive and

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negative effects to be assessed, balanced and weighed. On that basis removal of current height limits in the core CBD was not supported by the Committee.

Submission 42 also requested that provision be made to allow one taller building (10-16 stories) per block in Te Aro covering no more than 15% of the plan area of the plan. The submitter considered that this approach would be beneficial insofar as it would provide for an 'intensified, cosmopolitan, sustainable and prosperous city'. While the Hearing Committee agreed with the submitter's sentiment with regards the future vibrancy and vitality of the central city, it considered that this approach would have a significant impact on the future management of the Te Aro area. In particular it would impact on the low city/high city model of urban form that the Council has endorsed for some years. The Committee also considered that such an approach would be very difficult to implement. Essentially it would become a case of 'first in first served' with adjoining properties having to live with the effects of a significantly taller neighbour, with no scope to build taller themselves to reduce the impact of their larger neighbour. The Committee predicted that in time the Council would come under pressure to allow taller development on sites beside the 'one tall building', and that the taller building would become the precedent, and benchmark for future developments in the vicinity. The Committee also considered that it would also be very difficult to quantify which portion of a block would be the most appropriate to accommodate a significantly taller site, which would result in significant uncertainty for property owners. The Committee considered that the best way to manage the potential for taller buildings in Te Aro was to assess any proposal on its merits through the resource consent process.

Submission 42 considered that buildings height in Harbour Quays (Port Redevelopment Precinct), Thorndon and Pipitea should be proscribed as to use, with greater scope for building height for developments that contain a residential component. The Hearing Committee considered that Council should retain the current height provisions relating to Thorndon and to the Pipitea Precinct. It considered that Thorndon was developing into a mixed use environment under its own accord with the construction of a number of new apartment buildings consolidating the existing domestic scale houses. In the Pipitea Precinct it considered that the current predominance of port and rail uses make promotion of the area as a location for residential activities inappropriate. The Committee noted that this situation may change over time and that the appropriateness of locating residential activities within the Pipitea Precinct could be assessed as part of a master-plan for the precinct.

The Hearing Committee considered that the Port Redevelopment Precinct was the area that was most at risk of developing into a single use or limited-use environment. The Committee noted that the original master-plan for the Precinct had a strong focus on office development with some retail and commercial use at ground floor. The Committee was concerned that this mix of activities would be likely to result in a neighbourhood that is active only during normal working hours. It considered that the introduction of residential use, along with a range of community facilities would go some way to ensuring that the Port Redevelopment Precinct evolved into a high quality urban environment. The Committee had genuine concerns that the development intensity proposed in the masterplan would be insufficient to enable and sustain a positive public environment in the Precinct. To encourage the development of a mixed use environment the Committee considered that cap should be introduced on the total office floor space developed in the Port Redevelopment Precinct. The Hearing Committee also considered that some additional building height in the Port Redevelopment Precinct should be used, in conjunction with the office cap, to promote intensification within the Precinct and encourage mixed use. The Committee noted that additional height at the southern end of the precinct would also encourage consolidation of activities and uses close to the existing CBD, helping to integrate the Port Redevelopment Precinct into the wider urban environment. Additional height north of Hinimoa Street and east of The Boulevard (shown on the master plan in Appendix 2A) was not supported, as the Committee considered that it would result in intensification of

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development further away from the CBD. Accordingly the Hearing Committee considered that the maximum building height for sites in the Port Redevelopment Precinct, between Waterloo Quay and The Boulevard, south of Hinemoa Street, should be increased to a height of 40 metres. The Committee considered that a height of 40 metres was appropriate in this area as it would provide a transition in scale from the 50 metre height applying to the west of Waterloo Quay, down to the 27 metre heights applying to the remainder of the Port Redevelopment Precinct.

Submission 82 requested that standard 13.6.3.1.1 be amended to provide for buildings that already exceed the height limits specified in map 32. The submissions suggested the following wording:

- 13.6.3.1.1 No building, ~~or~~ structure, or addition (except for cranes, elevators and similar cargo handling equipment and lighting poles in the Operational Port Area, which may be higher) shall exceed the building height as shown on the Central Area height map 32 unless it has existing use rights.

The Hearing Committee noted that existing use rights are established and protected by section 10 of the Resource Management Act. They apply to any activity or building that was lawfully established, but which does not comply with the current plan provisions. Because existing use rights are determined under the Resource Management Act, the Committee considered that there is little real benefit in making explicit reference to them in standard 13.6.3.1.1. The Committee directed that no change be made to standard 13.6.3.1.1 in response to submission 82.

Submissions 32 and 46 considered that there should be no increases to the buildings heights contained in the Operative District Plan. This support was noted and accepted insofar as the height limits from the operative plan have been largely retained with some limited amendments.

Submission 32 considered that architectural enhancement of roof spaces should be encouraged. The Committee agreed and noted that the building mass provisions had been drafted to exempt roof top features from mass calculations, thus encouraging rooftop features on new buildings.

Submission 49 requested that the exemption clause applying to the Operational Port Area be amended to provide for structures for both passenger and cargo handling. This submission was supported on the grounds that it more accurately reflected the range of activities undertaken in the Operational Port.

Submission 66 requested that standards 13.6.3.1.1-13.6.3.1.3. be amended to refer to both map 32 and the new map 32A. This submission was supported for the sake of clarity.

### *Decision*

- **Reject** submission 42 insofar as it requests unlimited building height in the core CBD
- **Reject** submission 42 insofar as it requests provision for one tall building per block in Te Aro
- **Accept** submission 42 insofar as it requests scope for additional building height to encourage mixed use within the Port Redevelopment Precinct
- **Reject** submission 82 insofar as it requests provision for existing use rights in standard 13.6.3.1.1
- **Accept** submissions 32 and 46 insofar as the height limits in DPC48 are largely the same as those contained in the Operative District Plan
- **Accept** submission 32 insofar as it requests that rooftop features be supported
- **Accept** submission 49 insofar as it requests reference to passenger handling equipment in standard 13.6.3.1.1
- **Accept** submission 66 insofar as it requests that reference to Map 32A be added to standard 13.6.3.1

### Height Control in the Lambton Harbour Area

Specific issues raised in submissions include:

- That standards 13.6.3.1.3 and 13.6.3.1.4 are adopted (submission 90).

#### *Discussion*

The support of submission 90 was noted and accepted.

#### *Decision*

- **Accept** submission 90 insofar as it supports rule 13.6.3.1.3 and 13.6.3.1.4

### Height Control in Heritage Areas

Specific issues raised in submissions include:

- The submitter supports the provisions relating to height control in heritage areas (submission 69).
- The NZHPT strongly supports the proposed height control standards in 13.6.3.1.5 and 13.6.3.1.6 (submission 72).
- We support the reduction of the maximum height in these Heritage Areas but do not support the notion of maximum heights as "starting points". Maximum heights should be maxima not starting points (submission 48).
- Regarding building heights on listed heritage items the submitter recommends that each building be looked at on a case by case basis with a conservation plan to study if an extension is acceptable and if so to what extent and what design should be allowed (submission 22).
- The submitter seeks a number of wording changes to the proposed rules for height within heritage areas (13.6.3.1.6). These changes include:
  - i) Amend 13.6.3.1.6 by deleting "on vacant land" and replace with "on sites occupied by non heritage buildings to be demolished".
  - ii) Delete existing italicised explanation alongside 13.6.3.1.5 and 13.6.3.1.6 or replace with more appropriate wording.
  - iii) Amend 13.6.3.1.6 by deleting the phrase "minimum and maximum height limits" and replace with "lower and upper threshold heights" and deleting the words "minimum height" and "maximum height" from the table heading and replace with "lower threshold " and "upper threshold". (submission 16).
- Delete 13.6.3.1.5 and all related provisions so the height limits for all buildings in heritage areas are as shown on Central Area Map 32 and exercise control on additions and alterations through the heritage provisions in Chapters 20 and 21. Undertake such further or incidental relief as may be appropriate (submissions 34, 35 and 36).
- Delete 13.6.3.1.6 which contains minimum and maximum height controls for non heritage buildings in heritage areas so that the building heights shown on Central Area Map 32 and the related provisions in the District Plan apply to the non-heritage buildings. Undertake such further or incidental relief as may be appropriate (submission 34, 35 and 36).
- Seeks that the existing building heights be maintained and proposed heritage area height regimes deleted. Delete height control rules in heritage areas (submission 45).
- Amend the Plan to reinstate earlier provisions, including height limits and controlled activity status for modifications and redevelopment of sites relating to Allen and Blair Streets and heritage buildings, and any necessary consequent amendments elsewhere in the Plan documents (submission 50).
- The submitter opposes the building mass, reduction of building heights and verandah requirements. Wellington City Council should retain the maximum building height, building mass for the site and building as per the current District Plan. The submitter

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welcomes the Council to fully compensate us for the loss of profit due to the maximum building height reduction and building mass requirements (submission 57).

- The submitter opposes the proposed reduction in building heights for sites within heritage areas (submissions 16, 54, 8, 58 and 60).

### *Discussion*

DPC 48 proposed to create nine heritage areas in the Central Area. Specific height controls for each of the heritage areas were included in the plan change. Standard 13.6.3.1.5 controlled height for all buildings other than identified 'non-heritage' buildings. It stated:

- 13.6.3.1.5 Within an identified heritage area the height limit for all buildings, other than identified non-heritage buildings, shall be the existing building height (measured above ground level).

Standard 13.6.3.1.6 provides minimum and maximum heights for all other sites within a heritage area. These heights were generally lower than the buildings height provided for under the Operative District Plan.

The Hearing Committee heard from a range of submitters regarding the height proposals for heritage areas. Some submitters supported the proposed height limits on the basis that the identified heritage areas were examples of important, unique neighbourhoods within the Central Area that should be retained and enhanced in much their present state. The Committee also heard from many submitters that owned property within the proposed Heritage Areas, who considered that the proposed height limits were unduly onerous, inflexible, and would detrimentally impact on the value of the properties. The owners were also concerned that the strict height limits would inhibit their ability to undertake earthquake strengthening or other maintenance work, as there would be no scope to off-set the cost of the work by developing additional floor space. This was particularly so for owners of buildings that fell into the category of 'non-listed heritage buildings'. These are buildings that are not listed heritage items, but which contributed positively to the heritage values of the Heritage Area because of their age and architectural form. Prior to DPC 48 these buildings could have been demolished as of right, and a new building built up to the previous height limits. The submitters raised concerns that the proposed capping of building height at the height of the existing building was unfair and extreme given they had no heritage listing. While many of the owners acknowledged that their properties were located in an area of special character, they considered that the District Plan rules should provide additional flexibility to allow consideration of taller buildings on a case by case basis.

The Hearing Committee agreed with these submitters that there should be some scope to consider additional building height on the 'non-listed heritage buildings' on a case by case basis. The Committee considered that this could be best achieved by amending standard 13.6.3.1.5 so that it applied to only listed heritage items. All other buildings or sites in a heritage area would be covered by standard 13.6.3.1.6.

Standard 13.6.3.1.6 contains area specific height limits for each of the Heritage Areas. All new developments within heritage areas are expected to demonstrate that they are appropriate for the area and do not detract from its heritage values. To help in the sympathetic integration of new building works into the heritage areas, building heights had been set to reflect the existing built form of each area.

The Hearing Committee heard from a significant number of submitters that building heights in heritage areas should be considered on a site by site basis. In particular submitters noted that in most of the heritage areas there is some degree of variation, in the scale of existing buildings within the heritage area, in the size and shape of sites and in the potential for taller buildings to be developed on the outer perimeter of the area. The submitters considered that the provisions

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should be flexible enough to accommodate consideration of these variations on a site by site basis. The submitters also noted that there were a range of architectural techniques that could be employed (such as setbacks, variation of materials, modulation of mass etc.) to ensure that additional building height did not have a negative impact on adjacent buildings or detract from the heritage values of the area.

On this matter the Hearing Committee was heartened to hear that many of the property owners that appeared before the Committee recognised the unique character of the area in which their properties were located, and intended to respect and enhance that character when undertaking any future development.

Having reviewed all of the submissions received, considered the reports prepared by Council on the economic impact of the proposed height provisions, and undertaken site visits of all of the Heritage Areas, the Hearing Committee considered that the height standards in rule 13.6.3.1.5 and 13.6.3.1.6 should be made more flexible.

The Committee considered that the proposed minimum and maximum heights should be treated as thresholds, used in conjunction with an absolute maximum height. The minimum and maximum thresholds indicate the predominant scale of buildings within each heritage area (or part of each heritage area) and the Committee was confident that a building developed in accordance with these limits would be of a bulk and scale that would complement surrounding buildings.

Taller (or shorter) buildings may well be appropriate, but the intention with standard 13.6.3.1.6 was to signal that any building above or below the thresholds would need special consideration to ensure that the resulting building maintained or enhanced the heritage value and character of the area. Relevant considerations include the scale of adjoining buildings (and whether they are already taller than the specified threshold), the depth and dimensions of the site in question (and whether there is sufficient room to allow additional height to be set back from key street facades), the design quality of the proposed building, and how well the overall proposal complements the existing character and heritage values of the area. The Hearing Committee agreed that increases in height above the upper threshold should be considered on a case by case basis, but considered that there was merit in including an 'absolute maximum height' for each heritage area to indicate the degree of additional height that each heritage area could potentially absorb before the impact on the heritage value of the areas was significantly compromised.

The Committee noted that in some areas the existing character, form and layout of buildings meant that there was limited scope for additional height increases (i.e. parts of Courtenay Place, Cuba and Stout Street Heritage Areas). In these areas the revised rule 13.6.3.1.6 contained little or no difference between the upper threshold and maximum height. In other heritage areas significant increases in height may be appropriate (i.e. BNZ/Head Office and Post Office Square Heritage Areas) due to the character of the area and the scale of the buildings surrounding the heritage area. In terms of the rule structure the Hearing Committee noted that any proposal to build between the upper threshold and the maximum height should be dealt with as a Discretionary Activity (Restricted). Such a proposal would need to be able to demonstrate (on a site specific basis) that the additional height (above the upper threshold) could be managed architecturally so that it had no significant adverse impact on the heritage values of the heritage area (and any listed heritage item).

Following their site visits the Hearing Committee also considered that some of the heritage areas should be broken down into smaller 'sub areas' to allow the height provisions to be further refined. These refinements, and the new height limits are documented in the table below:

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
Courtenay Place				The Courtenay Place Heritage Area has a strong built form character based on the existing three storey buildings, with a street edge height of around 12-15 metres (above ground level). While there are buildings present that are taller and shorter, the area retains a significant number of original three storey buildings in this height range. The Upper and Lower Thresholds have been set at one storey (3 metres) above and below the average height for the area which has been taken to be 15 metres above ground level. The thresholds will ensure that any new building reinforces the consistent built edge that is characteristic of the area, and is of a scale that is sympathetic to the existing buildings.
For sites in the block to the south of Courtenay Place	12 metres	18 metres	24 metres	The properties fronting on to the southern side of Courtenay Place have a characteristic built edge scale that is consistent with the remainder of the Courtenay Place Heritage Area (i.e. 2-3 storeys). However unlike the remainder of the heritage area, these properties back onto sites that are likely to be built up to 27 metres in the future. There is also a cluster of taller buildings at the eastern end of the block, fronting Cambridge Terrace. As a result, the maximum height in this block has been set at 24 metres to allow scope to develop transitional volumes between the Courtenay Place frontage and the taller buildings to the rear.
For the blocks bounded by Wakefield Street, Tory Street, Courtenay Place and Cambridge Terrace	12 metres	18 metres	21 metres	The blocks surrounding Blair and Allen Street are the heart of the Courtenay Place Heritage Area. They contain a significant number of original warehouse buildings of highly uniform height. Because of the relatively small size of these blocks there is limited scope to absorb additional building height in the centre of the block without impacting significantly on the character and heritage value of the existing building stock. Accordingly the maximum height is limited to one additional storey above the upper threshold
For sites east of Kent Terrace	12 metres	18 metres	18 metres	For sites east of Kent Terrace the maximum height has been set at 18 metres in recognition of the previous maximum height under the Operative District Plan which was 18.6 metres.
Wesley Church	None	10 metres		<del>On the Wesley Church site the Council seeks to ensure that new buildings do not overwhelm or challenge the primacy of the main church building on site. The maximum height level has therefore been set at approximately two thirds the height of the main ridge line of the church.</del>
Cuba Street				Cuba Street has a strong linear nature, characterised by commercial buildings built up to the street edge. The scale of buildings at the street edge, and their relationship to the width of the street is an important feature that helps to define Cuba Street's unique character. While Cuba Street is generally experienced at close proximity from the footpath, it is also unique in that it's full length can be viewed from either end.
North of Manners Street	15 metres	25 metres	40 metres	Building heights in lower Cuba Street are generally higher than else where in the heritage area. The original buildings in the blocks north of Manners Street are generally between 14 and 22 metres above ground level. More modern buildings have tended to be lower, while rooftop additions have pushed some of the original buildings higher.  Upper and Lower Thresholds have been specified to ensure that new buildings north of Manners Street reinforce the strong built edge that characterises the area, and are sympathetic to the scale of the existing buildings. The lower

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
				<p>threshold is set at a height equal to the façade height of the existing three storey buildings in the block. The upper threshold is set at a 25 metres to reflect the façade heights of the taller buildings in the block.</p> <p>The maximum height is set at 40 metres to allow scope to develop transitional volumes between the Cuba Street frontage and the taller buildings to the rear. To the east of the heritage area the maximum permitted buildings height is 43.8 metres. To the west of the heritage area the maximum permitted buildings height is 60 metres</p> <p>In this block the width of Cuba Street is 20 metres.</p>
Between Manners Street and Dixon Street	15 metres	21 metres	30 metres	<p>The block between Manners Street and Dixon Street is characterised by a collection of small scale one and two storey commercial properties developed in the 1980's. The block is significant in urban design terms being located at the intersection of Manners Mall and Cuba Mall, two of the city's key public spaces. It is anticipated that any new buildings could be significantly taller than the current building stock, to help reinforce this key public location.</p> <p>The upper and lower thresholds have been set to provide a transition between the predominant façade heights in the blocks to the north and south. The maximum height has been set at a height that respects the scale of existing buildings in the surrounding area while providing scope to develop a building of reasonable height to help define and anchor this important public space.</p>
Between Dixon Street & Ghuznee Street	12 metres	18 metres	27 metres	<p>Between Dixon Street and Ghuznee Street the width of Cuba Street narrows to 15 metres. The average height of the existing buildings also drops slightly to between 12 and 16 metres (usually two or three storeys).</p> <p>Buildings in this area of Cuba Street are generally built to the front of the site, resulting in a strong built edge along both sides of the street.</p> <p>The upper and lower thresholds specified represent a range of 3 metres (one storey) above and below the average façade height for the area which has been taken to be 15 metres above ground level.</p> <p>Properties to the east and west of the heritage area have a maximum permitted building height of 43.8 metres. The maximum height for this part of the heritage area has been set at 27 metres to provide scope to develop transitional volumes between the Cuba Street frontage and the taller buildings to the rear. The additional height may also be appropriately developed to help anchor the corner sites at the intersections of Cuba Street and Dixon Street, and Cuba Street and Ghuznee Street, that currently contain low quality single storey buildings.</p>
Between Ghuznee Street and Abel Smith Street	9 metres	18 metres	24 metres	<p>Between Ghuznee Street and Abel Smith Street the width of Cuba Street is 15 metres. The average height of the existing buildings is between 12 and 16 metres (usually two or three storeys).</p> <p>Buildings in this area of Cuba Street are generally built to the front of the site, resulting in a strong built edge along both sides of the street. However there are a number of sites that are either vacant, or which contain small buildings set back from the street edge. It is anticipated that these sites will be the subject of more intensive redevelopment in the future. Any redevelopment should look to fill the current gaps and enhance the continuity of the built edge along Cuba Street.</p> <p>The upper and lower thresholds specified are similar to those for the block north of Ghuznee Street. The lower</p>

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
				<p>threshold has been reduced by 3 metres (one storey) to 9 metres in recognition of the increased number of two storey building facades in this portion of Cuba Street. The upper threshold remains at 18 metres as this is 3 metres (one storey) higher than the average façade height which is taken to be 15 metres.</p> <p>Properties to the east and west of the heritage area have a maximum permitted building height of 24 metres. The maximum height for this part of the heritage area has been set at 27 metres to provide scope to develop transitional volumes between the Cuba Street frontage and the taller buildings to the rear.</p>
<p>Properties fronting Cuba Street between Abel Smith Street and Tonks Grove (comprising 244-266 Cuba Street, 267-283 Cuba Street, 45 Abel Smith Street)</p>	6 metres	12 metres	18metres	<p>These sites provide a transitional zone between the fine grain of the shop-houses and cottages to the south and west, and the more commercial buildings fronting Cuba Street to the north. At present the area contains a number of vacant or partially vacant sites, and a variety of modern, relatively low profile buildings. There is significant scope for redevelopment in the area in a manner more sympathetic with the remainder of Cuba Street. In particular the Cuba Street, Abel Smith Street intersection is poorly defined with a vacant sites on the eastern side and a modest two storey modern building on the western side. The largest building in the area is Terralink House, a modern four storey building located in the south-eastern corner. This building provides a clear transition in character, as all of the buildings further south are fine grain and two-three storeys.</p> <p>The upper and lower thresholds reflect the average façade height of existing buildings in the area, and in the blocks to the north and south. The maximum height provides scope to develop additional building height (approximately two storeys), as appropriate, to help define the Cuba Street, Abel Smith Street intersection, and also to provide transitional volume to taller buildings to the east of the heritage area.</p>
<p>Properties to the south of 266 Cuba Street and 283 Cuba Street, and west of Footscray Avenue</p>	6 metres	12 metres	12 metres	<p>South of Tonks Grove and west of Footscray Avenue the character and scale of Cuba Street changes significantly, as the larger, predominantly masonry commercial buildings to the north are replaced with small timber cottages and two storey shop-houses. In terms of the heritage area, the key defining buildings are the original two storey commercial buildings clustered around Arthur Street, Tonks Avenue and the intersection with Webb Street, and the heritage cottages fronting Footscray Avenue.</p> <p>The scale of these buildings is consistently in the range of 8-9 metres above ground level. The exceptions being 301 Cuba Street (three storeys, 12 metres) and the Footscray Ave cottages (one storey).</p> <p>In setting upper and lower thresholds for this area the heights of the existing listed heritage buildings were taken as the key reference points.</p> <p>Due to the small lot size and small scale of the existing building stock in this area there is limited scope to absorb additional building height without adversely impacting on heritage values,. Accordingly the upper threshold and maximum height is set at 12 metres, being one storey above the average existing building height which has been taken as 9 metres</p>
<p>St John's Church</p>	None	12 metres	12 metres	<p>On the St John's Church site the Council seeks to ensure that new buildings do not overwhelm or challenge the primacy of the main church building on site. The upper threshold and maximum height levels have therefore been set at</p>

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
				approximately two thirds the height of the main ridgeline of the church.
Civic Centre	15 metres	21 metres	27 metres	<p>The Civic Centre heritage area contains two potential development sites - Illot Green and the Michael Fowler Centre carpark.</p> <p>Because of its proximity to Civic Square the development of Illot Green will play a role in providing enclosure to this important public space. In this regard it is important that the scale of any new building is large enough to provide enclosure to the square, but also retains a degree of consistency with the scale of the other two buildings on the northern side of the square – the City Gallery (15 metres) and the Public Library (16-24metres).</p> <p>The Michael Fowler Centre carpark is located on the south eastern tip of the heritage area. Being at the eastern end of the heritage area its principle relationship is with the Michael Fowler Centre, a building that has, over its life, developed landmark qualities. The height limits specified will provide for the development of the carpark site at a scale that will help to retain the landmark value of the Michael Fowler Centre.</p>
BNZ Centre				<p>There is a reasonable degree of variation in the scale of existing listed heritage buildings within the BNZ Centre heritage area. They range from 15 metres at the Stewart Dawson corner, to 40 metres for the old CML building on the corner of Lambton Quay and Hunter Street</p> <p>The heights specified for the BNZ Centre heritage areas are intended to recognise the scale of the existing buildings in the area, while at the same time acknowledging the existence the much taller high-rise buildings on sites surrounding the heritage area.</p>
In the block bounded by Lambton Quay, Willis Street and Hunter Street	15 metres	25 metres	25 metres	<p>All buildings contained within this block are listed heritage items and are therefore subject to standard 13.6.3.1.5.</p> <p>Upper and lower thresholds have been provided in the event that one or more of the existing heritage buildings is destroyed and the site subject to redevelopment. In that event, it is considered that any new building should be of a scale that acknowledges and respects the setting of the remaining heritage items within the block</p>
For all other sites	15 metres	35 metres	70 metres	<p>The heights for the remaining sites in the heritage area seek to achieve a scale transition between the Stuart Dawson corner and the taller buildings to the north. The heights also seek to preserve the prominence of the Prudential, CBA, and South British buildings north of Plimmer Steps.</p> <p>The upper and lower thresholds represent the range of façade heights of the existing heritage buildings within the area. Development within these thresholds at the street edge will ensure that any new buildings are of a scale that is in keeping with adjacent listed heritage buildings. Absolute building height is not a strong defining feature of the heritage area, because of the existing presence of much taller buildings on surrounding sites. From any location within the heritage area, viewers have an awareness of much taller buildings on surrounding sites, a result of the area's location in the heart of the 'high city'. The maximum height is therefore set at 70 metres to provide scope for the development of appropriate transitional volumes between the existing heritage buildings and the taller buildings surrounding the heritage area.</p>
Post Office Square				

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
West of Jervois Quay	20 metres	40 metres	60 metres	<p>To the south and west of Post Office Square the buildings fronting the square have a reasonable consistency of scale, being between 30 and 35 metres above ground level.</p> <p>The upper and lower thresholds specified for the heritage area reflect the existing height characteristics of the buildings surrounding the square.</p> <p>The central CBD, which contains some of the Central Area's tallest buildings, provides the backdrop to the south and west of the Post Office Square heritage area. Because of the close proximity of taller buildings to the rear of the heritage area absolute building height is not a strong defining feature of this heritage area. Although the façade height of buildings fronting Post Office Square is relatively uniform, there is some scope to provide additional building height away from the edge of the square to provide a scale transition to the taller buildings to the south and west. The maximum height is therefore set at 60 metres to match the maximum permitted height of surrounding properties.</p>
East of Jervois Quay	Refer to the height standards for the Lambton Harbour Area (13.6.3.1.3 & 13.6.3.1.4)			The issue of building heights in the Lambton Harbour Area was resolved via Variation 22 to the proposed District Plan. The Central Area review does not propose to alter the heights defined by Variation 22.
Stout Street				
In the block bounded by Lambton Quay, Whitmore Street, Stout Street and Ballance Street	10 metres	20 metres	20 metres	This block is the proposed site for the Supreme Court, and also contains the lowest building within the Stout Street Heritage Area. A block specific height has been set in recognition of its future role and the scale of the existing heritage building on site.
In the remainder of the Heritage Area	20 metres	30 metres	50 metres	<p>As a rule, buildings within the Stout Street Heritage Area do not have verandahs. Building height is therefore more apparent, and people that move through the area are able to view buildings and the combined streetscape without the shielding effect caused by verandahs. Because of this building height is considered to be a defining feature of this heritage area, in particular the uniformity of building height around the Stout Street and Ballance Street intersection.</p> <p>In this portion of the heritage area building heights range from approximately 20 metres to 35 metres. The principle non-heritage building within the area is the car-park building on the eastern corner of the Stout Street, Ballance Street intersection (21 metres), adjacent to the Mission to Seamen building (a listed heritage building). The upper and lower thresholds specified will ensure that any future development of that site will be of a scale complementary with the adjacent Mission to Seamen building (18 metres), the Supreme Court building across Stout Street (14 metres), and the District Court and Departmental Buildings that are located on the opposite side of Ballance Street. The lower threshold aligns approximately with the height of the ridgeline of the adjacent Mission to Seamen building, while the upper threshold matches the main parapet level of the Departmental Building across Ballance Street.</p> <p>Given the relatively low scale and open nature of the heritage area it is considered important that any redevelopment of the car-parking building reinforce the scale of the existing buildings at the Stout Street - Ballance Street corner. In this regard the Departmental Building is considered to set a good precedent for the area at 30 metres.</p>

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Heritage Area	Lower Threshold	Upper Threshold	Absolute Maximum Height	Consideration
				There is some scope to develop transitional building mass away from the Stout Street frontage, if it can be done in a manner that respects the setting of the Mission to Seamen building, and with sufficient setback to reinforce the street corner. The 50 metres maximum height provides scope for transitional mass from the street edge to the taller buildings to the east.
Parliamentary Precinct				The height limits specified for the Parliamentary Precinct are intended to maintain and enhance the setting of the existing heritage buildings. This includes ensuring that any new building or structure built in close proximity to the heritage buildings is of a scale that ensures that the primacy of the existing Parliamentary buildings.
In the block bounded by Lambton Quay, Bunny Street, Stout Street and Whitmore Street.	None	15 metres	15 metres	The height limit specified will ensure that any new building works do not overwhelm the principle building on the site, which is the Government Building.
In front (to the east) of parliament buildings	None	None	None	No new buildings of significance are anticipated in the area in front of the Parliamentary Buildings, in respect of the existing buildings role as the centre of national government. The building height specified has been set in order to reinforce the primacy and setting of the Parliamentary Buildings.
Between parliament buildings and Museum Street	None	15 metres	15 metres	Buildings within close proximity to the rear of the Parliamentary Buildings should be of a scale that is respectful of the existing buildings. There is no established pattern of built form in this area so a lower threshold is not considered necessary. The upper threshold and maximum height of 15 metres is consistent with the existing height of the Parliamentary Library, the old Government Building and the Beehive.
West of Museum Street	None	27 metres	27 metres	To the west of Museum Street, further removed from the Parliamentary Buildings, taller buildings can be accommodated.  There is no established pattern of built form in this area so a lower threshold is not considered necessary. Buildings up to 27 metres in height would provide a transition from the Parliamentary Buildings and the taller office buildings to the west. 27 metres is also specified as the maximum height as this was the existing maximum permitted building height under the previous District Plan.

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The Hearing Committee also heard from a number of submitters that requested that the Council consider implementing site specific height increases for certain sites within Heritage Areas.

Submitter 16 (AMP NZ Property Commercial Ltd) originally submitted that their property at 187 Featherston Street (AMP Chambers) should be removed from the BNZ/Head Office Heritage Area, or alternatively that the permitted height for the site should be set at 80 metres. At the hearing the submitter presented a site specific development proposal for the AMP Chambers site, that the submitter considered was an appropriate response to the setting. The design (see image to right) extended up to a maximum possible height of 65 metres (above ground level) and made use of setbacks to ensure that the resulting building would respect the scale of the heritage area, provide a transition from the taller buildings to the north to the shorter heritage buildings to the south, and acknowledge the scale of the adjoining AMP Society building. The submitter provided the Hearing Committee with a three dimensional scale model of the proposed building in its setting, showing the surrounding buildings. The submitter requested that the Committee put in place a site specific rule to clarify that the development proposal was an appropriate development for the AMP Chambers site. Having visited the site, and considered the nature and scale of the surrounding buildings and spaces, the Hearing Committee agreed with the submitter that the proposed development scenario would be appropriate for the site. However the site visit also persuaded the Committee that there was potential for additional height on other sites within the BNZ/Head Office Heritage Area, given the area location in the heart of the 'high city' and the height of buildings on the perimeter of the heritage area. The height provisions for the area have therefore been amended to provide scope to consider scenarios such as that presented by AMP. Accordingly the Committee did not consider that a specific rule was required to codify the AMP proposal, and noted that the submitter may choose to investigate alternative options in the future. The Committee did however consider that it was worth including the development scenario in the design guide for the BNZ/Head Office Heritage Area, along with a note in rule 13.6.3.1.6 that in terms of building bulk it represented an appropriate design response for the site.

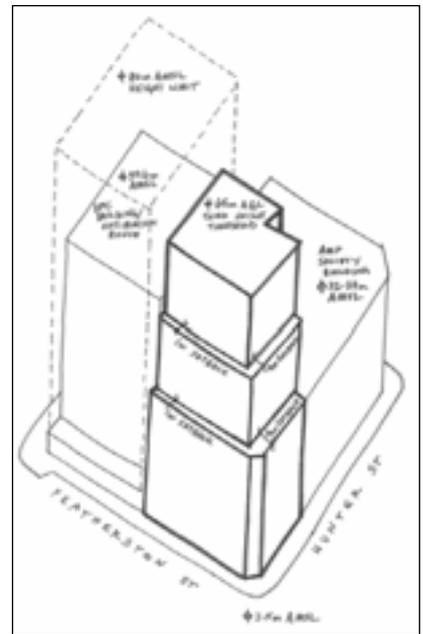


Diagram of site-specific development concept for 187 Featherston Street. First setback occurs at ~35m, second setback at ~50m, and the max threshold set at 65m (all heights measured above ground level).

Submitter 54 (Primeproperty Ltd) originally requested that the Stout Street Car Parking Centre be removed from the Stout Street Heritage Area. At the Hearing the submitter maintained that the heritage area was not required as all of the surrounding buildings were already listed heritage buildings and therefore had existing levels of protection. However if the Heritage Area was retained and included the car parking building, the submitter considered that the heritage values of surrounding properties could be adequately protected through use of façade setbacks. The submitter considered that a setback in the vicinity of 5 metres from the Ballance and Stout Street frontage would be sufficient to respect the heritage context of the area. The submitter considered that the setback portion of the building should be able to extend up to the previous height limit of 75 metres.

Following the Hearing the Committee undertook a site visit of the Stout Street Heritage Area. One feature of the area that struck the Committee was the lack of verandahs on most buildings. The Committee noted that building height is therefore more apparent, and pedestrians that move through the area are able to view buildings and the combined streetscape without the shielding effect caused by verandahs. Because of this the Committee considered that building height was a defining feature of the heritage area, in particular the uniformity of building height around the Stout Street and Ballance Street intersection.

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The Hearing Committee considered that the designation of the area as a Heritage Area was justified given the concentration of important buildings and their shared links to central government activities. They also noted that the heritage area notation was important because it recognised the collective significance of the buildings, spaces and activities, rather than just the individual heritage values of each listed heritage item.

In terms of the height limits that applied to the car parking building, the Committee noted that the upper and lower thresholds specified would ensure that any future development of that site would be of a scale complementary with the adjacent Mission to Seamen building (18 metres), the Supreme Court building across Stout Street (14 metres), and the District Court and Departmental Buildings that are located on the opposite side of Ballance Street. The lower threshold aligns approximately with the height of the ridgeline of the adjacent Mission to Seamen building, while the upper threshold matches the main parapet level of the Departmental Building across Ballance Street.

Given the relatively low scale and open nature of the heritage area the Committee considered that it was important that any redevelopment of the car-parking building respect the scale of the existing buildings at the Stout Street - Ballance Street corner. In this regard the Departmental Building was considered to set a good precedent for the area at approximately 30 metres.

The Committee considered that there was some scope to develop transitional building mass away from the Stout Street frontage, if it could be done in a manner that respected the setting of the Mission to Seamen building, and with sufficient setback to reinforce the street corner. In terms of what constituted 'sufficient setback' the Committee noted that this would depend on the scale of the proposed work, but that it was likely to require a setback larger than the 5 metres suggested by the submitter. The Committee therefore chose not to define a specific setback for the car park site. The Committee did consider that there should be additional guidelines added to the Stout Street Heritage Area design guide to help clarify the key issues applying to the area around the Stout Street – Ballance Street intersection.

The Hearing Committee heard from a number of submitters that had property in upper Cuba Street, generally centred around the intersection with Abel Smith Street. Submitter 58 (Bright Green Properties Ltd and Get Smart Group Limited) owned the properties on the north-west and south-east corners of the intersection. Submitter 8 (Wellington Distributors Ltd) owned the building on the south-west corner of the intersection. Submitter 60 (Karamea Ltd, formerly Lloyd Richardson Ltd) owned the property at 264-266 Cuba Street, one site south of the intersection.

Submitters did not consider that the area justified inclusion within the Heritage Area, because it contained very little in the way of heritage buildings. Many of the sites in the immediate vicinity were either vacant, or contained utilitarian commercial and industrial buildings that did not enhance the character of Cuba Street as a whole.

If the Heritage Area was retained the submitters considered that the proposed height limits were far too restrictive, particularly for the sites south of Abel Smith Street where the maximum height had been reduced from 27 metres to 12 metres. The submitters considered that the proposed heights were unfair and would adversely impact on the value of the properties. They also noted that the lower heights could be counter-productive in terms of the Council's aim of improving the public environment along upper Cuba Street. The submitters noted that the current vacant sites and buildings would not be re-developed unless it was financially viable, and this was less likely to happen with the proposed lower building heights. The Hearing Committee took on board the concerns raised by the submitters that the lower building height would force the owners to develop a short fat box on their site in order to gain a reasonable return on their investment. The submitters noted that some scope for additional building height on their site

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would allow them to design (and fund) a superior building that better suited the surrounding context.

Submitters 8 and 60 also noted that their sites were large by Cuba Street standards, and that this size provided scope to treat and orientate additional building height in a manner that would not detrimentally impact on the heritage values and character of Cuba Street.

Having visited the area the Hearing Committee considered that the heritage area should be retained (see section 3.78 for further details). However the Committee agreed with the submitters that the height provisions notified as part of DPC 48 should be amended as they did not adequately reflect the character, constraints and opportunities applying to the area.

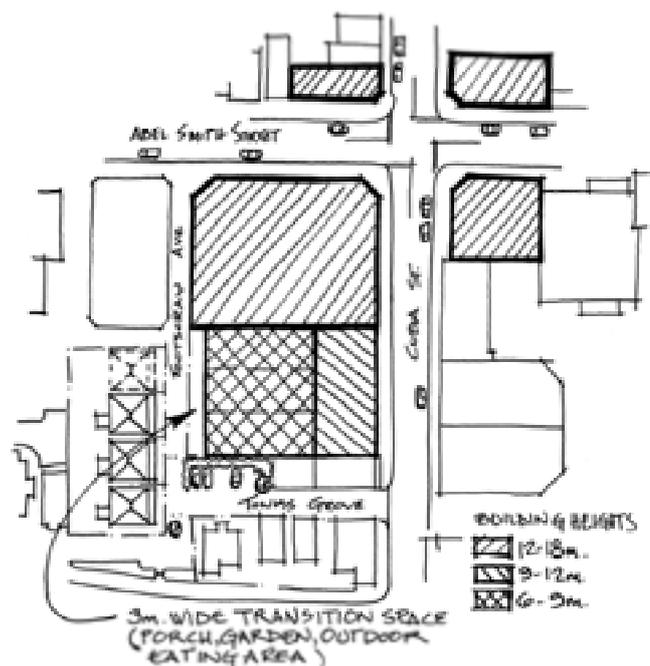
The Hearing Committee agreed with submitters that the sites between Abel Smith Street and Tonks Grove did have a different character to the properties south of Tonks Grove and west of Footscray Ave. The Committee installed a separate height regime for this portion of the heritage area to acknowledge this.

In terms of the heights that applied in this area the Hearing Committee identified a number of key issues that needed to be addressed. The Committee felt that additional height at the Cuba Street/Abel Smith Street intersection would help to anchor and enclose what is currently a fairly poor quality public space.

The Committee also noted that the intersection of Cuba Street and Abel Smith Street provided a transition between the higher buildings further to the north on Cuba Street and the finer grain of buildings to the immediate south and west in the vicinity Footscray Ave and Tonks Grove. The Committee considered that the height should recognise this and provide scope for new buildings to provide a transition between the areas to the north and south.

During their site visit the Committee was impressed by the quality of the spaces and character of the buildings that had been renovated (or relocated) during construction of the bypass. In particular the Committee noted that the small urban space at the meeting of Tonks Grove and Footscray Ave, though small in size, was of high quality and of a very human and intimate scale. While noting that the area presented some challenges at the moment in terms of the relationship between some adjoining sites and the public environment, the Committee considered that over time the Footscray Ave/Tonks Grove area could develop into a very vibrant, unique, urban precinct containing cafes, studios, residential, and mixed use. The Committee considered that the existing small scale, fine grained cottages and shop/houses should form the central theme of the area, and that any future development on adjoining sites should recognise and build on the characteristics created by the existing buildings. This had implications for the Cuba Street properties that backed on to Footscray Ave, particularly 264-266 Cuba Street.

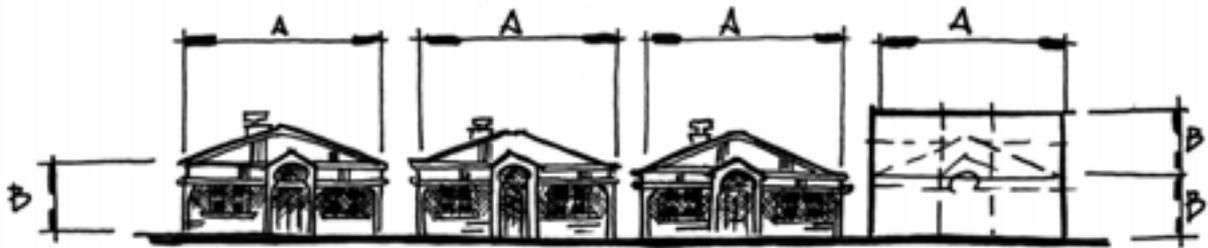
The Hearing Committee considered that these different issues could be most effectively managed through applying revised height limits to this area, in conjunction with additional design guide for the area (incorporated into the Cuba Street Heritage Areas design guide). As part of the design guidance the Committee prepared a design scenario for the area that



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incorporated each of these issues. The scenario (see image to right) is not a specific design solution, but is intended to alert architects and applicants to the matters that need to be addressed in any future application.

Submitter 26 (Dr Marko Klatkovic) owns the property at number 2 Footscray Ave (containing a cottage) as well as the larger commercial buildings to the north. The cottage is a listed heritage item that was damaged by fire in late 2006. The submitter opposed the inclusion of the cottage in the heritage area, and sought reinstatement of the previous 27 metre height limit. Having visited the site the Committee did not consider that the cottage should be removed from the Cuba Street Heritage Area (see section 3.78 for further details). The Committee considered that the Footscray Cottages were an important reminder of the city's past, and that the site at No. 2 Footscray Ave was important to the context of the remaining cottages, even if it was not possible to physically retain the fire damaged cottage. The Hearing Committee were strongly of the opinion that any future redevelopment of the site at No. 2 Footscray should echo the previous structure, and retain very strong links to the design and form of the remaining cottages (see image below).



*Image: Footscray Avenue cottages*

The Committee directed that additional design guidance be included in the Cuba Street Heritage Area Design Guide to help clarify this matter.

The Hearing Committee acknowledged that the submitter's site (beyond the property containing No 2 Footscray Ave) presented some challenging urban design and heritage issues in terms of protecting the setting of the cottages and other heritage building that were relocated as part of the bypass project. However the Committee considered that reinstating a height of 27 metres immediately adjacent to the cottages would be inappropriate as it could result in a building that had serious adverse effects on the setting and heritage values of the cottages. The Committee also noted that the issues raised by the submitter's site were so complex that they were unlikely to be effectively resolved by the Committee installing extra rules and standards in the District Plan. Rather the Committee took on board the request of the submitter that the Council work with him to find an acceptable and more palatable solution for his site. In this regard the Committee resolved that the Council should initiate dialogue with the submitter, at the submitter's convenience, to work through possible design solutions for the properties at 61-65 Abel Smith Street.

Submissions 69 and 72 supported the proposed height provisions relating heritage areas. The Committee accepted these submissions subject to the amendments made in the revised height regime.

Submission 48 supported the reduction of the maximum height in these Heritage Areas but did not support the notion of maximum heights as "starting points". The submitter considered that maximum heights should be maxima not starting points. The Hearing Committee did not agree and noted that it may well be possible to develop a building that is taller than the specified threshold heights, but that any such proposal would need to give special consideration to ensuring that the resulting building maintained or enhanced the heritage value and character of

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the area. On that basis the Committee considered that it was appropriate that the specified height limits be considered as thresholds that may be exceeded in appropriate circumstances.

Submission 22 requested the building heights on listed heritage items be managed by consideration of each building on a case by case basis, with a conservation plan to study if an extension is acceptable and if so to what extent and what design should be allowed. The Hearing Committee noted that listed heritage items within a heritage area are dealt with under the rules for listed heritage items in the chapter 20 and 21. Those rules provide for individual consideration of each listed heritage building because the activity status is based on the scale of the proposed work and not the permitted building heights specified in the District Plan. The Committee considered that this submission should be supported on the grounds that it is consistent with the heritage provisions put forward by DPC 43.

Submission 16 sought a number of wording changes to the proposed rules for height within heritage areas (13.6.3.1.6). These changes included:

- Amend 13.6.3.1.6 by deleting "on vacant land" and replace with "on sites occupied by non heritage buildings to be demolished".
- Delete existing italicised explanation alongside 13.6.3.1.5 and 13.6.3.1.6 or replace with more appropriate wording.
- Amend 13.6.3.1.6 by deleting the phrase "minimum and maximum height limits" and replace with "lower and upper threshold heights" and deleting the words "minimum height" and "maximum height" from the table heading and replace with "lower threshold " and "upper threshold".

The Committee agreed that the first bullet point should be accepted to clarify that the stated height limits apply to existing 'non-heritage' buildings that are proposed to be demolished. However the Committee noted that the wider changes made to standards 13.6.3.1.5 and 13.6.3.1.6 meant that this amendment was no longer necessary.

The Committee considered that the italic text to the right of the table should be retained as it helps to clarify the Council's approach to manage height in heritage areas. The Committee considered that the text should be amended to reflect the changes that were made to the height standards:

*All new developments within heritage areas will be expected to demonstrate that they are appropriate for the area and do not detract from the heritage values of the area. To assist in the sympathetic integration of new building works into the heritage areas, building **thresholds** ~~heights~~ have been set that reflect the existing built form of each area.*

*Additional guidance regarding the appropriate scale of new buildings, and additions and alterations to existing buildings in each heritage area, is provided in the heritage area appendices to the Central Area Design Guide.*

Submission 16 suggested that the minimum and maximum heights contained in rule 13.6.3.1.6 be made thresholds rather than rules, and that all applications for new buildings in a heritage area be considered as a Discretionary Activity (Restricted). The Hearing Committee agreed that this approach had merit and has incorporated it into standard 13.6.3.1.6. It would allow new buildings in heritage areas to be considered on a site by site basis, but would retain the current heights as thresholds to indicate the scale of works that are considered to be appropriate on all sites. The system would provide some certainty of property owners (i.e. they would know that a building built in accordance with the thresholds would be of an appropriate scale for the surrounding area and likely to receive consent subject to consideration of detailed urban design issues), but would also provide scope for building owners to explore site specific options outside the stated thresholds.

Submissions 34, 35, and 36 requested that standards 13.6.3.1.5 and 13.6.3.1.6 be deleted so that the height limits for all buildings in heritage areas are as shown on Map 32 in the Operative

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District Plan. Control on additions and alterations for listed heritage buildings should be exercised through the heritage provisions in Chapters 20 and 21.

Submission 45 (ING (NZ) Ltd) sought that the existing building heights from the Operative District Plan be maintained and proposed heritage area height regimes deleted. At the Hearing the submitter reaffirmed their concerns regarding the proposed height regime. The submitter requested that if the heritage areas and the proposed heights were retained, that the Council review the boundary of the BNZ/Head Office Heritage Area as it passed behind the listed heritage buildings at Stewart Dawson's corner. The submitter considered that the heritage area as proposed included a number of newer lean-to additions to the rear of the heritage buildings. The submitter requested that the boundary be amended to follow the rear wall of the listed heritage buildings.

Submission 50 requested that DPC 48 be amended to reinstate earlier provisions, including height limits and controlled activity status for modifications and redevelopment of sites relating to Allen and Blair Streets. Reintroduction of Controlled Activity status for building work in the Blair and Allen Street was not supported, for the reasons given in section 3.31 above.

The Hearing Committee did not agree with these submissions. The Resource Management Act requires that the Council manage areas of significant heritage value in a manner that protects the heritage values of those area from 'inappropriate subdivision, use and development'. The Committee was concerned that in many heritage areas the difference in scale between the existing buildings and the heights contained in the Operative District Plan was too great and would not ensure that the effects of new development had only minor adverse effects on the heritage values of the area. In terms of protecting the heritage areas from inappropriate use and development the Committee considered that the use of thresholds and an absolute maximum height was more appropriate than reinstating the height limits from the Operative District Plan.

The Hearing Committee did agree with submission 45 regarding the realignment of the boundary of the BNZ/Head Office Heritage Area behind the buildings at Stewart Dawson corner.

Submission 57 opposed the proposed reduction of building heights. The submitter considered that the Council should fully compensate owners for the loss of profit due to the maximum building height reduction and building mass requirements (submission 57). The Hearing Committee did not propose to recommend the payment of compensation to owners within the Heritage Areas, but did note that in most areas the revised height standards provided scope to consider additional build height.

### *Decision*

- **Accept** submissions 69, 72 and 48 insofar as they support the proposed height limits for heritage areas
- **Accept** submission 22 insofar as it requests that height increases to listed heritage items be assessed on a case by case basis
- **Accept** submission 16 insofar as the phrase 'on sites occupied by non heritage buildings to be demolished' is added to standard 13.6.3.1.6.
- **Reject** submission 16 insofar as it requests that the italicised text to the right of standards 13.6.3.1.5 and 13.6.3.1.6 be deleted.
- **Accept** submission 16 insofar as it requests that the height standards included in 13.6.3.1.6 be made thresholds rather than rules
- **Reject** submissions 34, 35 and 36 insofar as they request that standard 13.6.3.1.5 be deleted and listed heritage items be dealt with under the heritage chapter provisions
- **Reject** submissions 34, 35 and 36 insofar as they request that standard 13.6.3.1.6 be deleted and that the Operative District Plan height limits be reinstated

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- **Reject** submissions 45, 50 and 57 insofar they request deletion of standards 13.6.3.1.5 and 13.6.3.1.6, and reinstatement of the Operative District Plan height limits
- **Accept** submission 45 insofar as it requests reconsideration of the boundary of the BNZ/Head Office Heritage Area at Stewart Dawson corner
- **Reject** submission 50 insofar as it requests reintroduction of Controlled Activity status for modifications to and redevelopment of sites in Allen and Blair Street
- **Reject** submission 57 insofar as it requests compensation for the proposed reduction in maximum heights
- **Accept** submission 16 insofar as it is proposed to provide scope for additional height within the BNZ/Head Office Heritage Area
- **Accept** submission 54 insofar as it is proposed to provide scope for additional height within the Stout Street Heritage Area
- **Accept** submissions 8, 58 and 60 insofar as it is proposed to provide scope for additional height within the Cuba Street Heritage Area

### Height Control for sites near Old St Paul's

Specific issues raised in submissions include:

- The submitter found that the diagram regarding height control at St Paul's is unreadable (Building and Structures Standards 13.6.3.1.7 height control at St Paul's) (submission 48).
- Rule 13.6.3.1.7 (Old St Paul's) needs to be revised to be less wordy or complicated and so that the height restrictions extend from all boundaries of Old St Paul's (submission 72).

#### *Discussion*

Submitter 48 requested that the quality of the image used to illustrate the rule applying to properties surrounding Old St Paul's be improved so that it is easier to read. This submission was supported and the Committee noted that a higher resolution copy of the image would be used when DPC 48 is incorporated into the District Plan.

Submission 72 requested that rule 13.6.3.1.7 be re-drafted so that it is less wordy and complicated. While the Committee agreed that the current rule was fairly wordy, it considered that the text was required to adequately explain the application of the proposed rule.

#### *Decision*

- **Accept** submission 48 insofar as it requests that the quality of the image associated with rule 13.6.3.1.7 be improved.
- **Reject** submission 72 insofar as it requests that rule 13.6.3.1.7 be redrafted to be less wordy and complicated.

### Height Control adjoining Residential Areas

Specific issues raised in submissions include:

- I support proposed rules 13.6.3.1.9 and 13.6.3.1.10 on the understanding that they are substantially the same as the existing rules (submission 62).

#### *Discussion*

The support of submission 62 was noted and accepted.

#### *Decision*

- **Accept** submission 62 insofar as it supports rules 13.6.3.1.9 and 13.6.3.1.10.

### **3.49 Building Mass (13.6.3.2).**

Specific issues raised in submissions include:

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- Oppose the building mass (13.6.3.2) as it would restrict the size of future development - namely floor plate size of my building. Do not change the current plan, or reduce leasehold and rate payments (submission 3).
- The submitter is primarily concerned about the loss of development as a result of the proposed mass std (13.6.3.2) which adversely affects the submitter's interest in maximising the use of their property at 22-42 Willis St. That rule 13.6.3.2 "Building mass" be deleted together with associated objectives and policies (12.2.5.2 & 12.2.5.3) (submission 6).
- The site behind the St James Theatre is an asset held in trust for the future viability and development of the St James Theatre and the Opera House. This provision will affect future options and viability of the theatres. That 100% utilisation allowance of the site (i.e. of building mass) be reinstated (submission 20).
- Delete references to heritage areas and building mass from standard 13.6.3.2 (submission 45).
- Deletion of Rule 13.6.3.2 - Building Mass (submission 78).
- The submitter opposes the building mass, reduction of building heights and verandah requirements. Wellington City Council should retain the maximum building height, building mass for the site and building as per the current District Plan. We welcome the Council to fully compensate us for the loss of profit due to the maximum building height reduction and building mass requirements (submission 57).
- Remove standard 13.6.3.2 and Council to look at amending the existing standards for wind, heritage and urban design. If a new building mass standard is introduced, Council to remove the proposed standards in PC48 that address wind (13.6.3.5) and sunlight access adjoining residential areas (13.6.3.1.9) (submission 55).
- Remove mass standard 13.6.3.2 and Council to look at amending the existing standards for wind, heritage and urban design. If a new building mass standard is introduced, Council to remove the proposed standards and provisions in PC48 that address wind, heritage and urban design (submission 54).
- Support the changes relating to building mass (13.6.3.2) (submission 24).
- The submitter supports the provisions relating to 75% building mass (submission 69).
- That standard 13.6.3.2 (Building Mass) is adopted (submission 90).
- The proposal to set a building mass limit of 75 percent in place of the current 100 percent is supported. While no one can be precise as to the ideal percentage to adopt, and arbitrary percentages have obvious weaknesses, the 100 percent standard has led to some unfortunate outcomes in terms of design and effects on neighbours. We seek that applicants for dispensation from the building mass std should be required to show the impact on neighbours, the surrounding area and the wider city particularly in terms of shade, wind, traffic and pedestrian safety and comfort (submission 13).
- Delete the definition of Site Area contained in Chapter 3 of proposed plan change 48. Amend the definition of Site Area contained within rule 13.6.3.2.1 as follows: 'Site Area - means the total area of the site (or sites) that forms part of the development, but does not include any portion of the site subject to strata title. See also the definition of site' (submission 18).
- Adopt the proposed building mass requirement with the following amendments: - a minimum of open space/landscaping to be a ground level, say 10%; - where development occurs on a corner site, the clear air space at ground level should be allocated to the corner of the site with the intent to extend the pedestrian, socially active streetscape. Encouragement should be given to expanding open space with public amenities and water features wherever possible. Where two or more building sites are to be amalgamated their available open ground space should be amalgamated too. Minimum natural light to all habitable urban rooms should be requirement under the District Plan (submission 32).
- Modify 13.6.3.2.1 so that the building mass factor is 100%. This will leave the current position as is but allow the new height rules 13.3.8.14 to work effectively (submission 43).

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- We strongly endorse the move towards a volume measurement rather than a building height maximum system, especially in conjunction with a 75% site coverage and the definition for building mass where it excludes ESD initiatives (submission 48).
- We found that the diagrams defining building mass (13.6.3.2.1) are too small and so not readable. We suggest that diagrams of formulas A, B, C etc should also be included to assist in clarity (submission 48).
- Exclude the Port Redevelopment Precinct for the need to comply with the provisions of rule 13.6.3.2 (submission 49).
- Amend 13.6.3.2 Building Mass standard to recognise the operational characteristics of large format retail, being that most large format retail stores rely on floor space, rather than total building size (submission 67).

### *Discussion*

DPC 48 introduced a maximum standard for building mass to enable Council to better manage the potential adverse effects resulting from building bulk. The need for a mass provision was identified following monitoring of the Central Area environment. Monitoring indicated that on some Central Area sites, the Operative District Plan provisions had not been wholly effective in managing adverse effects resulting from building bulk. In providing for up to 100% site coverage as a permitted activity, and remaining silent on the issue of development intensity, the Operative District Plan had compromised Council's ability to manage some of the potential adverse effects of new buildings. These effects include:

- The impact of new buildings on ground level wind conditions
- Buildings being developed (with primary windows on boundary walls) that rely on neighbouring sites not being developed to retain access to natural light
- The impact of new building works on listed heritage items (both on-site and on adjacent sites)
- Poor urban design outcomes including flat facades, visible blank side and rear walls.

The building mass provision introduced in DPC 48 sets the permitted standard for mass at 75% of a theoretical 'maximum' for each development site. The theoretical maximum is the equivalent of a building being built up to every boundary of the site and up to the maximum permitted height. It is calculated by multiplying the site area by the maximum height standard. While the permitted mass standard is set at 75% applicants may apply for resource consent to increase mass up to 100% and above. To gain consent an application would need to be able to demonstrate that effects relating to wind, daylight, design and heritage can be adequately managed on-site.

The definition of building mass was drafted to capture the basic bulk of any new building work, without penalising positive urban design and architectural features of a development. The definition was developed to promote the incorporation of Environmentally Sustainable Design (ESD) features into new building design.

The Hearing Committee noted that the mass standard would be used in conjunction with the height standard to help manage the effects of over height buildings, and to provide a more flexible regime for managing the total mass of building that is developed on any given site. The proposed rule structure would allow for increases in building height (up to 35% above the specified standard) as a Discretionary Activity (Restricted) if the mass standard was complied with. The rationale behind the new rule structure was that height and mass are closely related in terms of the effects generated by new buildings. It was considered that there was increased scope to consider taller buildings if the increase in height was not accompanied by an increase in mass, as buildings have greater potential to generate adverse effects as total building bulk increases.

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The Committee also noted that the new height and mass provisions would assist Council to negotiate setbacks and reductions in building bulk on-site to achieve positive heritage and urban design outcomes. Policy 12.2.5.4 noted that when setbacks or reductions in bulk are required to respect the setting of a heritage item or achieve a positive urban design outcome, the floor space could be recovered elsewhere on site above the maximum height standard.

The Committee did acknowledge that the proposed approach added some complexity to the application of the District Plan, particularly in terms of calculating maximum volumes and assessed ground levels. New definitions have been prepared for 'building mass', 'ground level' and 'site area' to guide the calculation of building mass. However the Committee was satisfied that with the widespread use of CAD design software, 3 dimensional models of new buildings could be rendered relatively easily, assisting in the application of the mass provisions.

Submissions 24, 48, 69 and 90 supported the proposed mass standard. Submission 48 particularly supported the proposal to define building mass so that it excludes environmentally sustainable design (ESD) initiatives.

Submissions 3, 6, 20, 45 and 57 opposed the proposed mass standard on the grounds that it would reduce the development potential of Central Area sites. Submission 20 was concerned that the mass provision would limit the ability to develop the open space to the rear of the St James Theatre and the Opera House. Both the St James Theatre and Opera House are listed heritage buildings. For those sites the Hearing Committee noted that the mass provision could be calculated over the whole of the site so any development to the rear of the site could take advantage of 'undeveloped' mass above the heritage building in front. This would allow the currently undeveloped areas to the rear to be developed above 75% mass.

Submission 78 requested that the mass provision be deleted on the basis that it is incompatible with section 5 of the RMA. The Hearing Committee did not agree that the proposed mass rule is inconsistent with section 5 of the RMA. The Committee noted that the basic tenor of section 5 of the RMA was that District Plans should manage the development of natural and physical resource in a manner that enables people to provide for their social, economic and cultural wellbeing while ensuring that any adverse environmental effects can be avoided, remedied or mitigated.

The Hearing Committee noted that while the current District Plan rules are achieving the efficient development of land and building resources in the central city land, monitoring of the Central Area environment indicated that they had proven less effective at ensuring that adverse effects are avoided, remedied or mitigated. On that basis the Hearing Committee concluded that the proposed building mass provision was consistent with Part II of the RMA, and should be retained as it will allow potential adverse effects generated by new buildings to be more effectively managed.

The Committee noted that the District Plans of both Auckland City and Christchurch City also manage development intensity and building bulk (using plot ratios), in both cases with an equivalent maximum level of building mass that are significantly lower than the 75% mass proposed under DPC 48 (see pages 460-464 of the section 32 report).

Submitters 54 (Primeproperty Group) and 55 (Housing NZ), and further submitter 16 (OEC Limited) requested that the building mass provision be deleted, and that the wind, heritage and urban design provisions be used to manage the effects of building bulk. If the mass provision was retained then the submitters requested that the provisions relating to wind, heritage and urban design be deleted. During the hearing Primeproperty Group argued that the proposed building mass provision was overly simplistic, and that other mechanisms should be employed to manage potential adverse effects relating to building bulk.

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In their evidence to the hearing Housing NZ argued that the building mass provision was not required to achieve a high-quality urban environment. Housing NZ considered that daylight, heritage and urban design effects were better managed by urban design guidance, and that wind effects were already adequately covered by the existing wind standards. The Hearing Committee gave consideration to the concept of relying on urban design guidance to control the effects of building mass, and concluded that the potential drawbacks outweighed the likely advantages. The Committee noted that state of the environment monitoring undertaken prior to DPC 48 indicated that remaining silent on the issue of building mass and relying solely on the design guide to manage effects relating to heritage, wind etc had significant shortcomings. With the Operative District Plan remaining silent on the issue of building mass and development intensity, there is an expectation amongst property owners that sites can be developed up to 100% as of right. Relying on the design guide to try and manage reductions in mass had led to on-going antagonism between applicants and Council as reductions in building mass to manage adverse environmental effects were perceived as lost development rights. This caused frustration and (in extreme cases) litigation which resulted in increased costs and delays for all parties. The Committee concluded that in the long term, having an explicit mass standard would allow these effects to be resolved more efficiently than relying solely on an urban design assessment.

The Hearing Committee also noted that the mass provision was intended to work in concert with the provisions relating to wind, heritage and design. Managing mass by itself could not guarantee that adverse effects relating to wind, heritage and urban design would be avoided, remedied or mitigated. The Committee considered that retaining the building mass standard, but removing the standards relating to wind, heritage and urban design (as requested by some submitters) would therefore be counter productive.

Further submitter 16 (OEC Limited) presented evidence on the building mass issue. The submitter considered that while the rule was well intentioned it would have some unreasonable effects. One of the reasons for the change was to ensure that reasonable separation occurs between medium/high rise buildings for the purpose of better internal amenity and urban design. The submitter was concerned that for some sites, particularly smaller sites in Te Aro, the reduction in development potential of sites by 25% would diminish the value of the properties at the expense of the owner. In response the Hearing Committee noted that in recent years apartment development was the primary driver of new building in Te Aro. As such the management of building mass to help ensure adequate access to daylight was just as relevant in the 'low city' as it was in the core CBD. The Committee also noted that the 75% mass standard was not an 'absolute' cap, and that the policies and rules contained in the plan made clear provision for additional building mass to be developed (considered on a site by site basis) when it could be demonstrated that effects relating to daylight, wind, heritage and urban design could be appropriately managed. Additionally the Committee noted that DPC 48 provided scope for additional discretionary building height in the low city, to provide greater flexibility in the design and development of new buildings. Accordingly the Committee did not consider that the building mass standard constituted an unreasonable diminution of property values for Central Area sites.

Submission 13 (Wellington Civic Trust) strongly supported the proposed mass provision but noted that the use of an arbitrary percentage threshold was a potential weakness. At the hearing the Trust noted that the current provisions have too often resulted in over-bearing, bulky site development, with adverse consequences for neighbours. The Hearing Committee agreed that to a degree 75% is an arbitrary figure, but noted that it was no more arbitrary than many other planning tools such as the old plot ratio numbers, or the height limits that are included in the District Plan. The Hearing Committee did note that the mass percentage of 75% had been arrived at through analysis of typical building form developed in central Wellington over the past 5 years. The analysis indicated that new buildings that complied with the permitted height

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standards did not generally exceed 75-80% mass, due to site constraints or the application of the wind standards.

Submission 13 also requested that applications to increase building mass above 75% should be required to show the impact on neighbours, the surrounding area and the wider city. The Trust expressed hope that the new mass provision would give designers greater flexibility to create designs more sympathetic to the streetscape and to neighbours. The Hearing Committee agreed that the impact on the character of the surrounding area and the wider city were important considerations. However the Committee did not agree that effects on neighbouring properties should be considered when considering an application to increase mass. This is because the building mass provision was developed to ensure that new Central Area buildings are self-sufficient in terms of daylight and amenity, and to ensure that new buildings sit comfortably within the surrounding neighbourhood context. The Committee concluded that the building mass provision was not intended as a tool for managing the effects of new buildings on neighbouring properties, so considering the impact of additional building mass on neighbouring properties was not appropriate.

While accepting that building mass was not a mechanism for protecting neighbours amenity the Committee did consider that in the unusual event that an existing building (built prior to DPC 48) had apartment windows in a boundary wall, Council should encourage neighbouring developments to locate building mass so that the existing building is able to retain some access to daylight. The Committee considered that this matter was best dealt with during the urban design assessment process, with some additional policy guidance. The following text will be added to Policy 12.2.5.2 to clarify this matter:

*The mass standards have been set at levels that will allow potential adverse effects relating to amenity (access to daylight for the proposed new building), heritage and design, to be avoided, remedied or mitigated on site. It is important to note that the development of new buildings in the Central Area is not a case of 'first in, first served'. All new building works are expected to protect their own amenity by making suitable provision for on-going levels of daylight. New building works will not be permitted to rely on the under-development of adjacent sites as the source of their daylight access. Similarly, it is not intended that the building mass standards will be used to require new building works to set back from boundaries in order to preserve access to daylight for existing buildings on adjacent sites. However it is acknowledged that there are likely to be some situations where a development is proposed adjacent to an existing building that contains residential units with primary windows located on (or very near) the common boundary. In this situation Council will work with the developer to explore whether the new building can be sited and massed in a manner that allows the neighbouring residential units to retain some degree of daylight and outlook.*

Submission 32 supported the proposed mass provision, but requested that it be amended to require a minimum level of open space/landscaping and ground level (10% of the site area is suggested). The Hearing Committee did not support requiring mandatory ground level open space within the Central Area. The Committee noted that under the old plot ratio system bonuses were granted for the creation of public plaza's and other open spaces. While some of these plazas were successful, many were poorly located, provided low amenity, and became 'dead' spaces. While acknowledging that the Central Area would benefit from additional areas of open space, the Committee considered that this should be developed as part of a strategy for the whole Central Area, not in a piece-meal manner on individual sites.

Submission 43 (Museum Hotel) requested that the mass provision be modified so that the building mass factor is 100% not 75%. In their evidence the submitter argued this would allow the proposed height rule to work more effectively, as the 100% mass could be manipulated on-site up to the discretionary height limit. The submitter considered that the mass provision was a blunt response to managing the effects of new buildings. For the reasons outlined above the Hearing Committee considered that the building mass provisions would have limited

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effectiveness in managing adverse effects relating to wind, daylight, heritage and urban design if the permitted threshold is set at 100%.

Submission 48 supported the proposed mass provision but requested that the diagrams used to explain the rules should be made larger to improve their clarity. The Hearing Committee agreed and directed officers to increase the size of the images attached to the mass standard.

Submission 49 requested that the building mass provision not apply to the Port Redevelopment Precinct. This matter is discussed in more detail in section 3.26 where the Committee agreed that proposals that comply with the Precinct masterplan should be exempt from the building mass provision.

Submission 67 (Progressive Enterprises Ltd) requested that the building mass provision be amended to recognise the operational constraints of large format retailing. It appears that the submitters concerns are based on the premise that 75% building mass also restricts site coverage. The Hearing Committee felt it was important to note that building mass did not equate to site coverage. Mass is a three dimensional measure of the total building volume on site. The proposed rule does not prevent developments from achieving 100 percent site coverage, and in many situations full site coverage at ground floor level results in a positive built form. On this basis it the Hearing Committee considered that the building mass rule did not require amendment in order to recognise the operational constraints of large format retailing. The Hearing Committee also noted that Progressive Enterprises made no comment on the building mass provisions when they appeared at the hearing.

Submission 18 requested a number of changes to the definition of 'site area' used to calculate building mass. The Hearing Committee supported these changes as they would improve the clarity and implementation of the mass rules. This change would result in the following definition of site area for the purpose of calculating building mass:

**Site Area** - means the total area of the site (or sites) that forms part of the development, but does not include any portion of the site subject to a strata title. [See also the definition of site](#)

The Hearing Committee noted that the wording of the proposed mass standard had generated a degree of uncertainty in terms of calculating permitted mass. In particular the reference to '13.6.3.1' in the definition of maximum height was not sufficiently targeted to allow calculation of building mass. The Committee considered that the reference to 13.6.3.1 should be amended to read 13.6.3.1.1-13.6.3.1.3 to more accurately reflect those height provisions that were relevant to the calculation of building mass.

### *Decision*

- **Accept** submissions 24, 48, 69 and 90 insofar as they support the proposed mass provision
- **Reject** submissions 3, 6, 20, 45, 54, 55, 57 and 78 insofar request that the proposed building mass provision be deleted.
- **Accept in part** submissions 13 and 32 insofar as they support the proposed mass provision
- **Reject in part** submission 13 insofar as it requests that applications for increases in building mass consider the effects on neighbouring properties and the surrounding area
- **Reject in part** submission 32 insofar as it requests that Central Area sites be required to provide ground level open space as part of future developments
- **Reject** submission 43 insofar as it requests that the building mass threshold be set at 100%
- **Accept** submission 48 insofar as it requests that the diagrams associated with the mass provision be made larger and easier to read
- **Accept in part** submission 49 insofar as it requests that the building mass provisions not apply to the Port Redevelopment Precinct

- **Reject** submission 67 insofar as it requests amendment to the mass provisions to reflect the operational requirements of large format retailing
- **Accept** submission 18 insofar as it requests amendments to the definition for site area used to implement to building mass provision

### 3.50 View Protection (13.6.3.3).

Specific issues raised in submissions include:

- That constraints be placed on developers and designers to ensure verandahs (5.3.7.4) are not allowed to protrude into view-shafts (5.3.7.2) and thus affect the passage of sunlight (5.3.7.2) to and from Mount Victoria (submission 27).
- Replace viewshafts 26 and 27 with Viewshafts 17, 18, 19 and 21 in rule 13.6.3.3.2 (submission 49).
- That standard 13.6.3.3 be amended to reflect concerns: We support this provision, but would like the intrusion of viewshafts become a Discretionary Activity (Unrestricted) given the importance of protecting these views (submission 90).

#### *Discussion*

Submission 27 requested that the District Plan provisions be amended to ensure that verandahs do not protrude into an identified viewshaft. The submitter was concerned that the verandahs may affect the passage of sunlight to and from Mt Victoria. As verandahs are generally constructed between the ground floor and first floor of a building, the Hearing Committee considered that they would have limited impact on sunlight to and from Mt Victoria. Also tying verandahs to the view shafts would not necessary protect sunlight, as the viewshafts are prepared according to existing views, and impact on sunlight was not a consideration.

Submission 49 requested that viewshafts 26 and 27 be replaced with viewshafts 17, 18, 19 and 21 in rule 13.6.3.3.2. This submission was supported as viewshafts 26 and 27 no longer exist in DPC 48. The Committee considered that it was appropriate that the rule be amended to correctly reference the viewshafts that do pass across the Operational Port Area.

Submission 90 requested that any application to intrude into a viewshaft should be considered as a Discretionary Activity (Unrestricted) because of the importance of protecting these views. This submission was not supported by the Committee. The key difference between Restricted and Unrestricted Discretionary Activities is the matters that the Council can consider in processing an application for consent. With a Discretionary Activity (Restricted), the Council's consideration is limited to the matters over which it has reserved discretion in the plan. With a Discretionary Activity (Unrestricted) the Council can consider any matter it deems appropriate to manage the effects of the activity. Because applications for resource consent to breach an identified viewshaft are only being considered in terms of the effect on the viewshaft, the Committee considered that this was dealt with most appropriately as a Discretionary Activity (Restricted).

#### *Decision*

- **Reject** submission 27 insofar as it requests an additional provision regarding verandahs protruding into identified viewshafts
- **Accept** submission 49 insofar as it requests changes to the reference to viewshafts in rule 13.6.3.3.2
- **Reject** submission 90 insofar as it requests that applications to intrude into a viewshaft be processed as a Discretionary Activity (Restricted)

### 3.51 Sunlight Protection (13.6.3.4).

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Specific issues raised in submissions include:

- That standard 13.6.3.4 (Sunlight Protection) is adopted (submission 90).
- The submitter supports the provisions relating to sunlight (submission 69).
- That standard 13.6.3.4 is unnecessary and undesirable, and adding to the proposed building massing restrictions, it constitutes an unjustifiable duplication of controls (submissions 34 and 35).
- Oppose the Sunlight Protection for Denton Park as it would restrict the size of future development - namely floor plate size of my building. Do not change the current plan, or reduce leasehold and rate payments (submission 3).
- That the proposed text in section 13.6.3.4 be amended to refer to 'West Courtenay' instead of 'Clock Park' and that Appendix 7 be amended to include a revised 'protection area' of West Courtenay along with the revised area description (submission 18).
- Ulysses Trust's interests (45A-55 Courtenay Place, 45 Tory Street, 128-132 Courtenay Place, 104-106 Cuba Street, 168-174 Cuba Street) will be significantly and detrimentally affected by the proposed sun access rules to 'Clock Park'. Remove 'Clock Park' from the list of Central Area public spaces subject to Rule 13.6.3.4 or, in the alternative, provide compensation for the loss of development potential for 128-132 Courtenay Place (submission 30).
- The submitter is concerned that the sunlight protection provision applying to Clock Park will limit the potential building height of their property. The submitter requests that Clock Park be removed from the list of public spaces in rule 13.6.3.4 as it will materially limit development potential for our property at 134 Courtenay Place (submission 73).

### *Discussion*

The Hearing Committee accepted the support of submissions 69 and 90, subject to any recommended changes as a result of other submissions below.

Submissions 34 and 35 both argued that the sunlight protection provisions are unnecessary and undesirable. The Committee did not agree that the rules duplicated other proposed building mass controls. The rules provide a clear requirement to protect sunlight access to a specified area. The opportunity to have the 75% mass still applies where it would not result in shading of the public space. Many of the sunlight protection provisions have been in place for decades (Midland, Frank Kitts, Taranaki Wharf, Cuba, Manners, Glover, Te Aro and Cobblestone). Some of the protected public spaces are new and the Committee notes that the potential implications on property development were considered by Officers (eg. Kumutoto Park, Post Office Square, Denton Park, and the public space on the south eastern corner of Taranaki Street and Courtenay Place).

The Committee noted that in respect of submission 35, the Huddart Parker Building was no longer affected by sunlight protection due to the changes proposed to the details for Frank Kitts Park.

### *Denton Park*

Submission 3 submitted against sunlight protection of Denton Park, and the restriction imposed on further development of the site. The Committee noted that the sunlight diagrams did show there would be some loss of development opportunity, but considered that in light of the introduction of the 75% mass requirement the effect of this sunlight protection provision would not place additional restrictions on the development potential for the site.

The Committee noted that while Denton Park is a small park (currently able to seat between 10-15 people comfortably), it was very sheltered and as such it was frequently used by people to sit and eat their lunch. The Committee also noted that there are plans to upgrade the park and that this was likely to increase the number of people that made use of it.

The Committee noted that officers had recommended a shorter period of protection to reduce the extent of effect on the potential development opportunities (ie. the period of sunlight protection was reduced by 30 minutes) on the basis that Denton Park:

- is a pocket park
- is in close proximity to other areas protected for sunlight purposes (namely Manners Mall and Civic Square)
- the orientation of the park makes protection at 12 noon less appropriate, and
- the park is located adjacent to the high city.

In light of these considerations, the Committee agreed the park should remain in the list of public spaces that are protected for their sunlight.

### *Clock Park (West Courtenay)*

Three submissions were received regarding Clock Park. One of these being a Council submission (18) that sought to amend the extent of the area protected and to change the name of Clock Park to 'West Courtenay' and the other two opposing the listing of the park (30 and 73).

The Committee did not agree to the revised name for the park, noting that it was Council policy that the naming of any public space must go through a separate Council decision-making process. However the Committee did agree to the park being listed for sunlight protection so on this basis a generic name for the park has been proposed for inclusion in the District Plan (Park on south-eastern corner of Taranaki Street and Courtenay Place).

The Council submission included a revised protection area for Clock Park, following final designs for the park being approved after the Plan Change was first notified. The Committee agreed that due to revised plans involving new building works on the park (as an addition/extension of the existing heritage building) the area of the public space that was protected should be reduced to exclude the areas to be covered by the building addition. The Committee was satisfied that the revised sunlight protection area would result in a minimal effect on the development opportunities for submitters 30 and 73. The degree of restriction on adjacent properties (to the north) was originally relatively limited, and the further reduction will make the degree of restrictions on the properties very minimal.

The Committee maintained that sunlight protection was needed for the site as it is in a prime location, and once redeveloped will become an area of high use containing spaces where people can linger and enjoy the area. On this basis, it was considered that submission 18 should be accepted, and that submissions 30 and 73 should be rejected.

### *Decision*

- **Accept** submission 90 and 69, subject to the following recommended changes.
- **Reject** submissions 34 and 35.
- **Reject** submission 3, regarding Denton Park.
- **Reject** submission 18 insofar as the park be renamed 'West Courtenay'
- **Accept** submission 18 insofar as the area of protection for the park has been revised
- **Reject** submissions 30 and 73, regarding deletion of Clock Park.

### **3.52 Wind (13.6.3.5).**

Specific issues raised in submissions include:

- Review and modify the wind provisions (rule 13.6.3.5) to realistically reflect Wellington's robust wind circumstances, and to provide a more cost effective means of assessing changes in terms of wind effects (submission 49).
- We support the initiatives for the revised wind rules (submission 48).
- The submitter supports the provisions relating to wind (submission 69).

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- Wind - That the maximum gust speed for wind (13.6.3.5) be reduced further as the wind environment has been allowed to worsen to what is an unacceptable level (submission 24).
- That the rules 13.6.3.5.1 and .2 and .3 (wind stds) be reworded to set lower thresholds for wind speeds and wind strength, and that they be consistently monitored and enforced (submission 62).
- The change in approach to wind provisions to refer to 'hours' is supported, but the trigger points are too low compared with existing wind thresholds. The 2.5 m/s and 3.5 m/s should be at least doubled (submission 45).
- Amendment of Rule 13.6.3.5 (wind) as follows (submission 78):
  - increase of the 3.5 m/s parameter in the table in rule 13.6.3.5.2(b) to 8m/s and increase of the 2.5m/s parameter in the table in rule 13.6.3.5.2(b) to 5.5 m/s.
  - Increase of the 170 hour per year parameter in the table in rule 13.6.3.5.2(b) to 350 hours per year.
  - Amendment of the requirement on the developer to reduce the change in hours to a maximum of 170 hours to a maximum of 350.
  - Increase in the comfort wind strength in rule 13.6.3.5.2(d) to 5.5m/s.
  - Deletion of the italicised words at the end of rule 13.6.3.5.3.

### *Discussion*

The Committee heard from just one submitter on the proposed wind rules, namely CentrePort (submitter 49). An outline of their evidence to the Committee is considered below.

#### *Review the approach to the wind rules*

Submitter 49 sought that the wind rules be reviewed and modified to realistically reflect Wellington's robust wind conditions and to provide a more cost effective means of testing. The Committee noted that the Officer's report rejected this submission for a wide number of reasons, most crucially that because Wellington is exposed to strong winds, it is entirely appropriate that the district plan contain rules that mitigate the worst effects of this wind by controlling building design. At the hearing the submitter maintained the view that blanket wind controls do not recognise the particular windy environment of the Port Redevelopment Precinct and was concerned that this would mean that most development proposals would be triggered into a Discretionary Restricted Activity status delaying projects. The submitters suggested that one possible remedy would be to remove the Port Redevelopment Area from strict compliance with the wind rule, but retain wind effects as a matter of control for controlled and discretionary (restricted) activities and the criteria would remain as a guide (not a rule).

The Committee was not swayed by the particular concerns of this submitter, citing that wind rules have been a component of the planning system in Wellington for over 20 years to ensure the safety of Wellington pedestrians. It was well established that the pedestrian wind environment is influenced by building design and because of Wellington's particular wind environment it was vital that the Council exercises an appropriate amount of control over this adverse effect to be sure that it is carrying out its resource management functions effectively. The Committee was in particular agreement that regardless of a development's location, if it generated effects on existing outdoor public spaces (or indeed creates new public space areas that will be used by pedestrians) then it was vital that appropriate consideration of the wind effects was carried out at the building design stage. The Committee was not convinced that the level of control suggested by the submitter at the hearing would be sufficient to allow the adverse effects to be managed appropriately. This is especially the case if, in the particular case of CentrePort, buildings in accordance with the masterplan will remain as Controlled Activities. In those circumstances the Committee was concerned that if those buildings did create a significant adverse wind effect then the Council would have little ability to seek design modification to mitigate those wind effects. It is entirely appropriate for wind be considered as Discretionary (Restricted) Activity, noting that if a development does require consent for wind purposes only, then that will be the only matter that the Council can exercise discretion over. If

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a discretionary restricted consent is required for wind, then the relevant matters for consideration by the Council are the wind policies (as amended by this decision), which in the view of the Committee allow enough flexibility and scope for consent to still be granted.

The Committee was supportive of an alternative, more cost effective process being developed for wind assessments for some development scenarios. The Committee noted that it appeared to be a pragmatic solution for those buildings or structures that clearly generated little effect on the wind environment.

The Committee noted the general support by submitters for a wind rule regime (24, 48, 62 and 69) and considered these submissions endorsed the need for effective Council control over the wind effects generated by buildings, wherever they are sited.

The Committee discussed that fact that several submitters believed the wind thresholds were too strict (submissions 45 and 78), or conversely the wind rules should be made even more difficult to meet (24 and 62). Having considered the submissions and recommendations of officers, the Committee were in agreement with the explanations provided by officers, which had been informed by Council's own wind advisor. In particular, the Committee supported the intent of the changes, which was to make it easier to understand the actual effects of a building on the wind environment, rather than making it easier or more difficult for applicants to meet the wind rules. This would in turn make it easier for decision-makers to be confident that an appropriate decision had been made in respect of wind issues. Accordingly the Committee agreed that the thresholds outlined in Plan Change 48 should be adopted as notified. The Committee noted the value of the extensive explanatory text contained in the officer's report in reaching this decision, but did not feel it necessary to repeat it in this decision.

Lastly, the Committee noted that submitter 78 questioned the need for the explanatory text at the end of 13.6.3.5.3. The Committee felt that the statements were purely explanatory, and entirely appropriate in the context of the rule, given that wind effects are a notoriously difficult concept to explain.

### *Recommendation*

- **Accept** Submissions 48 and 69
- **Reject** submissions 24 and 62
- **Reject** submission 49
- **Reject** submission 45
- **Reject** submission 78.

### **3.53 Verandahs (13.6.3.6).**

Specific issues raised in submissions include:

- Provide for colonnades as an alternative to verandahs in Rule 13.6.3.6 or in the definition of verandah, in consistency with the content of Appendix 2 (submission 49).
- The Council to fully fund the supply, installation and maintenance of the proposed verandah when the building is renovated and / or redeveloped (submission 57).
- To add the following new rules to the verandah requirements (13.6.3.6) "Verandahs must also be constructed within and surrounding the carparks of major retail outlets, such as supermarkets, and outside drive-in fast-food premises". The submitter also seeks that verandahs be constructed of materials that do not create a hazard and that all rainwater be piped within or down the facade of the building and underneath the footpath (draft wording supplied) (submission 62).

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- That Rule 13.6.3.6 (verandah requirement) be amended to incorporate a dispensation clause to recognise the requirements of different types of retail development, including large format retailing (submission 67).
- The NZHPT supports the exception of heritage buildings from the verandah requirement in Rule 13.6.3.6.2 (submission 72).

### *Discussion*

Submission 49 (CentrePort) requested that standard 13.6.3.6 be amended to note that colonnades are an appropriate alternative to verandahs. This issue was discussed in greater detail in section 3.9 above where it was agreed that in certain circumstances colonnades are an appropriate method by which to provide pedestrian shelter. Because there is no definition of 'verandah' in the District Plan, the officers report recommended that the following margin text be added to standard 13.6.3.6 to clarify this issue:

*Colonnades may be used to provide pedestrian protection in place of verandahs. See policy 12.2.6.8 for further details as to when colonnades are appropriate.*

At the hearing CentrePort argued that a margin note did not over-ride the verandah standards contained in section 13.6.3.6, so any proposal to provide a colonnade would require resource consent. CentrePort suggested that the Port Redevelopment Precinct be made exempt from the standard verandah requirements and that 'weather protection' be added to Controlled Activity rule. The Hearing Committee noted that the only area of the Port Redevelopment Precinct that was subject to the verandah requirements was the Waterloo Quay frontage. The Committee accepted that colonnades could work along this frontage as there is presently no established pattern of verandah cover, and that provision of colonnades should be included in the standards. However the Committee did not consider that Waterloo Quay should be made exempt from the verandah standards, as any proposal that included a verandah should comply with the standards. Instead that Committee considered that the following additional standard should be added to section 13.6.3.6 regarding colonnades:

*13.6.3.6.4 Within the Port Redevelopment Precinct, colonnades may be used as a means of providing pedestrian shelter in lieu of verandahs, along the Waterloo Quay frontage.*

Submission 57 considered that the Council should fully fund the cost of installing and maintaining the proposed verandah. The Hearing Committee noted that the verandah requirement has been included in the District Plan for over 30 years, and that the Council had not previously provided compensation. The Committee did not propose to recommend payment of compensation as part of DPC 48.

Submission 62 requested that a policy be included in DPC 48 to require pedestrian shelter to be provided around car parks associated with large retail activities and outside takeaway food premises.

Submission 67 (Progressive Enterprises Ltd) requested that the verandah provisions be amended to provide a dispensation clause that recognises the operational needs of large format retail. Upon appearing at the hearing, the submitter noted that the cost of installing verandahs is quite high, especially when considering the low concentration of pedestrians utilising large format store. Often times, the stores are set back from the property boundary to accommodate reasonable car parking, and thus, verandahs would be disjointed from the building edge. Progressive sought more flexibility in the application of the verandah policies and rules.

The Committee noted the beneficial nature of verandahs as a means to enhance pedestrian comfort, but did not agree with submitter 62 that all large retail operations should require verandahs around or on their premises. Should the activity be located in an area specified in the

plan as requiring verandahs, the Committee believed that the current verandah provisions should apply.

The Committee agreed that different forms of retailing have different operational needs. However, it also noted that the verandah requirement only applied to selected streets in the Central Area. If a large format retail operation chose to locate on a street with an identified verandah frontage then the Committee considered that it was appropriate that they make suitable provisions for pedestrian shelter. For that reason it was considered that submission 67 should be rejected. However if a large format retail operation (or takeaway food outlet) chose to locate on a street that did not require verandahs, the Committee considered it inappropriate to require verandahs, or other pedestrian shelter, to be provided along adjacent footpaths. The Committee therefore considered that submission 62 should also be rejected.

Submission 72 supported the verandah exemption for heritage buildings.

### *Decision*

- **Accept** submission 49 insofar as it requests that provision be made for colonnades in standard 13.6.3.6
- **Reject** submission 57 insofar as requests that Council fund the cost of installing and maintaining a verandah
- **Reject** submission 62 insofar as it requests that pedestrian shelter be required around all large format retailing and takeaway food outlets
- **Reject** submission 67 insofar as it requests a dispensation clause in standard 13.6.3.6 for large format retailing
- **Accept** submission 72 insofar as it supports the verandah exemption for listed heritage buildings

### **3.54 Ground floor frontages and display windows (13.6.3.7).**

Specific issues raised in submissions include:

- That the ground floor frontages and display window provisions be adopted as proposed as they contribute to more interesting streets (13.6.3.7) (submission 24).
- The submitter supports the provisions relating to active ground floor provisions (submission 69).
- That standard 13.6.3.7 (Ground Floor Frontages and Display Windows) is adopted (submission 90).
- That Rule 13.6.3.7 (display windows) be amended to incorporate a dispensation clause to recognise the requirements of different types of retail development, especially large format retail where natural light can adversely affect quality of products e.g. supermarkets (submission 67).

### *Discussion*

Submissions 24, 69 and 90 support the proposed provisions relating to ground floor frontages and display windows. The Hearing Committee recommended that these submissions be accepted.

Submitter 67 (Progressive Enterprises Ltd) requested that the ground floor frontage and display windows provisions be amended to provide a dispensation clause that recognised the operational needs of large format retail.

The submitter further elaborated on their original submission at the hearing. Progressive's is a developer and operator of supermarkets, and their submission specifically addressed how these businesses would be adversely affected by the ground floor frontage provisions outlined in policies. Notably, the submitter cited that display of natural light can lead to the spoilage of

fresh food. Further, Progressive noted that excessive exterior glazing could give rise to increased environmental problems (such as the need for additional mechanical plants to control heat gain from un-insulated glazing). As such, the submitter requested that the current assessment criteria for display windows remain in place.

The Committee agreed that different forms of retailing have different operational needs, but noted that the display window provisions only apply to selected streets in the Central Area. If a large format retail operation chose to locate on a street with an identified display window frontage then the Committee considered that it was appropriate that the development be treated architecturally in a manner that created an appropriate active ground floor frontage. For that reason the Committee recommended that submission 67 be rejected.

### *Decision*

- **Accept** submissions 24, 69 and 90 insofar as they support standard 13.6.3.7
- **Reject** submission 67 insofar as it requests a dispensation clause in standard 13.6.3.7 for large format retailing

### **3.55 Site Coverage (13.6.3.8).**

Specific issues raised in submissions include:

- That standard 13.6.3.8 (Site Coverage) is adopted (submission 90).
- That standard 13.6.3.8.1 (Site Coverage in the Lambton Harbour Area) is adopted (submission 90).
- Amend standard 13.6.3.8 Site Coverage to read: 13.6.3.8.3 Building development in the Central Area must include a backyard of 2.5m (submission 24).

### *Discussion*

The support of submission 90 was noted and accepted.

Submission 24 requested that the District Plan rules be amended to provide for a minimum rear yard of 2.5 metres. The intent of the requested provision was to ensure that there was enough space between buildings to provide access to sun and light. While the Hearing Committee agreed with the intent of this submission, it did not consider that a mandatory fixed rear yard was the most appropriate means of managing access to light in new buildings. There is a huge variety in the size and shape of lots in the Central Area. In some situations a setback from the rear boundary may be the most appropriate means of ensuring retention of daylight and sunlight. However in many situations daylight and sunlight might be more appropriately accessed from a side boundary, or from an atria or light well. Accordingly the Committee considered that the proposed building mass provisions would provide a more flexible and effective means of managing on-going access to light for new Central Area buildings, than installing a mandatory rear yard rule.

### *Decision*

- **Accept** submission 90 insofar as it supports rule 13.4.6
- **Reject** submission 24 insofar as it requests a mandatory rear yard of 2.5 metres for all buildings in the Central Area.

### **3.56 Coastal Yards (13.6.3.9).**

Specific issues raised in submissions include:

- Amend standard 13.6.3.9 to ensure it refers to buildings rather than activities (wording supplied) (submission 82).

## *Discussion*

Submission 82 requested that the standard for coastal yards be amended to refer to buildings rather than activities. This submission was generally supported on the grounds that 'yards' are defined as 'part of a site unoccupied and unobstructed by buildings above ground level'. The reference to activities is therefore slightly misleading, as it is the construction of building or structures that has the potential to encroach into the proposed coastal yard. The submission requested that the term 'activity' be replaced by 'building', but the Committee considered that this would result in a slightly odd wording in the provision. Instead the Committee considered that the coastal yard standard should be amended to read as follows:

Except in the Operational Port Area and Port Redevelopment Precinct, ~~where any activity adjoins the coast the~~ **any development on land adjoining the coast must maintain a** minimum yard width ~~is~~ **of** 6 metres measured from the line of mean high water springs.

## *Decision*

- **Accept** submission 82 insofar as it requests that standard 13.6.3.9 be reworded to relate to buildings rather than activities.

### **3.57 Windows (13.6.3.10).**

Specific issues raised in submissions include:

- To add the following text to the window rule (13.6.3.10): "... shall have privacy glazing that ensures indoor and outdoor privacy for nearby residents in the inner residential area" as this will provide greater clarity (submissions 62, 63 and 64).
- Amend a typographical error in standard 13.6.3.10 (wording supplied) (submission 82).

## *Discussion*

Submissions 62, 63 and 64 requested that additional text be added to rule 13.6.3.10 to make it clear the rule was intended to protect the privacy of properties in the adjoining Inner Residential Area. This submission was accepted on the grounds that the rule would be more effective and easier to implement if its purpose is explicit.

Submission 82 requested that a minor typographical error in provision 13.6.3.10 be amended.

The Committee considered that the text to rule 13.6.3.10 should be amended as follows:

*'All windows in walls of buildings located within 5 metres ~~of~~ and facing a Residential Area boundary shall have privacy glazing **to protect the privacy of adjoining residentially zoned properties.***

## *Decision*

- **Accept** submissions 62, 63 and 64 insofar as they request amendments to the rule to clarify that the glazing is to protect the privacy of adjoining residentially zoned properties.
- **Accept** submission 82 insofar as it requests correction of a minor error in rule 13.6.3.10

### **3.58 Signs (13.6.4.1).**

Specific issues raised in submissions include:

- That specific controls on signage be developed for listed heritage buildings. The assessment criteria should include what has been historically associated with the building, such as signage on theatres and cinemas (submission 22).
- In relation to the sign provisions;

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- i) Amend Rule 13.3.9 to include express provisions that notwithstanding anything else in the District Plan they apply to all heritage buildings, heritage precinct areas and that in the event of conflict with other parts of the District Plan these provisions apply.
- ii) Amend all related provisions so they are consistent with this request.
- iii) Such further or incidental relief as may be appropriate (submission 36).
- That standard 13.6.4 (Sign Standards) is adopted (submission 90).
- Either retain the present provisions (rule 13.20.2.1) in full, including the explanation; or (in the alternative) amend the new provisions proposed by the Plan change (rule 13.6.4.1.6) to read as follows: For any sign located on the Wellington Regional Stadium building and site (Lot 1, DP 85907 and Lot 1, DP 10550) the following standards shall apply: The maximum area of any one sign attached to the stadium building be 40m<sup>2</sup>. There may be no more than eight signs attached to the stadium building. The sign must bear only the name and/or logo of the building owner/sponsor/customer or relate to stadium occupier(s) and/or stadium activities. Any signs located on the stadium building must be flush with the building surface, and not project out from the wall or above the roof of the stadium. There are no limitation on signs on the stadium roof. There is no limitation on signs within the inner perimeter of the stadium building. There is no limitation on the number and size of free standing signs permitted on the stadium site (submission 15).
- Remove the phrase "or any sign located on a structure" from standard 13.6.4.1.5 (submission 54).

### *Discussion*

Submission 22 requested that specific sign rules be prepared for listed heritage buildings. The Committee noted that specific signage rules for listed heritage buildings are already in place in Chapter 21 – Heritage.

Submission 36 requested clarification regarding the signage rules that apply to listed heritage buildings and within identified heritage areas. This issue is discussed further in section 3.13 above, where the Hearing Committee agreed that the sign rules that apply to areas of special heritage and character value should be amended.

Submission 15 requested retention of the operative plan sign provisions relating to Wellington Regional Stadium, or that standard 13.6.4.1.6 be amended as follows:

- 13.6.4.1.6 ~~In addition to standards 13.6.4.1.1 – 13.6.4.1.5,~~ For any sign located on the stadium building within the Wellington Regional Stadium site (Lot 1, DP 85907 & Lot 1, DP 10550) the following standards shall apply:
- The maximum area of any one sign attached to the stadium building shall be 40 sq.m
  - There may be no more than eight signs attached to the stadium building
  - The sign must bear only the name and/or logo of the building owner/sponsor/customer, or relate to the stadium occupier(s) and/or stadium activities
  - Any signs located in the stadium must be flush with the building surface, and not project out from the wall or above the roof of the stadium
  - There is not limitation on signs [painted] on the stadium roof, or on signs within the internal perimeter of the stadium building
  - There is not limit to the number and size of free-standing signs permitted on the stadium site.

In the officer's report, officers expressed concerns regarding the potential for a large, free standing signs to detract from the stadium's setting and recommended that the final bullet point not be adopted. The officer's report also recommended that the standard relating to signs on the

stadium roof be clarified to note that these signs are painted on the stadium roof and not projecting above the stadium roof. In their evidence to the Hearing the Stadium Trust indicated that they were comfortable with the officer's recommendations in relation to the signage provisions. The Committee noted that the scale of the stadium building is such that it could sustain signage larger than most Central Area buildings, and agreed that the sign provisions should be amended as per the recommendations in the officer's report.

Submission 54 requested that the phrase 'or any sign located on a structure' be deleted from standard 13.6.4.1.5. The Hearing Committee considered that the current wording of the standard should be retained, as it removed any potential confusion or misinterpretation as to whether a sign was attached to a structure that is part of a free standing sign versus a sign that was attached to any other type of structure.

The support of submission 90 was noted and accepted.

### *Decision*

- **Accept** submission 22 insofar as it requests specific sign rules for listed heritage items
- **Accept** submission 36 insofar as it requests reconsideration of the sign rules that apply in Central Area heritage areas
- **Accept** submission 15 insofar as the amendments that are proposed for the sign provisions that apply to the regional stadium meet the submitters concerns
- **Reject** submission 54 insofar as it requests amendments to standard 13.6.4.1.5 regarding free standing signs
- **Accept** submission 90 insofar as it supports the proposed sign standards

### **3.59 Subdivision (13.6.5.1).**

Specific issues raised in submissions include:

- Modify subdivision provisions including Rules 13.6.5 and 13.3.10 to allow for subdivisions within the Port Redevelopment Precinct as a Discretionary (Restricted) Activity subject to general compliance with the masterplan in Appendix 9 (submission 49).
- The submitter notes that a number of the Subdivision standards (13.6.5.1) need to be rewritten to operate effectively. Some standards can be removed as they are applied twice or are not really a standard (i.e. 13.6.5.1.5 and 13.6.5.1.8) (submission 66).
- That the reference to Registered Surveyor should now be replaced with the term "Licensed Cadastral Surveyor" (submission 66).
- That the specified sheet size and scale for survey plan is unnecessary and should simply refer to being at a recognised scale (submission 66).
- That accurate plans at a measurable scale are provided rather than a particular paper size (A4) and scale 1:500, under rule 13.1.4 (submission 82).
- That provision be made for existing use rights in standards 13.6.5.1.2, 13.6.5.1.3 (being subdivisions around existing buildings) (submission 82).
- That provision be made for existing use rights in standard 13.6.5.1.5 regarding existing on-site servicing arrangements (submission 82).
- That the requirement for a certificate (regarding land not being subject to material damage etc) should be restricted to new buildings under rule 13.1.4. A certificate regarding the foundation design and ground conditions can then be provided by the developers structural and/or geotechnical engineers (submission 82).
- Supports concept of Port Redevelopment and Pipitea precincts but makes several suggestions to ensure the outcomes desired are achieved; including: - An esplanade should be a minimum of 20m, rather than a maximum (submission 48).

### *Discussion*

Submission 49 (CentrePort) requested that rules 13.6.5 and 13.3.10 be amended to provide for subdivision in the Port Redevelopment Precinct. At the hearing the submitter clarified that some subdivision was likely within the Precinct, and that it was likely to require resource consent because of proximity to the coastal boundary and because some sites would not have access to a legal road (it is not intended that internal roads within the Port Redevelopment Precinct be vested as legal roads). CentrePort considered that these matters could be adequately dealt with as a Discretionary Activity (Restricted), and requested that any subdivision that was not a permitted activity but which was in accordance with the masterplan be dealt with under rule 13.3.10 which covers subdivision in the Pipitea Precinct. The Committee agreed that subdivision within the Port Redevelopment Precinct could be adequately dealt with under Rule 13.3.10, and noted that as a consequential amendment the following assessment criteria should be added to policy 12.2.11.1:

- Whether the proposed subdivision is consistent with the masterplan for the Port Redevelopment Precinct contained in Appendix 2.

Submission 66 (NZ Institute of Surveyors) requested a number of amendments to the standards contained in 13.6.5.1 on the grounds that proposed standards do not operate effectively. The submitter requested that standards 13.6.5.1.5 and 13.6.5.1.8 be deleted. Of the suggested amendments the Hearing Committee supported the removal of standard 13.6.5.1.8. It was agreed that this standard was not actually a rule and should be removed from the rule and included as a margin note informative.

Submission 66 requested that the term Licensed Surveyor be replaced with Licensed Cadastral Surveyor. This submission was supported.

Submissions 66 and 88 requested that standard 13.6.5.1.9 be amended to provide scope for the submission of plans other than in A4 format. This submission was supported.

Submission 82 (Truebridge Callender Beach Ltd) requested that standards 13.6.5.1.2, 13.6.5.1.3 and 13.6.5.1.5 be amended to provide for existing use rights. This submission was not supported. The Hearing Committee noted that if existing use rights were applied to 13.6.5.1.2 in a blanket manner, then it would create a situation where subdivision could be used to circumvent the building mass provisions of the plan. Similarly applying existing use rights in relation to servicing was considered inappropriate, as subdivision applications should consider whether the existing servicing facilities are sufficient to service all of the allotments created by the proposed subdivision.

Submission 82 requested that the requirement for a certificate regarding land not being subject to material damage be restricted to new buildings under rule 13.1.4. This request was supported by submitter 66. The Hearing Committee agreed that the requirement to submit a certificate regarding land stability was somewhat onerous for subdivisions that sought only to subdivide an existing building. The Committee considered that the requirement should still apply to any application for subdivision that involved vacant lots that could be built on in the future. The Hearing Committee amended the existing standard as follows:

a certificate signed by a Registered Surveyor Licensed Cadastral Surveyor or other suitably qualified person that the land is not likely to be subject to material damage by erosion, subsidence, slippage or inundation from any source. This requirement applies only to the subdivision of vacant lots, or to any subdivision that results in the creation of a vacant lot(s).

Submission 48 requested that esplanade reserves should be a minimum of 20 metres not a maximum. In response the Committee noted that the 20 metre esplanade standard could not be amended as it was derived from a requirement set down in the Resource Management Act.

### *Decision*

- **Reject** submission 49 insofar as it seeks amendment to provide for subdivision in the Port Redevelopment Precinct
- **Accept** submission 66 insofar as amendments are proposed to standard 13.6.5.1.8
- **Accept** submission 66 insofar as it requests that the term ‘licensed surveyor’ be updated
- **Accept** submissions 66 and 82 insofar as they request that alternate plan sizes be provided for in 13.6.5.1.9
- **Reject** submission 82 insofar as it requests the existing use rights be provided for in 13.6.5.1.2, 13.6.5.1.3 and 13.6.5.1.5
- **Accept** submission 82 insofar as it requests amendments to the third bullet point in 13.6.5.1.9
- **Reject** submission 48 insofar as it requests that Council require esplanade reserves in excess of 20 metres

### **3.60 Assessment Criteria.**

Specific issues raised in submissions include:

- The reinstatement of assessment criteria for all Discretionary Activity (Restricted) rules, as these provide certainty about matters to be considered (submission 19).
- Seeks that the existing criteria for assessment of heritage values is retained (submission 22).
- Victoria University generally supports the plan change but seeks clarification and commitment from Council regarding the consistency and timeliness of resource consent assessments, particularly in relation to urban design and heritage. The reinstatement of assessment criteria for all Discretionary Activity (Restricted) rules (submission 86).
- The university also considers that environmentally sustainable design (ESD) principles should be given greater weighting in the proposed rules. The inclusion of assessment criteria relating to the incorporation of environmental sustainable design (ESD) principles in the construction or alteration of and addition to Central Area buildings (submission 86).
- To avoid uncertainty and resulting delays in the consent process, the submitter would like to see clearer design parameters or assessment criteria included in the Plan (and the design guide) to minimise the level of subjectivity involved (submission 65).

### *Discussion*

The Hearing Committee noted the concerns of these submitters regarding the loss of explicit assessment criteria set out in the rule, but was strongly of the view that the revised chapter structure was better and would ensure that that the Plan’s objectives and policies are ‘top of mind’ for both applicants and Council planners. The Committee firmly believed that a greater focus needed to be placed on the Plan’s objectives and policies in order to achieve good environmental outcomes. The Committee felt this could only occur with more precise policy drafting (which it considered is now in place) and by including what were previously known as the assessment criteria into the policies. The Committee was supportive of the approach to combine the assessment criteria into the policies as this would also help to save time and money for applicants (in preparing their applications) and for council officers (in assessing the applications).

The Committee did however note that there was scope for the Plan to provide more help (ie. to assist in the navigation of the Plan) on which policies would be most relevant for applicants to consider when preparing resource consent applications under any given rule. Consequently a new statement is included for each rule which outlines the policies most likely to be relevant to

the assessment of the proposal. It is clear in these statements that the list of policies is not an exhaustive list, rather the statement outlines the indicative relevant policies. This is because it is almost impossible to predict which policies will be relevant for a given development proposal.

Submission 86 requests the ESD principles should be given greater weighting in the District Plan. DPC 48 included two new policies recognising the benefits of ESD. The Committee notes that these policies have been revised to provide more explicit mention of ESD. Secondly, in recognition of the importance that sustainability should play in the future of the Central Area, the Committee has included a new 'guiding principle' (specifically 12.1.8) which sets out the importance of sustainable building practices.

### *Decision*

- **Reject** submissions 19, 22, 86 and 65 insofar as they request the reinstatement of assessment criteria in to the District Plan.
- **Accept** submission 86 insofar as it requests that greater weighting be given to ESD principles in DPC 48

### **3.61 Chapter 13, Appendix 1 - Courtenay Place Area.**

Specific issues raised in submissions include:

- The map in Appendix 01 is confusing as it is entitled "Courtenay Place Area" but the key notes "courtenay character". The submitter seeks that an explanatory note replace the existing key to describe that the map applies to rule 13.4.3 (submission 72).
- The aerial photographs used in the Chapter 13 Appendices need to be updated (i.e. Appendix 01) (submission 48).

### *Discussion*

The Courtenay Place Area is used to implement rule 13.4.3 regarding commercial sex premises in Courtenay Place.

Submission 72 requested that the legend to Appendix 1 be amended to give the area its correct title. This submission was supported for the sake of clarity.

Submission 48 requested that the aerial photograph used in the appendix be updated. The aerial photography used dates from 2004 and is the most up to date photography that Council has. Due to cost the Council does not re-fly the aerial photography every year. The Hearing Committee noted that if the aerial photography is re-flown prior to DPC 48 becoming operative then the Appendices would be updated to use the new photos.

### *Decision*

- **Accept** submission 72 insofar as it requests amendments to the legend in Appendix 1
- **Accept** submission 48 insofar as it requests use of the most recent aerial photography in the District Plan appendices

### **3.62 Chapter 13, Appendix 2 - Port Redevelopment Precinct.**

Specific issues raised in submissions include:

- CentrePort should be required to promote "scale of use" developments within the Port Redevelopment Precinct which cannot elsewhere be accommodated because of site size limitations (submission 38).
- A ban on developments within the Port Redevelopment Precinct which would, but for this land, be otherwise accommodated in the core CBD (submission 38).

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- A requirement for CentrePort to install attractive links within the Port Redevelopment Precinct, protecting users from the weather and providing a positive Wellington experience rather than creating a zone which will remain isolated by distance and weather from the CBD (submission 38).
- A requirement to maintain extensive "gaps" between buildings in the Port Redevelopment Precinct to provide view shafts to the harbour for the general public (submission 38).
- The City Council encouraging uses which link with the Stadium to provide a better experience between the Stadium / Aotea Quay and visiting liners, the Wellington waterfront at Lambton Harbour through to Te Papa and Courtenay Place (submission 38).
- That the Harbour Quays developer be required to carry out extensive landscaping with tree planting and gardens to tie in with the CBD (submission 38).
- Supports concept of Port Redevelopment and Pipitea precincts but makes several suggestions to ensure the outcomes desired are achieved; including:
  - i) Economic impact report for Port Redevelopment Precinct as well as Pipitea Precinct.
  - ii) Measures to ensure mixed use occurs in these areas.
  - iii) Adopt the objectives used for the Lambton Harbour Area to the Port Redevelopment and Pipitea Precincts. Those three waterfront areas should be considered together and the Waterfront framework extended to cover these two additional areas.
  - iv) The Port Redevelopment Precinct Masterplan also needs to be upgraded so the text of the Masterplan is readable, and the reference in the following pages to various parts of the public space (such as Boulevard etc) make sense (submission 48).
- The aerial photographs used in the Chapter 13 Appendices need to be updated (i.e. Appendix 02). (submission 48).
- Change appendix Maps 02 as in the plan attached to this submission labelled Appendix 02, and modify extent of the masterplan on 02A to match (submission 49).
- Modify the wording of the masterplan text in appendix 02 to replace the word "site" generally throughout the word "area". Similarly, the word "shall" should be replaced with the word "will" (submission 49).
- Delete the section relating to the Ferry Plaza in the Masterplan verbal description within Appendix 2 (submission 49).
- Amend appendix 02 to note that Shed 35 Park "may" (rather than "will") contain a water feature (submission 49).
- With respect to the Port Redevelopment Area the NZHPT supports the retention and use of Shed 35 and Maritime House, as well as the requirement for adjacent new buildings to be sympathetic (submission 72).

### *Discussion*

The Port Redevelopment Precinct covers an area of former port land to the east of Waterloo Quay. The land has been identified by the port company (CentrePort) as being surplus to port requirements and is in the process of being developed as a business park.

The general District Plan approach to managing development in the Port Redevelopment Precinct is discussed in detail in section 3.7 above. That section notes that in preparing DPC 48, the Council commissioned reports that concluded that the development of the business park on port land would complement the city and the existing CBD if it successfully delivered a high quality, mixed use urban precinct, in close proximity to and with strong connections with the existing CBD. Accordingly a masterplan for the Port Redevelopment Precinct has been included in the District Plan (as Appendix 2, Chapter 13), to provide a structure for the on-going development of the precinct.

Submission 38 requested that the provisions applying to the Port Redevelopment Area be amended so that only activities that cannot locate in the existing CBD due to their scale are permitted to locate in the precinct. This submission was not supported on the basis that the Port Redevelopment Precinct needs to accommodate a wide range of activities in order to become a

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viable, mixed-use precinct. The Committee noted that limiting permitted uses to only those that are too large to be accommodated in the existing CBD would significantly limit the precinct's ability to develop into a viable, vibrant, mixed-use neighbourhood.

Submission 38 requested that the Port Redevelopment Precinct be required to provide adequate shelter to create a positive pedestrian environment. The Committee noted that provision of pedestrian shelter around new buildings in the precinct is encouraged, and is referenced in section 7 of the masterplan. When such projects are received, Council will look to promote pedestrian shelter through the urban design assessment process. The Committee also noted that the Waterloo Quay edge of the precinct has been added as a street requiring verandahs under Map 49 of the District Plan.

Submission 38 requested that sufficient gaps be retained between new buildings in the Port Redevelopment Precinct to retain view-shafts to the harbour. The concept of protecting visual links to the harbour was supported by the Committee, who noted that these have been built into the masterplan for the precinct. Lanes 1, 2 and 3 provide viewshafts between buildings from Waterloo Quay to the waters edge.

Submission 38 requested that Council encourage uses within the Port Redevelopment Precinct that help to link the precinct with the adjoining stadium, the waterfront and Te Papa. The establishment of quality links between the Port Redevelopment Precinct and surrounding areas is key to the success of the precinct. The Council is working with CentrePort to develop vehicular and pedestrian links from and across Waterloo Quay, and also to enhance the Waterfront route that enters the precinct from the south. The Committee also noted that the southern end of the precinct (containing Ferry Plaza) should remain in the masterplan area in order to promote strong pedestrian links with the remainder of the waterfront.

Submission 38 requested that the development of the Port Redevelopment Precinct be required to provide extensive planting and landscaping. The Hearing Committee considered that the current master-plan made provision for significant planting and landscaping. Following a site visit of the Precinct, the Committee noted that the areas of the precinct that have been developed to date have been landscaped to a high level, and that the masterplan indicates an intention to continue this standard across the precinct. The Committee noted that delivery of high-quality public spaces was important to the overall success of the precinct, so rule 13.2.3 provided for the consideration of adjoining public spaces when new buildings are submitted for resource consent.

Submission 48 requested that some additional provisions be included in the District Plan to improve the quality of development within the Port Redevelopment Precinct. These are:

- i) Economic impact report for Port Redevelopment Precinct as well as Pipitea Precinct.
- ii) Measures to ensure mixed use occurs in these areas.
- iii) Adopt the objectives used for the Lambton Harbour Area to the Port Redevelopment and Pipitea Precincts. Those three waterfront areas should be considered together and the Waterfront framework extended to cover these two additional areas.
- iv) The Port Redevelopment Precinct Masterplan also needs to be upgraded so the text of the Masterplan is readable, and the reference in the following pages to various parts of the public space (such as Boulevard etc) make sense.

The Hearing Committee noted that when the precinct was first proposed, the Council commissioned a number of reports to consider the possible economic implications of the northward drift of large-scale office and retail uses away from the CBD and Golden Mile, onto port and rail land to the north. At a large scale the reports recommended that new development should ideally consolidate and intensify in and around the edge of the existing CBD to ensure

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the benefits of compactness are retained. The Kemp report, which specifically considered the impact of 'Harbour Quays,' noted that development on the fringe of the CBD would not harm the CBD as long as it was of high quality, well-connected to the CBD, and within 10 minutes walk of the CBD. On this basis, the Committee was satisfied that the economic impact of the Port Redevelopment Precinct had already been investigated, and it considered that there is little benefit in requiring an economic impact report to be submitted for each individual building within the precinct. The Committee did however note that an economic impact assessment would be required for any proposal to exceed the office cap that was installed over the precinct.

The Council supported the concept of mixed use for any future development in the Port Redevelopment Precinct, and the masterplan contains details regarding 'mixed use and diversity'. However, it is inherently difficult to ensure that mixed use occurs and is retained over time through the District Plan. The Hearing Committee considered the proposed office cap would help encourage mixed uses, when used in conjunction with the masterplan and the Memorandum of Understanding that has been signed between CentrePort and Wellington City Council.

Adopting the Lambton Harbour Area policies for the Port Redevelopment Precinct was not considered appropriate. While the aim of creating positive public spaces in the Port Redevelopment Precinct was supported, the Committee did not consider that adopting the Lambton Harbour Area policies was the most effective way of achieving this. The Lambton Harbour Area policies are specifically targeted at managing future development in a public space that is widely accessible to the public. The land contained in the Port Redevelopment Precinct is privately owned, and may continue to be used for port activities for some time. While the Committee considered that the Lambton Harbour Area policies should not be applied to the Port Redevelopment Precinct it noted that many of the matters raised in those policies were covered by the Port Redevelopment Precinct masterplan that would be used to assess any future development in this area.

This submission also requested that the text on the masterplan included in Appendix 2A be improved so it is clearer and easier to read. The Committee agreed that the reproduction of the masterplan included in DPC 48 is not as clear as it should be. When the masterplan is included in the District Plan a higher resolution image will be sourced that shows the text more clearly.

Submission 48 requested that the aerial photo used in Appendix 2 be updated. The aerial photography used dates from 2004 and is the most up to date photography that Council has. Due to cost the Council does not re-fly the aerial photography every year. The Hearing Committee noted that if the aerial photography is re-flown prior to DPC 48 becoming operative then the Appendices would be updated to use the new photos.

Submission 49 requested that the map showing the extent of the Port Redevelopment Precinct be amended in line with the map included in the submission. The revised map incorporated into the Precinct a small area of additional land to the north-east of the existing boundary. It also excluded the southern most portion of the Port Redevelopment Precinct (shown as Ferry Plaza on the masterplan), with the area becoming part of the operational port area. The submitter also requested that the section relating to the Ferry Plaza be deleted from the masterplan, and the text that accompanies the masterplan. CentrePort requested that the southern land be removed from the Precinct on the basis that it is currently used for the loading and unloading of ferries, and is likely to be required for this purpose in the short-medium term. Accordingly, they considered that it is more appropriately managed as part of the Operational Port Area. Having visited the site, the Hearing Committee considered that the area of land around the ferry terminal, while relatively small, was very significant due to its location between the proposed business park and the remainder of the waterfront to the south. The Committee considered that establishing high quality pedestrian links between the Port Redevelopment Precinct and the waterfront to the south should be a top-priority. The Committee considered that installing a quality pedestrian

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link would enhance the northern end of the waterfront (which at present is not well defined), improve the viability and vitality of 'Harbour Quays', provide an appropriate northern terminus to the waterfront promenade, and assist in linking the waterfront to the railway station and bus terminals. As such they were uncomfortable with the proposal to return this area of land to the Operational Port Area, whereby a new building could be constructed with no consideration as to its impact on present or future pedestrian movement through the area. Accordingly, the Committee considered that the area should remain within the Port Redevelopment Precinct so that the impact of any new buildings or structures can be assessed. The committee also considered that the current masterplan should be retained, as it recognises and provides for a pedestrian 'Boardwalk' extending from the heart of 'Harbour Quays' to link with the waterfront area to the south.

Submission 49 requested that the masterplan text be modified by replacing the word "site" generally throughout the word "area". Similarly, the word "shall" should be replaced with the word "will". This submission was accepted on the grounds that 'site' is a term specifically defined in the District Plan. However, the term "site" is used in the Port Redevelopment Precinct Master Plan to generally describe the land within the precinct and in this context it is considered that the term "area" is more appropriate.

Submission 49 requested that the text associated with the masterplan be amended to note that Shed 35 Park "may" (rather than "will") contain a water feature. This submission was accepted as the detailed design work for parks in the precinct has not yet been undertaken, and provision of a water feature may not result in the highest quality public space possible for this area.

Submission 72 supported the retention and use of Shed 35 and Maritime House shown in the masterplan, as well as the requirement for adjacent new buildings to be sympathetic (submission 72). This submission was noted and accepted.

### *Decision*

- **Reject** submission 38 insofar as it requests that only activities that are of a scale that cannot be accommodated in the CBD be allowed to locate in the Port Redevelopment Precinct
- **Accept** submission 38 insofar as it requests that the Port Redevelopment Precinct make provision for adequate pedestrian shelter, gaps between buildings to allow views of the harbour, quality links to the waterfront, the stadium and the CBD, and extensive planting and landscaping
- **Reject** submission 48 insofar as it requests that all new developments in the Port Redevelopment Precinct be required to submit an economic impact assessment, that the policies of the Lambton Harbour Area be applied to the Port Redevelopment Precinct, and that Council ensure that mixed use is achieved within the precinct
- **Accept** submission 48 insofar as it requests that clearer text be inserted in the map in Appendix 2A
- **Accept** submission 48 insofar as it requests that the aerial photography used in Appendix 2 be updated.
- **Accept in part** submission 49 insofar as it requests amendments to the extent of the Port Redevelopment Precinct
- **Reject** submission 49 insofar as it requests that the area around Ferry Plaza be removed from the Port Redevelopment Precinct and from the precinct masterplan.
- **Accept** submission 49 insofar as it requests that the term 'site' be replaced with the term 'area', and 'shall' be replaced with 'will', in the text of the masterplan
- **Accept** submission 49 insofar as it requests that the term 'will' be replaced by 'may' in the description of Shed 35 park.
- **Accept** submission 72 insofar as it supports retention of Shed 35 and Maritime House

### 3.63 Chapter 13, Appendix 3 - Pipitea Precinct.

Specific issues raised in submissions include:

- The aerial photographs used in the Chapter 13 Appendices need to be updated (i.e. Appendix 02A (Port Redevelopment Precinct Masterplan)) (submission 48).
- Make changes to the Map in appendix 03 to exclude land in the coastal marine area (submission 49).

#### *Discussion*

Submission 48 requested that the aerial photograph used in the appendix be updated. The aerial photography used dates from 2004 and is the most up to date photography that Council has. Due to cost the Council does not re-fly the aerial photography every year. The Hearing Committee noted that if the aerial photography is re-flown prior to DPC 48 becoming operative then the Appendices would be updated to use the new photos.

Submission 49 requested that the map in Appendix 3 be updated to exclude land in the coastal marine area. This submission was supported as the Council does not have jurisdiction in the Coastal Marine Area and the Pipitea Precinct should not extend beyond the boundary of the Coastal Marine Area (being mean high water springs).

#### *Decision*

- **Accept** submission 48 insofar as it requests use of the most recent aerial photography in the District Plan appendices
- **Accept** submission 49 insofar as it requests more precise definition of the coastal marine area

### 3.64 Chapter 13, Appendix 5 - Noise.

Specific issues raised in submissions include:

- Sort out Appendix 5 to clarify how it applies to port noise (submission 49).
- The submitter's concerns are generally limited to the noise provisions in the District Plan relating to fixed plant and noise generated within the Operational Port Area. That the section of Appendix 1 of the operative Central Area rules entitled 'Areas affected by Noise from the Operational Port Area' be included in the proposed plan change (submission 85).

#### *Discussion*

Submissions 49 and 85 requested greater clarity regarding management of port noise. The Hearing Committee was satisfied that this matter has been addressed by proposed Variation 3 – Port Noise.

Submission 85 also sought clarity that the fixed plant rules did not apply to the Operational Port Area. This submission was supported (see discussion in section 5.44 above which confirms that fixed plant rules do not apply to the Operational Port Area).

#### *Decision*

- **Accept** submission 49 insofar as port noise issues are addressed under proposed Variation 3 to the District Plan
- **Accept** submission 85 insofar as it requests that the fixed plant noise provisions do not apply to the Operational Port Area

### 3.65 Chapter 13, Appendix 7 - Sunlight Protection to Public Spaces.

Specific issues raised in submissions include:

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- That the proposed text in section 13.6.3.4 be amended to refer to 'West Courtenay' instead of Clock Park and that Appendix 7 be amended to include a revised 'protection area' of West Courtenay along with the revised area description (submission 18).
- We support the updating of the public spaces protected for sunlight access (appendix 7 Sunlight Protection of Listed Public spaces), but strongly encourage the council to add Swan Lane to this list, and anticipate its use as a future public park. We also consider that the time periods for protecting sunlight are too limited (13.6.3.4 Sunlight Protection). Sunlight is important to urban spaces beyond midday and lunchtime, especially with increasing numbers of inner city residents who wish to use these spaces at other times of the day and at the weekends. The appendix (Appendix 7 Sunlight Protection of Listed Public Spaces) is mostly clear and understandable, however we recommend:
  - i) the addition of Swan Lane to the list;
  - ii) enlarging Te Aro Park, Clock Park and Kumutoto Plaza, and
  - iii) updating photographs on Kumutoto Plaza and Taranaki St Wharf (and superimposing the new architect's masterplans over the top) (submission 48).

### *Discussion*

As noted in the discussion on rule 13.6.3.4, the Committee did not support the proposed renaming of Clock Park. A generic name is to be used for the purposes of identifying this park within the District Plan, as the naming process for the park (requiring a separate Council approval process) has not yet been carried out.

Regarding submission 48, which sought the addition of Swan Lane to the list of protected parks, the Committee did not agree that this space should be included in the list of protected spaces. Of most importance to the Committee in making this decision was that Swan Lane was not publicly owned by the Council and its main function was as a thoroughfare, rather than a place that people tend to stop and spend time. Also, Cuba Mall (and to a lesser extent Glover Park) were higher use public spaces in the area that were already proposed for sunlight protection. A number of other spaces in this vicinity are also protected, including Cobblestone Park. Because of the west/east axis, the impact on building height restriction for the adjoining site to the north (privately-owned and currently used as a carpark) would likely be prohibitive. The Committee noted, though they considered it unlikely, that if the Council were to gain possession of the land to the vacant site north of Swan Lane (or any other land in Te Aro for that matter) with the intention of developing it into a park, then sunlight protection of the space would be desirable. A change to the Plan to give effect to any newly acquired land for a park could be made relatively easily now that the Council has initiated a yearly 'general amendments' plan change process.

Submission 48 also sought to extend the sunlight protection period beyond the midday period, because of inner city dwellers. Research indicated that the high use periods of day tend to remain around midday. This included the weekends. The Committee agreed that sunlight protection was not feasible if the public space was currently in shade during the period that the submitter sought. There was no point in extending the period that sunlight protection applies to Cuba Mall or Manners Mall because these public spaces were quickly overshadowed by existing buildings. Also, the Council has developed a range of new public spaces, including Waitangi Park, that provide sunny public spaces for inner city dwellers.

The submitter sought to have the maps of Te Aro Park, Clock Park and Kumutoto Plaza enlarged and that the architect's photos of Kumutoto Plaza and Taranaki Street wharf superimposed. The Committee agreed with this submission.

### *Decision*

- **Accept** submission 18.
- **Reject** submission 48 in respect of the desire to see Swan Lane added to the list of sites protected for its sunlight and the desire to extend the period of sunlight protection generally to all listed parks.
- **Accept** submission 48 in respect of the need to provide enlarged maps for Te Aro Park, Clock Park and Kumutoto Plaza.

### **3.66 Chapter 13, Appendix 8 - Wind.**

Specific issues raised in submissions include:

- The District Plan is overly prescriptive and reliant on a single methodology for providing information about potential wind effects. Connell Wagner believes there may be other technically acceptable means of achieving the aims set out in 1.1 to 1.3 of Appendix 8. Amend the wind provisions of the District Plan to place lesser emphasis on using wind tunnel testing to achieve the aims stated in Appendix 8, as a means of 'future proofing' the District Plan (submission 29).

### *Discussion*

The Committee noted that submission 29 sought for the Plan to be 'future proofed' in respect of the wind assessment process by allowing alternative testing methods to be recognised in the Plan. The Committee was advised that Council officers had kept abreast of technology advancements in this area, particularly in respect of Computational Fluid Dynamics (CFD). The Committee accepted the advice of Officers that while CFD may indeed be the future of wind testing, it had not yet been developed to a stage that enables the Council to be confident that the right decisions will be made in respect of altering building design to reduce wind effects. The Committee noted that it would be a relatively simple process to amend this Appendix to recognise CFD technology (when the Council is confident it was an appropriate methodology) and that it could occur as part of a 'general amendments' plan change which now occur on a frequent basis.

### *Decision*

- **Reject** submission 29

### **3.67 Chapter 13, Appendix 9 - Pipitea Precinct Masterplan.**

Specific issues raised in submissions include:

- Not only should all office development in this very remote "Pipitea Precinct" require consent and economic impact reports, office construction in this precinct should be prohibited unless:
  - (i) It is an accessory to a much greater use within the particular use being developed on any site within the precinct.
  - (ii) The floor plate size is greater than any site can accommodate within the CBD; i.e. the requirement must be for a special purpose building.
  - (iii) The "use" or "user" is not a "natural" CBD use or user who would otherwise be located within the CBD if this new precinct was not available.

The City Council should give preference to large scale uses including bulk retail which cannot otherwise be accommodated in the CBD because of the relatively small lot sizes and cost of amalgamating large inner-city sites which prohibit some developments (submission 38).

- Supports concept of Port Redevelopment and Pipitea precincts but makes several suggestions to ensure the outcomes desired are achieved; including:
  - (i) Measures to ensure mixed use occurs in these areas.

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- (ii) Adopt the objectives used for the Lambton Harbour Area to the Port Redevelopment and Pipitea Precincts. Those three waterfront areas should be considered together and the Waterfront framework extended to cover these two additional areas.
- (iii) That the council initiate an open and public competition for future use of Pipitea Precinct. (submission 48).
- Review Appendix 9 to include more realistic master-planning requirements, including in particular the matters under the headings "Spatial Extent" and "Matters to be Included in the Masterplan" (submission 49).

### *Discussion*

The Pipitea Precinct covers the port and rail land located to the north of the CBD. While this land is currently used for rail and port activities, there is the potential that significant areas of land could become available for other uses in the future. New provisions have been included in DPC 48 to help manage future development of this land in the medium to long term. Any new development within the precinct that contains significant office or retail activities is required to supply a masterplan demonstrating that the development will occur in an orderly manner and provides a high quality urban environment that enhances the gateway to the City. Appendix 9 contains details of the information that must be submitted as part of the masterplan.

Submission 38 considered that the proposed Pipitea Precinct rules should be strengthened to prohibit all office uses unless they can demonstrate that:

- (i) It is an accessory to a much greater use within the particular use being developed on any site within the precinct.
- (ii) The floor plate size is greater than that which can be accommodated within the CBD; i.e. the requirement must be for a special purpose building.
- (iii) The "use" or "user" is not a "natural" CBD use or user who would otherwise be located within the CBD if this new precinct was not available.

While this matter is considered in more detail in section 3.7 above, the Hearing Committee noted that Policy 12.2.4.4 contains assessment matters for any office or retail proposal within the Pipitea Precinct. These are:

*Any proposal to develop the Pipitea Precinct for office or retail activities will be expected to demonstrate that it will promote and enhance the overall vitality and viability of the Central Area. This will require an economic analysis of the activity, giving particular consideration to:*

- *the quantitative need for additional floor space for specific types of office and retail activities and evidence that this need cannot be met in the established part of the Central Area*
- *how the activity supports improving overall economic productivity of the Central Area*
- *how the activity supports an efficient use of resources and a compact Central Area*
- *promotes accessibility and sustainable transport choices, including reducing the need to travel and providing alternatives to car use*
- *the co-location of a range of activities and its relationship to public investment in infrastructure and public spaces*

The Committee considered that this assessment was sufficient to ensure that any future development within the Precinct enhanced the overall vitality and viability of the Central Area. The suggested prohibition on certain office activities was considered to be unduly restrictive and difficult to justify under Part II of the Resource Management Act.

Submission 48 supported the concept of Port Redevelopment and Pipitea Precincts but made several suggestions to ensure the desired outcomes are achieved; including:

- (i) Measures to ensure mixed use occurs in these areas.
- (ii) Adopt the objectives used for the Lambton Harbour Area to the Port Redevelopment and Pipitea Precincts. Those three waterfront areas should be considered together and the Waterfront framework extended to cover these two additional areas.

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- (iii) That the council initiate an open and public competition for future use of Pipitea Precinct.

The Committee strongly supported the integration of mixed use into any future development in the Pipitea Precinct, and noted that any masterplan prepared is required to submit details as to the proposed 'mix of land uses'. However the Committee was aware that there were inherent difficulties in trying to use District Plan provisions to ensure that mixed use occurs and is retained over time. Accordingly, the Committee considered that the proposed approach of using a masterplan to ensure that any proposed development is capable of accommodating a range of uses is likely to be the most effective strategy in the long term.

Adopting the Lambton Harbour Area policies for the Pipitea Precinct was not considered appropriate. While the aim of creating positive public spaces in the Pipitea Precinct was supported, it was not considered that adopting the Lambton Harbour Area policies was the most effective way of achieving this. The Lambton Harbour Area policies are specifically targeted at managing future development in a public space that is widely accessible to the public. The port and rail land contained in the Pipitea Precinct are privately-owned, and may continue to be used for port and rail uses for some time. While the Committee considered that the Lambton Harbour Area policies should not be applied to the Pipitea Precinct it noted that many of the matters raised in those policies were covered by the Pipitea Precinct Design Guide that will be used to assess any future development in this area.

Submission 48 requested that the Council initiate a public competition for future use of the Pipitea Precinct. While the Committee agreed that such an exercise could prove very useful in raising ideas for future use of this area, ultimately it would only be effective if it had the buy in of the landowners within the precinct. As the Council is not able to require the landowners to take part in such a public design process, the Committee considered that any initiatives to investigate development options for the precinct should be driven by the land owners themselves. During this process Council would continue to advocate for positive public outcomes for the port and rail land.

Submission 49 (CentrePort) requested that the details in the Appendix 9 relating to 'Spatial Extent' and "Matters to be included in the masterplan' be reviewed and made more realistic. The officers report noted that the masterplan provisions only come into force if an office or retail development is planned for the Pipitea Precinct. Given the potential impact of such a development on the containment, vitality and vibrancy of the existing CBD, it is considered that the matters required to be assessed in Appendix 9 are appropriate. Officers recommended that Appendix 9 be retained as proposed in DPC 48.

In their evidence to the Hearing, CentrePort provided additional clarification as to the amendments sought. The submitter sought confirmation that the development of a single development within the Precinct did not trigger the requirement to undertake a masterplanning exercise for the whole precinct. The Hearing Committee agreed with the submitter that it would be unreasonable for an applicant to prepare a masterplan for the entire precinct when proposing a development that only impacted on a small portion of the precinct. However the Committee was mindful of the need for even small developments to consider the strategic implications for the remainder of the Precinct, and that this would require an investigation of the environment beyond the development site. The Committee did not consider that the amended wording suggested by CentrePort in their evidence was sufficient to accurately reflect the situation. Rather the Committee considered that the following text should be added to Appendix 9, under the heading 'Spatial Extent':

The Pipitea Precinct is defined in the map in Appendix 3, Chapter 13. **A masterplan for development within the Precinct must address those matters outlined in Part A and B below. For the matters contained in Part A the masterplan must consider both the**

development site, and neighbouring land within and surrounding the Precinct as appropriate (see Policy 12.2.4.2 for further guidance on this matter). In relation to Part A matters the masterplan must also demonstrate an awareness of its impact on the Precinct as a whole. The matters outlined in Part B must be addressed for the extent of the development proposal

The masterplan must considered the development of this whole area for the matters outlined in Part A below and the additional matters outlined in Part B for the extent of the development proposed.

## *Decision*

- **Reject** submission 38 insofar as it requests stricter controls on activities within the Pipitea Precinct
- **Accept** submission 48 insofar as it notes that Council should encourage mixed use within Pipitea Precinct
- **Reject** submission 48 insofar as it requests that the Lambton Harbour Area policies be applied to the Pipitea Precinct, and that Council initiate a public competition regarding future use of the precinct.
- **Accept** submission 49 insofar as it requests amendments to the content of Appendix 9

## **3.68 Chapter 13, Appendix 10 - Panoramic View.**

Specific issues raised in submissions include:

- Add an exemption similar to that in rule 13.6.3.1.1 to the Explanation in Appendix 10 (submission 49).

## *Discussion*

Submission 49 requested that an explicit exemption be added to Appendix 10 noting the port related structures such as cranes, elevators, lighting poles and cargo handling equipment were not subject to the panoramic view. The Hearing Committee noted that only buildings and structures that exceed the height limits specified in section 13.6.3.1 are assessed against the panoramic view. As port-related structures are exempt from the height limits specified in the plan (under rule 13.6.3.1.1), the panoramic view is not a relevant consideration. Accordingly, the Committee considered that an explicit exemption statement for port-related structures was unnecessary.

## *Decision*

- **Reject** submission 49 insofar as it requests an exemption to allow operational port structures to extend into the panoramic view.

## **3.69 Chapter 13, Appendix 11 - Central Area Viewshafts.**

Specific issues raised in submissions include:

- That view-shafts must be maintained from the Te Aro to Mount Victoria and that they should be ascertained from a street, human level rather than generously aligning the view from "above mean sea level" (amsl) (submission 27).
- The provisions of viewshaft 21 should recognise that a National War Memorial Park is proposed for the land in Buckle St between Taranaki St and Tory/Tasman Sts and that the above viewshaft should accommodate the creation of the proposed park (submission 39).
- We suggest the addition of more viewshafts (appendix 11) namely the views:
  - (i) of Carillon from Mt Victoria tunnel;
  - (ii) from the harbour (along Whitmore Street) to the Beehive;
  - (iii) from Oriental Parade to St Gerard's Monastery;
  - (iv) along Lambton Quay towards Willeston Street toward MLC and the old BNZ (submission 48).

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- That the viewshaft from Kent and Cambridge Terraces northwards to the Overseas Terminal and beyond to the hills on the western side of the harbour be designated as a protected viewshaft (submission 62).
- That the new viewshafts be amended so that the views are wider than currently (submission 69).

### *Discussion*

Appendix 11 contains the details for each of the identified Central Area viewshafts.

Submission 27 requested that the viewpoints be set at street level from a human perspective. In this regard, the Committee noted that, while the viewpoint heights are set in metres above sea level, the heights given equate to ground level, plus 1.5 metres. The 1.5 metres represented the eye level of a person of average height. As such, it was considered that the height limits specified adequately provide for the human perspective.

Submission 39 (Ministry for Culture and Heritage) requested that viewshaft 21 provide scope for the development of a National War Memorial Park opposite the carillon. In reflecting the important role of the park, the Ministry suggested that the viewshaft location be moved to the front of the Carillon (on the northeast elevation).

The Committee considered that viewshaft 21 will not impact on the development of the park unless substantial buildings or structures are planned. In the absence of further details regarding the nature of the park it was considered that viewshaft 21 should be retained as detailed in DPC 48.

Submission 48 requested that additional viewshafts be included in DPC 48. Among the suggestions was that of a viewshaft from Oriental Parade, looking towards St. Gerard's Monastery. As Oriental Parade is not contained within the Central Area (and therefore outside the scope of this plan change), the Committee rejects this submission. It is noted, however, that the view in question already enjoys a reasonable amount of protection - both from the natural topographic expanse of the rise leading from the bay to the Monastery, and from the height controls put in place by District Plan Change 18.

The remainder of the submitter's proposed viewshafts are discussed below:

### *View of Carillon from Mt. Victoria Tunnel*

The first viewshaft proposed was that of the Carillon from the Patterson Street tunnel on Mt. Victoria, incorporating the Basin Reserve in the foreground, and suburban hills of Brooklyn and Aro Valley in the background.

The Committee noted that the view is well protected without the need for a viewshaft. Neither the 10m height limit in the immediately adjacent Inner Residential Area, nor the Open Space zoning of the Reserve would allow for structures to adversely impact on this view.

The remaining land stretching toward the Carillon is zoned Central Area, but is limited to an 18m permitted height. Again, this would not detract from the view of towards the Memorial.



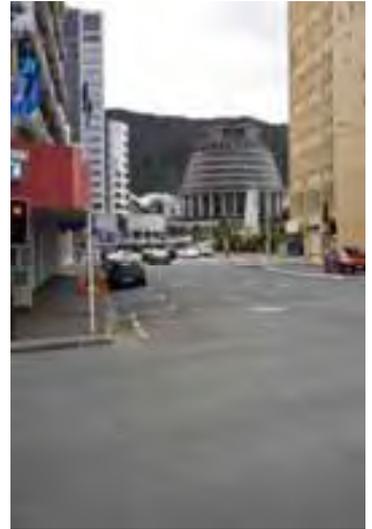
### View from the harbour towards the Beehive (along Whitmore Street)

An additional proposal was made to include the view along Whitmore Street towards the Beehive.

The Committee found merit in this submission. There is a profound visual link not only to Parliament and the Cenotaph from this vantage point, but also to Thorndon and Tinakori Hill further to the West.

As this corner of Whitmore and Featherston Streets receives a high volume of foot traffic from pedestrians commuting between the railway station and CBD, the Committee believed the view to be a valuable visual asset to Wellington residents and visitors alike.

In addition, the elements of the protection afforded by this viewshaft will also enhance views from further east along Whitmore Street to the waterfront.



### View along Lambton Quay toward MLC and the old BNZ

The third and final proposal was to protect the views of the MLC and old BNZ buildings as one moves down Lambton Quay.

The Committee agreed that this view provided for a unique and valuable juxtaposition in key architectural features of the Wellington CBD. The light-coloured and aged façade on the MLC building provides a striking contrast with the modern, black tower looming in the background.

The only potential development space that can significantly breach this view is that of 200 Featherston Street. At present, the site contains public toilet facilities, but is privately-owned. Any future development on this site would need to be set back from the street edge along Lambton Quay in order to be sympathetic to this view.



Submission 62 requested that a viewshaft be installed down Kent and Cambridge Terraces towards the harbour and hills be included in the District Plan.

The Committee agreed that the view down Cambridge and Kent Terraces, linking the Basin Reserve to the harbour and hills would be an asset to the City and an important visual link between Te Aro and the waterfront. In this regard, it is somewhat unfortunate that the Chaffers New World building was built across the northern end of the view, as this is the only site that is currently available for development that can further block the viewshaft. An argument in favour of installing this viewshaft would be that it would send a clear message that Council would support any future development of the New World site that



might result in the building be shifted to the western end of the site thereby re-opening or enhancing the viewshaft (it was acknowledged that this scenario is somewhat unlikely).

Even if this redevelopment were to take place, the combination of existing buildings and foliage (not to mention the 6+ lanes of vehicle traffic) greatly inhibits the view. While the western hills are clearly visible at present, there is no visible connection to the waterfront and/or the Overseas Terminal. The Committee noted that were the New World building to be demolished, the view would still face potential obstruction from the Former Herd Street Post and Telegraph building, as well as recreational structures currently in and around Waitangi Park. On balance the Committee considered that the view down Cambridge/Kent Terraces did not warrant formal protection in the District Plan.

Submission 69 requested that the views protected by the viewshafts be widened. The Committee noted that the viewshafts were defined to protect the view to the 'focal element.' The key to retaining the quality of these views was to keep the viewing corridor unobstructed, rather than widening the view itself. It is also noted that the majority of the viewshafts are defined by existing street corridors. As such, widening these viewshaft would not result in an improved view of the 'focal element'.

### *Decision*

- **Accept** submission 27 insofar as it requests that viewing points be defined from a people perspective
- **Reject** submission 39 insofar as it proposes the alteration of viewshaft 21
- **Reject** submission 48 insofar as it requests additional viewshafts for the Central Area on Oriental Parade and Mt. Victoria Tunnel
- **Accept** submission 48 insofar as it requests the creation of a viewshaft from the waterfront, along Whitmore Street, toward the Beehive
- **Accept** submission 48 insofar as it requests the creation of a viewshaft from the waterfront, along Lambton Quay, toward Willis Street
- **Reject** submission 62 insofar as it requests an additional viewshaft down Kent and Cambridge Terraces
- **Reject** submission 69 insofar as it requests that the viewshafts be widened

### **3.70 Chapter 13, Appendix 12 - Activities Listed under Schedule 3 of the Health Act 1956.**

Specific issues raised in submissions include:

- Delete the words "refuse collection" in Appendix 12 (submission 49).

### *Discussion*

Appendix 12 contains a list of noxious activities taken from the Health Act. Consent is required to undertake these activities in the Central Area.

Submitter 49 requested that refuse collection be removed from the list. The Committee agreed that refuse collection should be removed from the list on the basis that it was a common function undertaken daily throughout the Central Area.

### *Decision*

- **Accept** submission 49 insofar as it requests that refuse collection be removed from the list of noxious activities in Appendix 12

## Chapter 20 and 21 - Heritage

### 3.71 General.

Specific issues raised in submissions include:

- That the Central Area include a provision that demolition of any building more than 60 years in age is a non-complying activity and any application for a consent to demolish requires a heritage and urban design assessment. Blanket protection is the most efficient means to encourage responsible development (submission 80).

#### *Discussion*

Submission 80 requested that a provision be introduced in the Central Area making the demolition of any building older than 60 years a non-complying activity. This submission was not supported by the Hearing Committee. The Committee considered that if Council sought to protect items of significant historic heritage value it is appropriate that they be identified as either heritage items or heritage areas based on their merits, and considered and debated through the plan change process. It was considered that a blanket heritage rule based on a building's age rather than its historic heritage values would be contrary with Part II of the RMA. The Hearing Committee considered that it was difficult to justify that a building which could be demolished without the need for a streetscape and heritage assessment in one year, should require an assessment as a non-complying activity the following year merely due to the passage of time.

#### *Decision*

- **Reject** submission 80 insofar as it requests that demolition of any building over 60 years old be made a non-complying activity

### 3.72 Heritage Areas - General.

Specific issues raised in submissions include:

- The submitters support the provisions relating to heritage areas (submissions 46 and 69).
- The NZHPT very strongly supports the heritage areas proposed to be added to Chapter 21 (submission 72).
- That cumulative changes to buildings within heritage areas should be assessed (submission 22).
- Add to Chapter 21.3 the following bullet point: 'where resource or building consent is sought for developments within 50 metres of a heritage building or item is sought, Council will notify the owners of the heritage building or item' (submission 31).
- That an additional heritage area around the Bypass heritage buildings should be added (submission 22).
- The submitter requests the addition of an Eva/Egmont Heritage Area including the buildings on Eva Street, Dixon Street, Egmont Street and Ghuznee Street. This area contains some of the city's oldest buildings and some very good examples of re-use of heritage buildings (submission 48).
- Provide adequate financial compensation to owners of buildings within heritage areas which are directed toward public benefits and outcomes at the 'expense' of building owner's legitimate expectations (submission 30).
- Additional relief including rates relief, grants relating to heritage restoration, and no fees for processing resource consent applications (submission 51).

#### *Discussion*

The Committee has exercised a great deal of scrutiny in dealing with the proposed Heritage Areas. Each of the nine Heritage Areas generated submissions. In hearing these submissions,

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and in visiting the proposed sites, the Committee witnessed the breadth of variability between the areas and noted that this was reflected in the wide range of topics covered by submitters.

While the Committee respected the development rights of landowners and agreed that new development in the built environment could enhance the vibrancy and vitality of Wellington's CBD, it also considered that there was value in protecting existing areas of special character.

In reviewing the Central Area chapters of the District Plan, Council was required to consider whether the operative plan provisions were effective in managing historic heritage values in the Central Area. This was particularly relevant given that in 2003 the 'protection of historic heritage from inappropriate subdivision, use, and development' was escalated to become a 'matter of national importance' under section 6 of the Resource Management Act.

A report in the effectiveness of the operative heritage rules, which involved a study of 55 heritage buildings that had been granted resource consent, showed that 31% of the buildings had a notable or substantial loss of heritage values. Many of these heritage buildings were located in the Central Area. Overall, the study concluded that the existing heritage rules were not effective in achieving good environmental outcomes for heritage buildings. The Council's Built Heritage Policy (2005) identified that in situations where there is a concentration of heritage items, defining a heritage area can be the most appropriate means by which to manage heritage values.

In preparing DPC 48, an audit was undertaken of the Central Area to assess whether there were any areas, or neighbourhoods that warranted consideration as heritage areas. Following the preliminary audit, detailed assessments were undertaken of key areas that contained high concentrations of listed heritage items and other original buildings. These studies resulted in the identification of nine heritage areas that were put forward as part of DPC 48. These areas are:

- Parliamentary Precinct Heritage Area
- Stout Street Heritage Area
- Post Office Square Heritage Area
- BNZ Centre Heritage Area
- Civic Centre Heritage Area
- St John's Church Heritage Area (Willis Street)
- Cuba Street Heritage Area
- Wesley Church Heritage Area (Taranaki Street)
- Courtenay Place Heritage Area

Brief descriptions of each area are included in the Design Guides for each area. More detailed analysis of the heritage importance of each area is included in the section 32 report prepared for DPC 48.

The intention was to manage these heritage areas to ensure that their unique character and heritage values were retained. As part of the research undertaken for the heritage areas, every building within a heritage area was assessed and placed into one of three categories:

1. Existing listed heritage buildings
2. Buildings that are not listed heritage buildings but which contribute positively to the heritage area due to their age and character.
3. Buildings (or sites) that have a neutral or negative impact on the heritage areas.

In terms of the rules applying to properties within a heritage area, buildings that fall into categories 1 and 2 above are referred to as 'heritage buildings'. Category 3 buildings and sites are referred to as 'non-heritage buildings'. The proposed heritage areas are managed principally through the provisions of the Heritage Chapter of the District Plan.

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In summary the heritage provisions require new buildings and structures (including additions and alterations to existing buildings) to gain consent as a Discretionary Activity (Restricted), to allow consideration of the proposed works on the heritage values and character of the heritage area. Consent must also be sought to remove or demolish any building or structure other than an identified 'non-heritage building'.

The standards relating to building height in heritage areas are located in the Central Area chapter. These standards are new and represent a significant shift from the height provisions contained in the Operative District Plan. In terms of height, rule 13.6.3.1.5 as notified in DPC 48 stated:

*Within an identified heritage area the height limit for all buildings, other than identified non-heritage buildings, shall be the existing building height (measured above ground level).*

For 'non-heritage buildings,' rule 13.6.3.1.6 specified height standards that have been lowered from the limits contained in the Operative District Plan to help ensure that new buildings are of a scale that complement the existing built form of the heritage area. The proposed height limits are discussed in more detail in section 3.48 above.

The two provisions that would have the most impact on property owners in the proposed Heritage Areas are the revised height limits, and the requirement to seek consent to demolish category 2 buildings that are not listed heritage items, but which are of an age that complements the historic heritage values of the heritage area.

### *Submissions*

Submission 46, 69 and 72 supported the proposed heritage areas and associated provisions. The Committee considered that these submissions should be accepted.

Submitter 46 (Save Our Streets) spoke to the Hearing and reiterated their support for the proposed heritage areas, particularly Cuba Street. The submitter noted that it was appropriate for Council to consider the impact of re-development of non-heritage buildings on the surrounding heritage area. The submitter also considered that removing individual properties from a heritage area would compromise the concept of managing the historic heritage value of the collective whole. The Hearing Committee agreed with the submitter that the heritage area concept relied on the inclusion of all properties that had the potential to impact on the overall heritage value of the area. While it may be possible to tweak the boundaries of a heritage area, removing properties from within the area was likely to negate the value of the concept.

Submission 22 considered that the cumulative changes to buildings within heritage areas should be assessed. Under the provisions of the heritage chapter, cumulative changes to heritage buildings are considered through the resource consent process. Accordingly, the Committee considered that this submission should be accepted.

Submission 31 requested that a requirement be added to the District Plan that owners of heritage buildings will be notified of any resource consent or building consent for a development within 50 metres of their building. The Committee did not support this submission. The Committee noted that the notification requirements for resource consent applications are laid down in the RMA. The Committee considered that the notification of any future consent application should be based on the effects of the proposal, assessed against the requirements of the Act. Installing a mandatory notification requirement in the District Plan, based on physical distance was not supported because it bore no relation to the actual effects generated by a specific proposal.

Submitter 22 requested that an additional heritage area be created to cover the heritage buildings involved in the bypass project. The Cuba Street Heritage Area included a number of the

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heritage buildings relocated during the bypass project. However, because the heritage area was focused on properties fronting Cuba Street, relocated heritage buildings further along the bypass have not been included. The Committee did not consider it appropriate to extend Cuba Street Heritage Area to cover a wider area, as the heritage area's strength lay in its tight focus on Cuba Street and its immediate environment. The Committee did however note that many of the submitters concerns were likely to be addressed through lowering building heights along the bypass to reflect the heights of the relocated heritage buildings.

Submission 48 requested that an additional heritage area be created to cover the Eva Street/Egmont Street Area. This area was initially considered for heritage area status on the grounds that it contained a number of significant buildings that were linked by a history of manufacturing use. However the area was removed when the list of possible heritage areas was refined for inclusion in DPC 48. This issue is discussed in further detail under Section 3.78 of this report.

Submissions 30 and 51 (plus other submissions that are considered elsewhere in this report) requested that Council provide compensation for the loss of height (and development potential) in the proposed heritage areas. Rates relief was the most common suggestion, but others included grants for heritage restoration, transferable development rights, and no fees for resource consent applications in heritage areas. The Hearing Committee noted that of the requested options, only transferable development rights (TDR's) was a planning mechanism that could potentially be incorporated into the District Plan. The remaining compensation options involved financial expenditure by Council and would need to be endorsed by Council through the annual plan process.

Transferable development rights involve the transfer of development 'potential' from one site to another. Traditionally, they have been used to help off-set the cost of owning a listed heritage building; but in theory, they could be applied in any situation where a property is subject to a restrictive planning regime to protect a 'public good'. The previous Wellington City Council District Scheme used TDR's, in conjunction with plot ratios, to help manage heritage properties. In that situation TDR worked relatively well because the plot ratios that were in place prevented most sites being developed up to 100% height and site coverage. Additional floor space gained using TDR's could therefore be accommodated on site, potentially without having to breach the maximum height limit.

While they worked well in conjunction with plot ratios, the Hearing Committee considered that TDR's are not well suited to the 'effects based' planning regime implemented by the current District Plan. In the Operative District Plan development of up to 100% of site coverage and height is anticipated by the Central Area rules. Therefore the only way to derive a benefit from a TDR is to exceed the maximum height limit. At that point the appropriateness of the development proposal is assessed based on the effects that it generates. If the effects are minor, or the positive effects outweigh the negative, then the development may be approved under the RMA. But in that situation the development would likely be approved irrespective of whether or not there were TDR's involved. As a result, TDR's do not represent a significant financial bonus for a property owner under the current District Plan.

The Committee did note, however, that the rule structure in DPC 48 provided scope for a limited form of TDR. Where a development site includes a listed heritage item, the airspace above the heritage item can be counted as part of the overall mass calculation of the total site. In this way a building adjacent to a listed heritage building may be able to increase its mass in lieu of the undeveloped air space above the heritage item.

The remaining compensation options are not able to be implemented via the District Plan as they are required to be approved via the Council's Annual Plan process. While they were not considered in detail in this report, the following points were noted by the Hearing Committee.

Rates relief would involve placing the properties located within an identified heritage area on a lowered rates differential. The issue of using rates relief to offset the costs of owning heritage buildings has been considered by Council twice but has yet to be adopted as Council policy. The first occasion was during the consideration of the Council's Built Heritage Policy (2005) when rates relief was an option put forward to help mitigate the cost of owning and maintaining a listed heritage building. More recently, the issue of providing rates relief for properties within an identified heritage area was considered by the Revenue and Financial Working Party. Use of rates relief was rejected on the grounds that rating differentials or rates reductions on development sites within the heritage areas is a poorly targeted option that can lead to the wrong properties being rewarded due to the rates calculation being based on capital values. Rates relief can result in unfair cross-subsidisation by other property owner, and would be expensive to administer. The Hearing Committee did note that a third paper on the use of rates relief for heritage items was currently being prepared within Council, and that this paper was likely to be taken to Council for consideration at some stage in the future.

The existing heritage fund would be available for listed heritage buildings in heritage areas. However the criteria used to apply the heritage fund would need to be modified before it could be made available to other buildings and sites in heritage areas.

Expenditure on public works may be an effective way to off-set economic cost, particularly in those heritage areas where ground floor tenancies (generally for retail and commercial use) are a significant portion of the overall return derived from the property (i.e. Cuba Street and Courtenay Place). Council has undertaken analysis of the economic impacts of public works in Cuba Street, Blair and Allen Streets, and Woodward Street. While the analysis indicates that property values increased following Council projects to enhance the quality of adjoining public spaces, it is impossible to state definitively that the Council improvements directly influenced the increase in value, and if so by how much.

Under the provisions of the Resource Management Act, the Committee noted that Council was not required to provide financial compensation for rules included in the District Plan. However, the Committee also noted that no provision in the plan may be so onerous as to make a property incapable of reasonable use. If this occurs, the Council is obliged to either take financial responsibility for the property or amend the plan provision.

### *Conclusion*

Having reviewed the requirements of the Act, the research undertaken during the preparation of DPC 48, and the matters raised in submissions, the Committee considered that the Heritage Area approach was the most appropriate way to manage parts of the Central Area that contain a significant proportion of buildings and spaces of historic heritage value. While the Committee did note the need to amend certain aspects of the heritage area provisions, overall it considered that the proposed heritage areas should be retained as they cover key neighbourhoods and areas within the central city that contribute strongly to the heritage values and unique sense of place of Wellington City. Substantial research was undertaken into the heritage values of each of the areas, and the boundaries of each area were carefully considered to include only those properties that shared the core values and characteristics of the heritage area. Further, Committee considered that the proposed heritage areas were appropriate and were necessary to allow the Council to meet its obligations for managing historic heritage under Part II of the Resource Management Act

### *Decision*

- **Accept** submissions 46, 69 and 72 insofar as they support the proposed heritage areas
- **Accept** submission 46 insofar as it opposes the removal of individual properties from within a heritage area
- **Accept** submission 22 insofar as it requests consideration of cumulative changes to heritage buildings
- **Reject** submission 31 insofar as it requests mandatory notification of any development within 50 metres of a listed heritage item
- **Reject** submission 22 insofar as it requests a new heritage area be created to cover heritage buildings relocated as part of the bypass project
- **Reject** submission 48 insofar as it requests a new heritage area be created to cover the Eva Street/Egmont Street area. (see section 3.78 of this report)
- **Reject** submissions 30 and 51 insofar as they request financial compensation for properties included in the proposed heritage areas.

### **3.73 Parliamentary Precinct Heritage Area.**

Specific issues raised in submissions include:

- The Parliamentary Precinct Heritage Area seems to be far too tightly defined. The submitter believes it should at least include such important national buildings as the Anglican Cathedral, the National Library, the Court of appeal and Turnbull House. They are all likely to be there for another 100 years and deserve recognition as "future heritage buildings" (submission 13).

### *Discussion*

The assessment of the Parliamentary Precinct Heritage Area considered the wider area surrounding Parliament grounds. The extent of the area was pulled back to the core heritage buildings and Parliament grounds on the advice of the consultants that undertook the heritage assessment. They concluded that the surrounding area did not have a consistency of use, architectural style or heritage value that warranted its inclusion in the heritage area. The Committee agreed with this assessment and directed that the extent of the Parliamentary Precinct Heritage Area be retained as per DPC 48.

### *Decision*

- **Reject** submission 13 insofar as it requests that the extent of the Parliamentary Precinct Heritage Area be expanded

### **3.74 Stout Street Precinct Heritage Area.**

Specific issues raised in submissions include:

- Delete the Stout Street Heritage Area.
  - i) If the Stout Street Heritage Area is not deleted, reduce its extent by excluding the land and buildings with frontage to Stout Street between Balance Street and Lambton Quay.
  - ii) Such further or incidental relief as may be appropriate (submission 34).
- Stout Street Car Parking Centre to be excluded from the Stout Street Precinct Heritage Area and Appendix 7 of Chapter 21 updated to reflect this exclusion (submission 54).
- The NZHPT very strongly supports the heritage areas proposed to be added to Chapter 21 but notes that the proposed Appendix 7 Stout Street Precinct Heritage Area may have an error in Table 1. The façade of the Courts Building (number 3) is identified as a non-heritage building. Perhaps it is all of the building except the facade that is the non-heritage building (submission 72).

## *Discussion*

The following statement of heritage significance (taken from the section 32 report) outlines the importance of the Stout Street Heritage Area.

The proposed Stout Street heritage area is of particular importance to Wellington as it contains a nationally significant group of heritage buildings, most of which were built by central government. The key buildings have very high **historic** significance for their longstanding association with the government and for their role in Wellington's economic, financial, legal and political history.

The proposed area is **historically** important as it demonstrates the role of central government in Wellington's transition from provincial to national capital in the 19<sup>th</sup> century. It shows how government helped drive the city's progress and physical formation through reclamation and then the steady development of that land for various governmental purposes, including the courts, civil service and other agencies. This activity established the pattern of this part of the central city and it remains largely the same today, although the government does not build new inner-city office accommodation anymore and a number of Government buildings are now in private hands. The buildings also have **social** and **economic** significance for the government's past and present role as the city's major employer.



The area has high **streetscape** value with, several key vistas remaining relatively unchanged since the 1940s, particularly the southern entrance to the street and the long view from Lambton Quay to the Railway Station. This is one of the few places in the city that has remained relatively constant, as demonstrated by its use in numerous 'period' TV commercials and films. It is an established visual feature in the townscape of the northern end of the city, familiar to generations of Wellingtonians. The key buildings form an important transition of scale in the urban setting between the condensed "high city" of Lambton Quay and The Terrace and the comparatively low and open Parliamentary precinct.

The heritage buildings represent the work of a number of important architects and are **architecturally** notable for their innovative construction and uniformly high quality of design, materials and workmanship. Many of the materials and the craftsmanship employed in these buildings are irreplaceable. The interplay between the richly detailed old buildings and the rather more austere modern buildings enriches and enlivens the streetscape and gives it a very distinctive character. The area has a strong cohesiveness of purpose, building quality and history.

The majority of buildings within the Stout Street Heritage Area are listed heritage buildings, and these are dealt with first and foremost under the provisions for listed heritage items in Chapter 20 and 21 of the District Plan. Retention of these buildings within the proposed heritage area was considered appropriate on the grounds that it recognised the collective value of the buildings and would not impose additional restrictions on the properties above those implemented in chapter 21 under proposed Plan Change 43

Two sites that are not listed heritage items have been included in the heritage area. These are:

Court Park – a designation was recently approved to allow this site to be developed for the Supreme Court. The scale of the proposed Supreme Court building would be complementary to the adjacent ex-high court building, with a maximum height of 20 metres (agreed in the

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conditions on the designation). No request has been made to remove the park from the heritage area.

The car park building on the eastern corner of Stout Street and Ballance Street is the second non-heritage building included in the heritage area. Submission 54 (PrimeProperty Group) requested that the car parking building be removed from the heritage area. At the Hearing, the submitter argued that the proposed heritage area was an unjust intrusion on private property rights. The submitter considered that the heritage area was not required as all the buildings (except the car park) were already listed heritage buildings.

The submitter was concerned that the inclusion of the car park building within the heritage area would compromise their ability to develop the site. They considered that the site was an important strategic resource given its large size and location in close proximity to parliament, the railway station, and the existing CBD. The submitter did not believe that there was a correlation between height and heritage values. The submitter considered that the car park building could be developed to a height of up to 75 metres, without significantly impacting on the heritage value of the adjacent Mission to Seamen building, or the listed heritage buildings that front the Stout Street, Ballance Street intersection.

The submitter also noted that the current car parking building was unsympathetic to the context and that a future development of the site would present the opportunity to create a building that was more in keeping with the surrounding area.



*Car parking building on the corner of Stout Street and Ballance Street*

The Hearing Committee gave due consideration to the evidence presented by Primeproperty, and visited the area to assess its overall character, and to gain a better appreciation of the relationship between the car park building and the other properties contained within the heritage area.

The Committee acknowledged the submitter's evidence that the Mission to Seamen building had a strong architectural form, and that this would help to ensure that the building retained its heritage value, even if a taller building(s) was developed on adjacent sites. However, the Committee considered that the height and mass of a new building on top of the car park building was a more significant consideration in terms of the buildings relationship to the other buildings that surrounded the Stout Street, Ballance Street intersection.

During their site visit the Hearing Committee noted that very few of the buildings in and around Stout Street have any significant verandahs. The Committee noted that the absence of verandahs had a significant impact on the pedestrian experience. In particular, the Committee noted that pedestrians had a greater awareness of the scale and form of buildings, on both sides of the street, when there were no verandahs to obscure their view. The Committee also noted that without verandahs the tops of buildings are often visible against a backdrop of sky, and that this contributed to the overall character of the area. Accordingly the Committee considered that in this location, the scale of new buildings was a factor that could potentially impact on the area's combined heritage values.

The Committee noted that the submitter's car-parking building occupied the fourth corner of a prominent intersection at the heart of the proposed heritage area. The Committee also observed the general uniformity of the existing buildings that fronted the intersection, and noted that the car park building was visible in views down both Stout Street and Ballance Street. As the remaining three corners of the intersection contained significant listed heritage buildings, the

Committee considered it appropriate that the car-parking building be retained in the heritage area to allow any future development of the site to be assessed in terms of its impact on the surrounding and adjoining heritage buildings. The Committee was concerned that relying on the individual listing of heritage buildings in the area would not provide recognition of the shared history that the area had as a centre of government administration.

On balance, Committee considered that removing the car park building from the Stout Street Heritage Area could significantly impact on the Council's ability to manage the historic heritage values of the surrounding area. The Committee considered that the boundary of the Stout Street Heritage Area should be retained as proposed in DPC 48. In making this decision the Hearing Committee noted that it was proposed to amend the height provisions that applied to the heritage area (see section 3.48 for further details).

Submission 72 sought additional clarification as to which parts of the façade on the Court Building were identified as non-heritage. The photo below shows that it was the façade above the third storey that was considered to have minimal heritage value. The Committee considered that this should be clarified in Appendix 7, Stout Street Precinct Heritage Area (Chapter 21).



*Stout Street (western edge)*

### *Decision*

- **Reject** submission 34 insofar as it requests that all buildings with frontage to Stout Street between Balance Street and Lambton Quay be deleted from the heritage area
- **Reject** submission 54 insofar as it requests that the car park building on the north-eastern corner of Stout Street and Balance Street be removed from the heritage area
- **Accept** submission 72 insofar as it requests clarification on the parts of the façade of the court building that are identified as non-heritage.

### **3.75 Post Office Square Heritage Area.**

Specific issues raised in submissions include:

- DFL opposes the inclusion of Optimisation House (1-13 Grey St) in the proposed Post Office Square Heritage Area and opposes the excessively restrictive heritage area provisions. Remove Optimisation house (1-13 Grey Street) from the proposed Post Office Square Heritage Area; or failing the removal of Optimisation House from the Post Office Square Heritage Area, amend rule 13.6.3.1.6 by inserting the following provision under "Post Office Square": - west of Jervois Quay 20 m (minimum height) / 80m (maximum height) (submission 10).
- Reduce the extent of the Post Office Square Heritage Precinct Area by excluding the submitter's building (Huddart Parker building), the Intercontinental Hotel, the Chapman Tripp Building (now Optimisation House) and the Todd Corporation Building. Identify the submitter's building as non heritage building. Such further or incidental relief as may be appropriate (submission 35).

## *Discussion*

Post Office Square was identified as a heritage item in the Operative District Plan. DPC 48 proposed to create a heritage area that included both the square and those buildings that surround the square and contribute to its context. The following statement of heritage significance (taken from the section 32 report) outlines the importance of the Post Office Square Heritage Area.

Post Office Square is one of Wellington's important public places and is a well-established and familiar visual feature in the city. It is particularly notable for its **historic** form having largely survived since it achieved its present dimensions and appearance in the early 20<sup>th</sup> century. The square is clearly defined by a range of buildings of high **architectural** significance, many of which have a maritime association. The heritage buildings have a uniformly high quality of design, construction and materials, all of which helps invest the square with a strong sense of architectural cohesiveness.



*Post Office Square*

The heritage buildings give the square a strong and distinctive **townscape** character. They represent several different eras of construction and a range of architectural types and styles. The two wharf buildings are the most visually rich of the buildings and, being set hard to the road edge, make a significant contribution to the spatial qualities of the square. The curved sweep of the Wharf Offices is one of the most visually stimulating of all Wellington's landmarks.

The square is identified with the General Post Office, one of Wellington's more important and distinctive early buildings, and despite the removal of that building, the location of the square on Customhouse Quay still emphasises the **historic** importance of reclamation in spurring the development and growth of Wellington. Strong links remain between the space and the waterfront with the WHB buildings, the entrance to the historic Queens Wharf and the Huddart Parker building still closely identified with the harbour and exemplifying the importance of early Wellington's almost total reliance on the sea for commerce.

The square has important ongoing **social** value as a public place – a meeting place and a space where people pass through on their way to and from the waterfront. For south-bound traffic, it has been a place where, for many decades, time and temperature have been checked from the neon sign on the Huddart Parker Building.

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Submitter 10 (Dominion Funds Ltd) requested that Optimisation House (previously the Chapman Tripp building) be removed from the heritage area, or if the property is retained in the heritage area that the height be increased from 40 metres to 80 metres. In their evidence at the hearing, the submitter argued that their site had limited impact on the square, as it was some distance from the square and only visible on an angle. The submitter considered that there was scope to develop the podium portion of the building to around 80 metres in height without impacting on the heritage values of the square.

Having visited the site, the Hearing Committee acknowledged that of all the properties included in the heritage area, Optimisation House had the most remote relationship to Post Office Square itself. Optimisation House is located on the 'shortest edge' of the Post Office Square, diagonally across from the square, to the west of the intersection of Grey Street and Customhouse Quay.



*Optimisation House(right) as seen from Post Office Square*

However the Committee noted that Optimisation House was visible from much of Post Office Square and contributed to the context of the square even though it did not have a built edge directly to the square. After viewing the relationship between Optimisation House and the square, the Committee considered that Optimisation House was not far enough away from the square to warrant removal from the Heritage Area, and that a new building on the site could potentially impact on the setting of the square.

While the Committee believed that the podium of Optimisation House should be retained in the heritage area to enable any future development to be assessed in terms of its impact on the setting of the square, it did note that the height standards for the Post Office Square Heritage Area had been amended (see Section 3.48), and this may be sufficient to address the submitter's concern.

Submission 35 requested that the Huddart Parker building be removed from the heritage area. The submission also requested that the Intercontinental Hotel, the Chapman Tripp Building (now Optimisation House) and the Todd Corporation Buildings be removed but it is understood that these buildings are not owned by the submitter.

The Committee noted that the Huddart Parker Building was a listed heritage building, so was subject to the provisions of the heritage chapter of the District Plan. In addition, the Committee noted that the ground lease for the property was sold by the Council in 2002, with an 18 year covenant attached. The covenant required that the owner of the building 'will not without the written consent of the Council (which will not be reasonably withheld) do anything to change the character of the building known as the 'Huddart Parker Building' ....and in particular will not make changes which would detract from the exterior appearance and architectural style of the buildings for a period of eighteen years from the date of completion of the development work. In considering whether or not to give consent the Council may act in its capacity as Council and as if it were still the owner of the fee simple estate and lessor of the Land.

On the grounds that the Huddart Parker Building was a listed heritage building with a significant presence on the edge of Post Office Square, subject to an 18 year restrictive covenant, the Committee considered that its inclusion in the Post Office Square Heritage Area was appropriate, and unlikely to unduly restrict the development potential of the property.

In relation to the other buildings in the heritage area, the Committee noted that further development of the Intercontinental Hotel site was unlikely due to the property's unit title ownership pattern. The Committee also noted that no submission was received from the owners of this building.

In relation to the Todd Corporation building, the Committee noted that the Council owned the ground lease to that property and that no submission was received from the owners of the Todd Building.

Overall, the Hearing Committee considered that the boundary of the Post Office Square Heritage Area should be retained as notified in DPC 48.

### *Decision*

- **Reject** submission 10 insofar as it requests that Optimisation House be removed from the Post Office Square Heritage Area
- **Reject** submission 35 insofar as it requests that the Huddart Parker building, the Intercontinental Hotel, the Chapman Tripp Building (now Optimisation House) and the Todd Corporation Building be removed from the heritage area

### **3.76 BNZ / Head Office Heritage Area.**

Specific issues raised in submissions include:

- The submitter owns a property within the proposed BNZ/Head Office Heritage Area and is opposed to its inclusion in this area due to the excessively restrictive provisions resulting in significant effects on the development potential of the site. The submitter requests that 187 Featherston Street be excluded from the BNZ/Head Office Heritage Precinct. Failing exclusion from the BNZ/Head Office Heritage Precinct, amend 13.6.3.1.6 by inserting the following provision under "BNZ Centre": "for the property at 187 Featherston Street, the maximum permitted building height shall be 80m" (submission 16).

### *Discussion*

The BNZ/Head Office Heritage Area is centred on the old BNZ Bank on the corner of Lambton Quay and Willis Street. One submission was received on this area, requesting that the AMP building at 187 Featherston be removed from the heritage area, or alternately that its height limit be returned to 80 metres.

The AMP Building is identified as a non-heritage building within the heritage area. It is located on the northern edge of the heritage area, adjacent to the original AMP Building, and across Hunter Street from the MLC Building. The heritage assessment made the following comments regarding the AMP buildings:

The principal AMP building is one of the most dignified in the city. Completed in 1928 to the design of Clere & Clere, it stands an imposing eight stories tall on its corner site with major elevations to both Hunter Street and Customhouse Quay; the main entrance is on the latter. It is as notable for the very fine materials and craftsmanship employed in its construction, including the distinctive rusticated ashlar sandstone to the façades (laid over a steel primary structure) and the marbles in the entrance, as it is for its quality of design.

The main entrance, on Customhouse Quay, is the finest remaining in the city. It is a double-height barrel vault with deep coffering which rises over marble walls and steps and ornamental bronze work. Recent alterations have replaced a poorly detailed 1960s aluminium glazed weather-screen across the entrance with a modern frameless glass screen and most of the original fabric in this area remains in place and visible to the public.

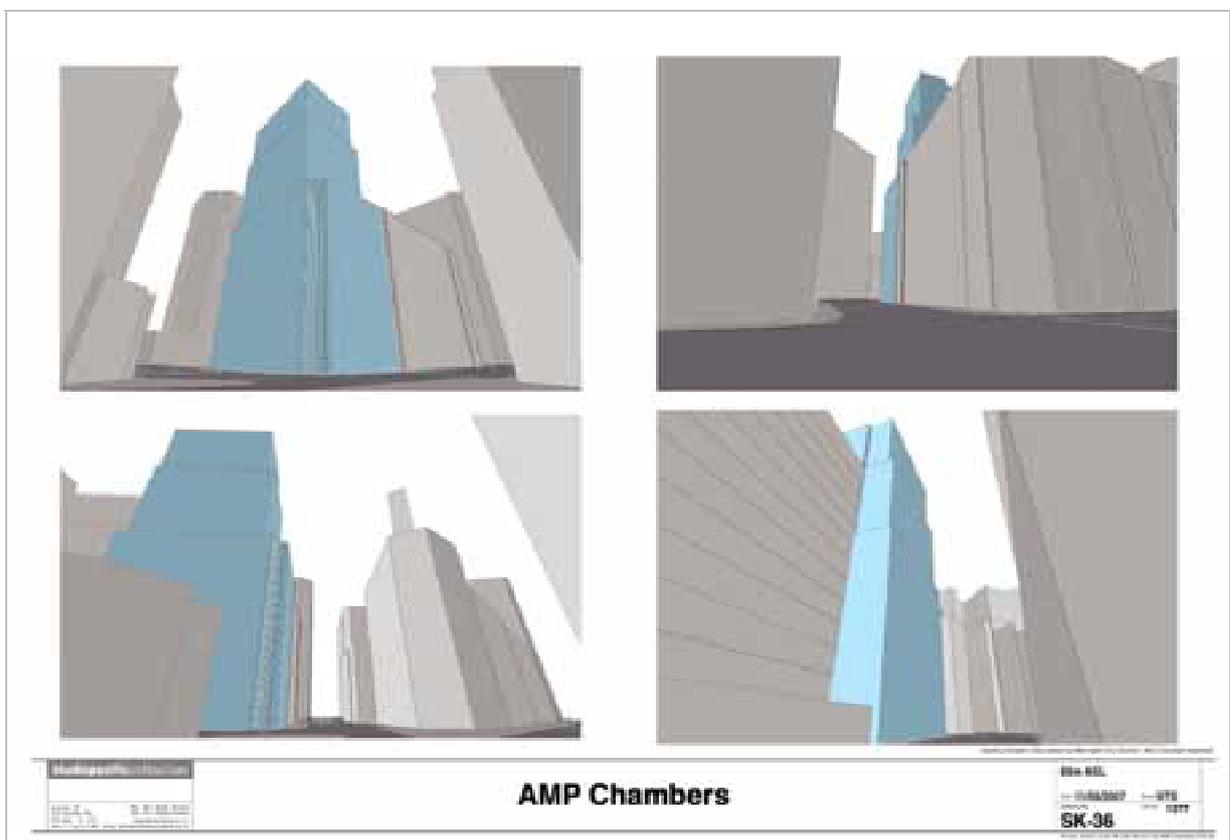


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The later AMP building, built in 1952 on the corner of Hunter Street and Featherston Street, is not of particular heritage significance although it has an important association with this building. It shows a carefully balanced composition, with an interesting concave bevel in the facades at the street corner drawing attention to a retail entrance.....The building is given additional feature with very cleverly executed *trompe l'oeil* stone and brick-work and carefully rendered shadowing which enhances its otherwise plain modernist form with ersatz three-dimensional masonry detail compatible with the earlier building.

The Officer's report to the Hearing noted that the AMP Chambers building (187 Featherston Street) was an identified non-heritage building. The property had been included in the heritage areas because of its location in close proximity to some of the city's most significant heritage buildings (including the adjacent AMP Society building). The Officer's Report stated that if the site were to be redeveloped, retaining the property within the heritage areas would allow the relationship to the neighbouring buildings to be considered.

Submitter 16, AMP NZ Property Commercial Ltd (AMP), appeared at the hearing to discuss this matter in further detail. Rather than focusing on the removal of the AMP Chambers building from the heritage area, AMP tabled a site-specific proposal to address the further use and development of 187 Featherston Street. The submitter noted that the existing AMP Chambers building was already taller than the proposed maximum height of 25 metres. The submitter argued that with the use of appropriate setbacks, it would be possible to develop additional height up to 65 metres, without significantly impacting on the values of the heritage area, or the setting of the adjacent AMP Society building. The submitter provided models of the proposed heights to indicate how the additional height could be integrated into the local streetscape. The submitter considered that the key elements of their site-specific proposal should be incorporated into the District Plan, with provision for the final building detail to be considered as a Discretionary Activity (Restricted).



Images provided by Studio Pacific Architecture – presented at hearing by AMP NZ Commercial Ltd

After visiting the site, the Committee agreed that the site-specific proposal put forward by AMP was appropriate for the AMP Chambers site. The Committee was satisfied that the proposal respected the surrounding heritage fabric by way of setbacks and the management of building bulk and mass.

The Committee considered that the location of the AMP Chambers site warranted its inclusion within the heritage area, but agreed that the proposed site-specific development scenario should be included in the District Plan as a suitable development option for the site.

### *Decision*

- **Reject** submission 16 insofar as it requests that 187 Featherston Street be removed from the BNZ / Head Office Heritage Area

### **3.77 Civic Centre Heritage Area.**

Specific issues raised in submissions include:

- Civic Centre Precinct: This precinct should also include the new City Library and the Council's new Administration Building as they both add a great deal to the pleasant environment of Civic Square (submission 13).

### *Discussion*

The Committee noted that the City Library and the Council's Administration Buildings are included in the heritage area. These are not listed as heritage buildings, meaning that the two buildings may be redeveloped in the future. Any replacement building will, however, be considered in terms of its effect of the wider heritage values of the area. It is considered that this represents an appropriate means by which to manage this heritage area.

### *Decision*

- **Accept** submission 13 insofar as it requests that the City Library and new Council Administration Building be included in the Civic Centre Heritage Area

### **3.78 Cuba Street Heritage Area.**

Specific issues raised in submissions include:

- If redevelopment up to the proposed line behind 104 is considered appropriate to protect Cuba St, then this line continued parallel to Cuba St through the 94-102 building must offer the same level of protection to Cuba St. 94-102 Cuba St (Farmers Building) has a structural grid enabling sectional redevelopment. The proposed setback line compromises the future implementation of a proposed pedestrian avenue through the site. Continue the Heritage Area boundary control line that begins at 104 Cuba Street through 94-102 Cuba Street, parallel to Cuba i.e. so that it cuts through the middle of buildings at 94-102 Cuba Street (submission 2).
- Objection to our property (62 Webb St) being included in heritage area of Cuba St as our property fronts only on to Webb St. That the council review the heritage area boundary line drawn around our property at 62 Webb Street as it does not bare any relation to the heritage area of Upper Cuba Street (submission 9).
- Remove the Footscray Ave cottages located on 65-69 Abel Smith St, Te Aro from the proposed Cuba Street Heritage Area (submission 26).
- The submitter is concerned about the implications of the proposed Cuba Street Heritage Area. At this stage the Council does not appear to have adequately addressed; 1) the financial implications of reducing building heights, 2) compensation for private owners

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should such restrictions be enforced, 3) rates relief issues with heritage/historic buildings, 4) an objective and professional opinion of the heritage value of specific buildings within the proposed heritage area. Delay any decision on creating the Cuba Street Heritage Area until the financial implications, compensation (rates relief) and further objective opinion on heritage values have been considered and agreed with private owners (submission 26).

- The submitters own the following properties which are located in a proposed new heritage area. The heritage area is opposed as being overly restrictive and creates greater uncertainty: 160-166 Cuba St, 175-179 Cuba St, 230-234 Cuba St, 43-47 Ghuznee St, 66-68 Abel Smith St, 88 Manners St, 34 Webb St, 23 Vivian St, 36-40 Vivian St, 113 Tory St. That the operative development allowances, including the maximum height (as per Planning Map 32) and building provisions for the above properties and Te Aro area are retained (submission 21).
- Delete Rule 13.6.3.1.5 and Rule 13.6.3.1.6 and retain the operative maximum height provisions (as per Planning Map 32) for the Cuba Character Area (submission 30).
- The submitters are opposed to some components of the Plan Change, especially provisions relating to the inclusion of 236-242 Cuba Street and 45 Abel Smith Street in the Cuba Street Heritage Area and the height restrictions within that area. That this submission be accepted, and Plan Change 48 be accordingly amended by excluding 264-266, 244-250, 236-242, 257-259, 267-273, 275-283 Cuba Street and 45 Abel Smith Street as identified on the attached plan from the Cuba Street Heritage Area, so that they are subject to the Central Area Rules generally, and by including such new objectives and policies as are appropriate to lay a foundation for such rules. AND (b) That this submission be accepted in part and Plan Change 48 be amended accordingly by enlarging the boundaries of the Central Area Urban Design guide - Te Aro Corridor to include properties south of 264-266 and 275-283 Cuba Street that are presently included in the Cuba Street Heritage Area around the junction of Tonks Avenue and Cuba and Arthur Streets, and uplifting the Cuba Street Heritage Area from those properties; OR, in the alternative (c) That this submission be accepted in part and Plan Change 48 be amended accordingly by exempting 264-266, 244-250, 236-242, 257-259, 267-273, 275-283 Cuba Street and 45 Abel Smith Street as identified on the attached plan from the same height restrictions as the rest of the Cuba Street Heritage Area, and by including such new objectives and policies as are appropriate to lay a foundation for such rules. AND (d) Such amendments to the District Plan planning maps as are necessary to give effect to the amendments in clauses (a), (b) or (c) above; and (e) Such other relief that may address the issues raised by this submission (submission 58, 59 and 60).
- Modifications to the Plan to reinstate earlier provisions, including height limits and controlled activity status for modifications and redevelopment of sites relating to Cuba Street and heritage buildings, and any necessary consequent amendments elsewhere in the Plan documents (submission 51).
- The submitter owns and occupies a building which has been listed in the District Plan for some time, and is concerned at the increasing levels of regulation on listed buildings. Deletion of the Cuba Street Heritage Area and all associated policy, rules, guidelines and other provisions from Chapters 12, 13 and 21 of the Plan. If the above submission is not accepted, removal of Arco House from Chapters 12, 13 and 21 of the Plan as a listed heritage building (submission 51).
- The submitter is concerned about the reduction of maximum developable height from 43m to 18m for their property (the CD Store on the corner of Dixon Street and Cuba Street). Maintain the maximum allowable building height in the Cuba Heritage Area at 43m or at the very least to remain at 43m for the subject site in recognition of its corner location and potential as an important 'marker' at the northern end of Cuba Mall (submission 4).
- The submitter opposes the proposed height restriction change, in particular Cuba Street south of Abel Smith St (Heritage area 13.6.3.1.6). The submitters preferred option is that the currently height restriction remain in place. A second option would be that upper Cuba Street (south of Abel Smith St) should have all the same height restrictions. A third option

would be to include 250-264 Cuba Street in the area between Dixon and Able Smith Streets (maximum height of 18 metres) (submission 8).

- Amend Chapter 21, Appendix 12: to include in the Cuba Street Area, the area from the corner of Cuba and Dixon Streets, south to Egmont Street, east to Ghuznee Street, then north to Cuba Street. Include Hannah's Courtyard area as an Action Area, in list 6.0 of the Cuba Character Area Design Guide in the operative Plan (submission 31).
- I strongly support the concept of a Cuba St heritage area. The boundary on Webb St needs to be extended Westwards to meet the synagogue. The boundary on Abel Smith St needs to extend Westwards to take in heritage buildings between Abel Smith and Kensington Sts (submission 80).
- Shift the boundary to the eastern side of Swan Lane to include it within the Cuba Street Heritage Area (submission 44).

### *Discussion*

The Cuba Street Heritage Area runs the length of Cuba Street. It includes all properties fronting onto Cuba Street, and also properties on side streets that fit the age and character profile of Cuba Street, which are visible from Cuba Street, and which contribute to the context of Cuba Street.

Cuba Street is an area of great **historic** and **social** importance to Wellington. Its formation dates back to the beginning of organised European settlement in 1840 and, for the majority of the time since then, it has been one of Wellington's premier streets, known for its long history of retailing, especially drapers and department stores, as a place where people have lived and plied trades and crafts, and more recently for its nightlife and alternative culture. Cuba Mall itself has historic significance as the first street in the country to be re-designed for exclusive pedestrian use.

The **aesthetic** significance of the street is apparent in the variety of its buildings, which include examples of all major styles since the 1870s. In particular, the period of unprecedented prosperity at the beginning of the 20<sup>th</sup> century is well represented by a rich collection of Edwardian buildings. Many feature substantial and decorative street frontages, designed to entice customers, often masking more modest structures behind them. Cuba Street's best buildings rival any others in Wellington for the quality of their façades and inventive use of decoration.



The precinct includes a number of structures of **technical** and **scientific** value which illustrate different methods and styles of construction. Many survive in authentic condition.

The street is long enough to include a variety of buildings that tell us something about the part of the street they were built in. Of particular **townscape** interest is the gradual transition from larger buildings at the northern end to smaller buildings at the south, which still largely mirrors the kind of Cuba Street townscape that emerged in the late 19<sup>th</sup> century. Many shop/dwellings, once a common feature throughout Te Aro and other parts of Wellington, have survived in upper Cuba Street, as have some residences.

Cuba Street's significance as an important thoroughfare serviced by trams has been undermined somewhat by their removal, the creation of a pedestrian mall and the construction of the inner-city bypass at its northern end, all of which have disrupted its continuity and cohesive identity. Nevertheless, the **social** importance of the street lingers on, reinvigorated by the influx of apartment dwellers on its margins.

A significant number of submissions were received requesting that properties be removed from the Cuba Street Heritage Area.

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Cuba Street is a continuous environment in many ways. It is a linear street that can be viewed from one end to the other. It has a continuous history of predominantly retail activity. It is a long standing pedestrian route into the central city, and the only North-South street in Te Aro with near continuous verandah cover. In managing the character and heritage value of Cuba Street it is considered vital that the street's 'continuous nature' is appropriately recognised. For this reason, it was considered important that the heritage area include all properties that front the street along its full length.

The strength of heritage areas is that they allow the collective character and heritage values of an area to be considered. An individual heritage item can be restored and managed as carefully as possible, and still have its heritage values diminished by an insensitive development on an adjacent site. Heritage areas are considered to be a useful mechanism for ensuring that areas with a high concentration of heritage items are appropriately managed (i.e. '*protected from inappropriate subdivision, use and development*'). Removing individual properties, particularly properties centrally located within an area, would largely nullify the purpose of the heritage area.

Accordingly, the Hearing Committee considered that all properties that front Cuba Street should be retained within the Heritage Area as this would ensure that the unique character and heritage value of the street can be managed as whole. The Committee also noted that in a number of locations properties without direct frontage to Cuba Street were included in the Heritage Area, because of their heritage importance and the contribution to the character and heritage values of the wider area.

Although Cuba Street retains a remarkable concentration of heritage buildings, they are not consistently distributed along the length of the street. In particular there are a significant number of non-heritage properties clustered around the intersection of Cuba Street and Abel Smith Street, north of the heritage properties that were relocated and restored as part of the Inner City Bypass project. While it is considered important that these non-heritage properties be managed in a way that recognises their importance to Cuba Street as a whole, it is acknowledged that in strict heritage terms the area around the intersection of Cuba Street and Abel Smith Street is less significant than the remainder Cuba Street.

Submission 9 requests that the property at 62 Webb Street be removed from the heritage area. The property at 62 Webb Street is set back one property from the Cuba Street frontage and contains a private dwelling of quite considerable age. It is not a listed heritage building. While it is of the era of the shop/house buildings fronting onto upper Cuba Street, it has a different character being designed as a dwelling with no commercial ground floor use. The Committee agreed that the property is not in keeping with the remainder of the Cuba Street Heritage Area, and thus should be removed from the proposed area for protection.



62 Webb Street

Dr. Ron Scott appeared on behalf of Marko Kljakovic (submission 26). The submitter owns the property at 2 Footscray Avenue, which currently contains the "burnt remains" of a former Heritage Building. The submitter stated that the heritage value on the property was in the house, and not in the site which the building stands. Dr. Kljakovic considered that the cottages were in poor condition and unsafe due to their



Footscray Ave cottages

## APPENDIX 1

isolation from Cuba Street and by the fact that they were hidden from public view. The submitter considered that it was unfair to retain their property in the heritage areas in order to protect the context of the remaining cottages.

The property should, therefore, be removed from the proposed Heritage Area, and take on the standard Central Area zoning of its neighbours to the north and west. As an alternate option, Dr. Scott concluded that a better outcome could be achieved (with respect to the future use of the site) if Council was prepared to work in conjunction with the owner.

Upon visiting the site, the Committee saw a different picture than that painted by the submitter. Residents of the other cottages were utilising their outdoor living areas at the time of the Committee's visit, and were happy to answer some general questions concerning the quality of living in the area. It was of the opinion of these local residents that the area was safe, comfortable, and ideally located. The Committee agreed that the small neighbourhood was of an exceptionally unique quality, and worthy of special consideration.

On balance, the committee considered the cottages to be a vital element of the Cuba Street Heritage Area, and their removal from the area is not supported. Further discussion of the treatment for this neighbourhood is found in section 3.48 of this report.

Submission 2 requested that the boundary of the heritage area be defined using a set back distance from the Cuba Street frontage. The submission considered that the use of property boundaries was unfair as some properties were only 20 metres deep while some are over 40 metres deep. The submission requested that the line through the Farmers building be brought forward to match the rear boundary of the properties to the south. In response, it was noted that the heritage area is intended to allow the heritage values of Cuba Street properties to be effectively managed. While the heritage values are most visibly expressed through the facades of buildings fronting Cuba Street, other elements of the buildings can be of significant heritage value. Accordingly the Committee considered that it was appropriate to define the boundary of the heritage area using property boundaries, rather than a set back from the Cuba Street frontage. It was also noted that the Farmers building is a listed heritage building. The Committee did note however that the revised height regimes for heritage areas provided some scope to develop large properties that extend well back from the Cuba Street frontage.

Submitter 21 (Trojan Properties Ltd et al) appeared before the committee in relation to buildings that the group owns along Cuba Street - specifically 160-166 (*see image to right*) & 230-234 Cuba Street. The submitter noted that these properties are described in the plan change as contributory to the heritage of the area, but are not actually listed heritage buildings. As such, these buildings receive an undeserving *de facto* heritage status, increasing restrictions on their development potential.



160-166 Cuba Street

The submitter went on to request that the current heights under the District Plan be retained and that assessment criteria for discretionary activities are sufficient to allow for both reasonable development and heritage protection in the area. Alternatively, the submitter proposes an 18m height limit be applied to non-heritage sites in the area.

The Committee is sympathetic to the submitter's argument, but felt that the proposed Heritage Area approach is the correct way of managing Cuba Street. As cited in the Officer's report and the original plan change documents, these buildings owned by the submitter contribute to the heritage fabric of the street as a unique entity. In this way, the Committee believed that the

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buildings are not necessarily being given an unreasonable *de facto* heritage listing, as much as the entire street is being provided with a worthy and adequate level of protection. The Committee noted that the revised height regime for Heritage Areas should go some way to meeting the submitters concerns.

Submissions 31, 80 and 44 request that the heritage area be expanded to include Eva Street/Egmont Street, properties fronting Webb Street (west of Cuba Street to the synagogue), and the eastern side of Swan Lane. The Committee noted that the Eva Street/Egmont Street area was originally considered for heritage area status. This area was not proceeded with on the basis that the properties in question are too far removed from Cuba Street to warrant inclusion in the heritage area as part of the street's immediate context.

Maurice Goldsmith appeared before the Committee to elaborate on the expansion of the Cuba Street Heritage Area. Mr. Goldsmith explained that the area from the corner of Cuba and Dixon Streets, south to Egmont Street, east to Ghuznee Street, then north to Cuba Street should be included due to its outstanding character.

The Committee agreed with the submitter that the area in question was of a particular character that was potentially worth protecting. It was affirmed by the Committee, however, that the character of the buildings within this block were not in keeping with that of the Cuba Street Heritage Area. Accordingly, the Commissioners elected to reject the submission.

The area does, however, display a high number of significant buildings, and a notable consistency of character. For this reason, the Committee finds merit in the potential creation of a new Heritage Area for the properties discussed in Mr. Goldsmith's evidence, and recommends that the project be added to the further work programme for Council's Heritage Advisors.

Submission 51 (Arco House) suggested the deletion of the Cuba Street Heritage Area. The submitters owns and occupies a building which has been listed in the District Plan for some time, and is concerned at the increasing levels of regulation on listed buildings. Alternatively, if deletion of the area is not accepted, removal of Arco House from Chapters 12, 13 and 21 of the Plan as a listed heritage building was the relief sought by the submitter.

Upon appearing before the hearing committee, Arco House further suggested the potential for the parking lot to the rear of their site (legal description – Lot 1 DP 7842) be removed from the area. While the Committee did not agree with either the deletion of the Cuba Street Heritage Area, or the de-listing of the building as a heritage building, it did find merit in the adjustment of the heritage area boundary to exclude the parking lot to the rear of Arco House.

Many submissions expressed concern regarding the reductions in height proposed for the Cuba Street Heritage Area under DPC 48. The reasoning behind the proposed heights is contained in section 5.48 above. In that section the Committee noted that the proposed heights were not absolutes, but rather indicative of the prevailing built form in the area. Consent maybe sought to build beyond the stated heights, and consent can be granted if it is demonstrated that the proposed building will not detract from the heritage value and character of the heritage area.



*Egmont Street*

In summary, the Committee considered that the proposed Cuba Street Heritage Area was an appropriate mechanism to ensure effective management of the heritage values and character of one of Wellington's most enduring and distinctive city streets. The Committee considered that the area should include all properties that front onto Cuba Street to allow the overall character and heritage values of the Street to be appropriately managed.

### *Decision*

- **Reject** submission 2 insofar as it requests that the boundary of the Cuba Street Heritage Area as it relates to the Farmers Building be amended to match the rear boundary of the properties to the south
- **Accept** submission 9 insofar as it requests that 62 Webb Street be removed from the Cuba Street Heritage Area; and subsequently amend the boundary of the Heritage Area to exclude the property.
- **Reject** submission 26 insofar as it requests that the Footscray Avenue cottages be removed from the Cuba Street Heritage Area, or that DPC 48 be delayed pending consideration of the financial implications of the heritage area
- **Reject** submission 21 insofar as it requests that various properties in the upper Cuba Street area be removed from the Cuba Street Heritage Area
- **Reject** submission 30 insofar as it requests reinstate of the height limits from the Operative District Plan for properties in the Cuba Street Heritage Area
- **Reject** submissions 58, 59 and 60 insofar as they request that various properties in the upper Cuba Street area be removed from the Cuba Street Heritage Area
- **Accept in part** submission 51 insofar as it requests the adjustment of the Cuba Street Heritage Area to exclude the lot to the rear of Arco House (known as Lot 1 DP 7842)
- **Reject** submission 4 insofar as it requests retention of the height limits from the Operative District Plan for the property on the corner of Cuba Street and Dixon Street
- **Reject** submission 8 insofar as it requests retention of the height limits from the Operative District Plan for properties fronting Cuba Street, south of Abel Smith Street
- **Reject** submission 31 (Maurice Goldsmith) insofar as it requests the addition of new buildings into the Cuba Street Heritage Area.
- **Recommend** to Council that further work be undertaken by Council Officers in the assessment and creation of a new Heritage Area in and adjacent to the area from the corner of Cuba and Dixon Streets, south to Egmont Street, east to Ghuznee Street, then north to Cuba Street
- **Reject** submission 80 insofar as it requests that properties fronting Webb Street (west of Cuba Street) be included in the Cuba Street Heritage Area
- **Reject** submission 44 insofar as it requests that properties in the eastern side of Swan Lane be included in the Cuba Street Heritage Area

### **3.79 Wesley Church Heritage Area.**

Specific issues raised in submissions include:

- The Wellington Wesley Parish rejects the introduction of the Wesley Church Heritage Area under DPC 48 and submit that 75 Taranaki Street be removed from the list of identified heritage areas along with any other consequential amendments (submission 88).

### *Discussion*

The Wesley Wellington Parish appeared in opposition to the creation of the Wesley Church Heritage Area. The submitter provided planning and resource management witnesses, as well as an architectural expert. All who spoke on the Parish's behalf agreed that the provisions introduced by the plan change were too onerous and greatly limited the ability of the Church to function as a viable community entity. The submitter argued that the heritage value of the site was derived largely from the fact that the Wesley Church had occupied the site since the late 1800's. The submitter argued that the proposed heritage area would be self-defeating if it was accompanied by such strict planning provisions that it made the site incapable of reasonable use, and forced the Wesley parish to move elsewhere. The submitter also noted that the church building and the two large pohutukawa trees at the front of the site were already listed heritage items. The submitter considered that these were the items that defined the character of the site, and additional heritage controls (in the form of a heritage area) were not required.



It was also alleged at the hearing by the submitter's legal counsel that the requirement for consultation between the Council and the submitter had been fundamentally breached as no consultation had in fact occurred. The Chair of the Committee took exception to this allegation and, following a brief adjournment to question Council officers, it became clear to all that letters had indeed been sent to the submitter by the Council regarding the proposed heritage area listing. The Council Officers tabled copies of the letters in question. The Committee were therefore satisfied that the Council had fulfilled its responsibilities in seeking to initiate consultation with the Wesley Parish. In coming to its decision about the appropriateness of the Wesley Church Heritage Area, the Committee wished to emphasise that the decision was made on the facts of the case and it was not swayed by the allegations raised by the submitters counsel.

During the course of the hearing, the Committee had heard from another submitter (Jim Lynch) who had argued that in some situations, the use of a building or a site was a significant contributor to its heritage value and that in these situations the viable on-going use of a proposed heritage item or area should be a significant consideration for the Committee in deciding whether such heritage listings are appropriate. In the discussion on this heritage area, the Committee questioned the Council's Heritage Advisor (Michael Kelly) regarding the principle reasons for listing the Wesley Church as a heritage area. Michael Kelly acknowledged that the historical and present day use of the site by the Wesley Parish was a significant factor in the area being proposed for listing. Mr Kelly conceded that if the site was no longer used by the Wesley Church then its value as a heritage area would likely be diminished. With these factors in mind, the Committee agreed with the submitter that the introduction of the Heritage Area had the potential to limit the functionality and viability of the Church. The Committee also agreed that the historic importance of the site was intrinsically tied to its ongoing occupation by the Wesley parish. In light of the fact that the heritage importance of the site was more a result of its ongoing use by the Wesley parish (rather than from quality of the buildings and structures on site) the Committee considered that the heritage area tool was likely to be a less effective mechanism for managing the social and cultural heritage values of the area.

The Committee also considered that the protection provided to the Chapel as a listed heritage building, and the listing of the two pohutukawa trees at the front of the site, was sufficient to protect the 'physical' heritage values of the site and its key character values.

Furthermore, the Committee made a site visit to the Church during deliberations. It was agreed that any future building(s) on the site should be sympathetic to the heritage values of the key existing church buildings. The Committee saw merit in future development of the site if it would help ensure the on-going viability of the church, and increased the amenity values of the Parish and the community as a whole.

Overall, the Hearing Committee considered that the proposed heritage area was not the most appropriate means by which to manage the historic heritage values associated with the Wesley Church site. Deleting the Heritage Area would provide greater scope for the Church to maintain reasonable development rights, as well as providing for the social and cultural needs of the church's diverse and growing congregation. The Committee was satisfied that the existing heritage listings and the revised heritage provisions outlined in Plan Change 43, together with the urban design provisions in the District Plan, would be sufficient to ensure on-going protection for the historic heritage values of the site.

### *Decision*

- **Accept** submission 88 (Wesley Wellington Parish) insofar as it requests deletion of the proposed Wesley Church Heritage Area.

### **3.80 Courtenay Place Heritage Area.**

Specific issues raised in submissions include:

- District Plan Change 48 in particular the Courtenay Place Heritage Area provisions, with have a distinctly negative effect on the value of the Trust's principle asset, namely the Hannah Playhouse containing the Downstage Theatre. Delete provisions 13.6.3.1.5 and 13.6.3.1.6 in favour of the existing conditions (i.e. provisions of the current plan) in relation to the Courtenay Place Heritage Area (submission 23).
- Accor's submission is that inclusion of 24 Cambridge Tce within the Heritage Area, and the subsequent application of Rule 13.4.8 and Standard 13.6.3.1.6 is inappropriate and overly restrictive of Accor's future use of the site. Under Rule 13.4.8, once constructed to its consented height, any future alterations above the 18m level would require consent as a Discretionary Activity (Unrestricted). Exclude Lot 1 (being a subdivision of Lot 1 DP67814) from the Courtenay Place Heritage Area, as shown by Appendix 14, so that it is subject to the underlying Central Area height limit of 27 metres (submission 28).
- Delete Rule 13.6.3.1.5 and Rule 13.6.3.1.6 and retain the operative maximum height provisions (as per Planning Map 32) for the Courtenay Character Area (submission 30).
- The submitter owns and occupies a building which has been listed in the District Plan for some time, and is concerned at the increasing levels of regulation on listed buildings. Deletion of the Courtenay Place Heritage Area and all associated policy, rules, guidelines and other provisions from Chapters 12, 13 and 21 of the Plan. If the above submission is not accepted, removal of buildings and land owned by Allen Blair Properties Ltd from Chapters 12, 13 and 21 of the Plan as listed heritage buildings (submission 50).
- To extend the Courtenay Place Heritage Area to number 29 on the north side of Majoribanks St and number 20 on the south of Majoribanks St, 20 being on the corner of Lipman Street, as this area includes a number of older wooden shops and restaurants that contribute to a distinctive character (submission 62).
- That consideration be given to regularising the boundaries of the Courtenay Place Heritage Area to remove its intrusion into Mount Victoria at the bottom of Majoribanks Street and northwards along Roxburgh Street to Hood Street as this block is within Mount Victoria (submission 27).

- The submitter generally supports the creation of the Courtenay Place Heritage Area and the reduction in buildings heights to 18 metres, provided there is some discretion to consider well designed, taller buildings. Approve the 18m maximum height in the Courtenay Place Heritage Area with some design discretion for good design. Greater care needs to be taken with additions to heritage buildings (the submitter cites the proposed Palliser development at 8 Cambridge Tce as an example of a poor heritage addition) (submission 87).

### *Discussion*

The Courtenay Place Heritage Area is centred on Allen Street and Blair Street, an area of largely intact warehouse buildings that were used for fruit and vegetable markets up until 1993. Since then the area has evolved into the main entertainment precinct in the city, containing many bars, restaurants and a number of important theatres and cinemas. Also noteworthy is the characteristic of Courtenay Place as one of the most vibrant areas of the city around the clock - and the important vista down Courtenay Place terminating at the Embassy Theatre is an iconic Wellington vista.

A significant majority of buildings within the Courtenay Place Heritage Area are already listed heritage buildings. Background information from the section 32 report further elaborates on the setting of Courtenay Place:

The **architectural** and **aesthetic** value of the Courtenay Place Heritage Area is derived from its townscape quality which is significant for the consistency and quality of the buildings, the range of heritage on display and the low-rise and open character of the area. There are excellent examples of buildings from the late Victorian period to the present day, with a particular concentration of buildings of the first two decades of the 20<sup>th</sup> century.

Blair and Allen Streets, in particular, contain buildings of a relatively uniform height and scale and while their design often varies, the common purpose and architectural character of each building is such that they form a compatible whole. As befits the nature of the uses these buildings were intended for, they lack extensive decoration, which enhances their visual cohesiveness and demonstrates on a fundamental level the link between use and design. Together these two streets have a strong sense of place that enhances the heritage value of the wider area.

While the remainder of the area, particularly Courtenay Place itself, contains buildings of much greater variety in age, style and scale, this contrast plays a key part in the overall heritage value of the Courtenay Place Heritage Area.

Because the buildings in this area have remained in reasonably authentic condition for up to a century or more, they provide a valuable record of commercial, warehouse and office building technology from the late 1890s onwards. The work of many notable Wellington architects is represented by buildings in Courtenay Place and environs.

The **historic** significance of this area lies to a considerable degree in the sheer diversity of its history. It has been a place of industry, commerce, entertainment, transport and living, and while Courtenay Place and its associated streets bear no evidence of their



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swampy beginnings, there is an overall theme of continuous historical development that adds to its obvious visual quality.

Against a backdrop of anxiety about poor housing and unsanitary living conditions, the transformation of the area surrounding what was Grainger Street into a warehousing precinct in the early 1900s was a calculated and **historically** significant attempt at urban renewal. Blair and Allen Streets also have important historic value as the focal point of the area that housed the wholesale produce markets for the city for approximately 90 years, from shortly after the turn of the century until 1993. The markets saw an immense amount of life, some of it when the city was otherwise quiet in the early hours of the morning, and they brought into the area a wide variety of characters, including growers, wholesalers, auctioneers, retailers, truckies and others. The markets strongly influenced the growth and development of this part of the city, and left behind an important legacy of Edwardian warehouse buildings.

Courtenay Place's growing **social** value had its origins in the theatres, hotels and cafés that appeared in the 20<sup>th</sup> century. Today it is Wellington's premier night spot and nationally (and even internationally) famous for that. Its theatres have long been a significant part of the city's cultural life and include landmark buildings such as the Embassy Theatre (1924) and Hannah Playhouse (1974), and the historically significant Paramount (1917), Wellington's oldest surviving picture theatre.

Submission 23 related to Hannah's Playhouse on the corner of Courtenay Place and Cambridge Terrace. The submission requested that the height limits from the Operative District Plan (27 metres) be retained for the site to allow scope for adaptation of the theatre to meet on-going needs. Hannah's Playhouse occupies a key location, being an important corner site at the entrance to Courtenay Place. The Committee noted that on sites such as this (on dominant corners) it could well be appropriate to develop a taller building, of high quality that helps to reinforce the key corner, (that is taller than 18 metres). The Committee considered that the heritage area provisions should be flexible enough to allow such a proposal to be considered by way of a consent application.

The height limits proposed for the heritage area are discussed in more detail in section 3.48 above. In that section, it was noted that while the Courtenay Place Heritage Area had a strong built form character based on existing three storey buildings with a street edge height around 12-15 metres above ground level, the height provisions should provide some scope to consider applications for additional height. The hearing Committee considered that these amendments, in conjunction with the amendments to policy 12.2.5.2 should be sufficient to meet the submitters concerns.

Submission 30 requested that the proposed height limits be deleted. Given the uniformity of heights over much of the Courtenay Place Heritage Area, particularly in the core area of Blair and Allen Streets, and the role that building height played in determining the character of this area, the Hearing Committee considered that setting specific height limits for the heritage area was appropriate. The Committee did not consider that deleting the height provisions and reverting to the height controls in the Operative District Plan was an appropriate means by which to manage the historic heritage values of the Courtenay Place Heritage Area.

Submission 28 related to Accor House (former Post Office Building) which is located on the southern edge of the heritage area. The property includes the former Post Office Building fronting Cambridge Terrace with an empty carparking area to the rear. The property was included in the heritage area because of its proximity to the rear of the properties fronting the southern edge of Courtenay Place, and because the former Post Office building at the front of the site is a listed heritage building. At the hearing, the submitter clarified that they did not oppose the inclusion of the former Post Office Building within the heritage area, but requested that the empty section to the back be excluded. The submitter noted that consent had already

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been granted for a new building on the rear site, and that the site had been recently subdivided off from the building in front.

The Committee agreed with the submitter that there was little merit in retaining the rear section within the heritage area when it was on a separate lot, and consent had already been granted for a new building on the site. As such, the Committee considered that the heritage area boundary should be amended to exclude the currently vacant portion of land at 8 Alpha Street.

Submission 50 (Allen Blair Properties Ltd) was concerned by increasing levels of regulation for listed heritage buildings. The submission requested that the proposed heritage area be deleted, or the submitters building be de-listed and removed from the heritage area. The submission contained no details to identify the property in question, but in general the Committee noted that the removal of individual properties from the heritage area was not supported. Removing individual properties from a heritage area was contrary to the approach which focuses on managing the heritage value of the area as a collective.

Submission 62 requested that the heritage area be extended up Majoribanks Street to include a collection of small shops/houses. The Committee noted that in defining the boundaries of the Courtenay Place Heritage Area, a decision was taken to limit the area to those properties that contribute to the immediate setting and context of Courtenay Place, and Blair and Allen Streets. The orientation and narrowness of Majoribanks Street means that it is not highly prominent when viewed from Courtenay Place. Accordingly the two buildings that frame the corner of Majoribanks Street and Kent Terrace (the Embassy Theatre and Clemengers) are the only properties included in the heritage area. While the properties further up Majoribanks Street have heritage value due to their age and charm, the Committee considered that their inclusion in the heritage area would be inconsistent with the intention of focusing the heritage area on the immediate context of Courtenay Place – and subsequently considered that the submission be rejected.

Submission 27 requested that the heritage area boundary be amended so that it does not include any properties located in Mt Victoria. The Committee noted that this submission was later withdrawn by further submission.

Submission 87 generally supported the heritage area, provided the proposed height of 18 metres had some discretion for quality design. The Committee considered that this submission was consistent with the revised approach, whereby consent may be granted to build higher than the specified thresholds where it could be demonstrated that the design was appropriate and the overall proposal fit the surrounding context.

### *Decision*

- **Reject** submission 23 insofar as it requests that the Hannah's Playhouse site be removed from the Courtenay Place Heritage Area
- **Accept** submission 28 insofar as it requests the removal of 8 Alpha Street (Lot 1, being a subdivision of Lot 1 DP 67814) from the Courtenay Place Heritage Area; and subsequently amend the boundary of the Heritage Area to exclude the property.
- **Reject** submission 50 insofar as it requests deletion of the Courtenay Place Heritage Area, or removal of the submitters property from the heritage area
- **Reject** submission 30 insofar as it requests that the height limits from the Operative District Plan be reinstated
- **Reject** submission 62 insofar as it requests that properties on Majoribanks Street be included in the Courtenay Place Heritage Area
- **Reject** submission 27 insofar as it requests that Mt Victoria properties be excluded from the Courtenay Place Heritage Area
- **Accept** submission 87 insofar as it generally supports the proposed heritage area

## Chapter 3 – General Provisions

### 3.81 Information Requirements.

Specific issues raised in submissions include:

- Modify the wording at the end of the second paragraph of section 3.2.2.14 (wind information requirements) to read "... against any building which existed within the previous 3 years" (submission 49).
- Add at the start of the last bullet point in section 3.2.2.15 the words "where a consent is required within the Pipitea Precinct, the effect ..." (submission 49).
- That the inclusion of site history information detailing all activities that have previously been carried out on a site be included in every consent application in section 3.2.2.6 and 3.2.3.5 of the plan (draft wording supplied) (submission 68).

#### *Discussion*

Submission 49 sought to amend the information requirements relating to the wind provisions so that in the case of a vacant site, the wind test would be carried out for any building which existed on site in the past three years. The submission makes the point that there may be sites in the city that have not been covered by buildings at all, or certainly not in recent times. At the hearing, the submitter stated that while the recommendation of the Officer would not be strenuously opposed (ie. that any building which existed on site in the past 10 years was more reasonable than 3 years), they maintained that 3 year period was more appropriate as information is more likely to be available on buildings that existed in that time. Having considered the points raised by the submitter and the Officer's report, the Committee feels that a five year period is a reasonable time period with which to establish a comparison. If any building existed before that period, the baseline used will be a vacant site, and as the submitter points out, it is not always certain that a vacant site would present a more favourable comparison than a site containing a building.

Submission 49 also requested that additional text be added to the last bullet point of 3.2.2.15 to clarify that the traffic report is only required as part of a resource consent application. This submission is accepted by the Committee, and it is recommended that the bullet point be amended as follows:

- **Where consent is required** in the Pipitea Precinct the effect that the extra traffic will have on the roading network, and in particular, Thorndon, Waterloo and Aotea Quays, and the motorway.

The issues raised in submission 68 were discussed as part of the contaminated sites policies discussion (refer to Objective 12.2.14).

#### *Decision*

- **Accept** submission 49 in part, by amending section 3.2.2.14 to state that where a site has been cleared, then the test should be against any building that existed on site in the past 5 years.
- **Accept** submission 49 insofar as it requests amendments to 3.2.2.15
- **Reject** submission 68 on the basis that a subsequent plan change will consider the implications of this request in a more comprehensive manner.

### 3.82 Definitions.

Specific issues raised in submissions include:

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### Fixed Plant

- The submitter has concerns with the proposed fixed plant noise rule. Generally noise emitted from telecommunication facilities complies with the provisions of the Operative District Plan. While no evidence is provided that these facilities have resulted in a noise nuisance, the effect of the Proposed District Plan Change is that a number of facilities now require resource consent, with costs, potential delays and uncertainties associated with this process. Either that the proposed definition of 'Fixed Plant' in Chapter 3 and Rule 13.6.1.1 be deleted; or such other relief to like effect to remedy the submitters concerns; and any consequential amendments necessary as a result of the amendments to grant the relief sought above (submission 41).

### Public Environment

- Define Public Environment to exclude loss of amenity to adjacent building owners or strata title owners (submission 43).

### Building Mass

- Delete the building mass definition (and any related definitions) as the proposed building mass provisions are not supported (submission 45).

### Office Activities

- Add at the end of the definition for 'Office Activities' (within the Pipitea Precinct) the words "... other than those associated with Operational Port Activities" (submission 49).

### Site Area

- Delete the definition of Site Area contained in Chapter 3 of proposed plan change 48. Amend the definition of Site Area contained within rule 13.6.3.2.1 as follows: 'Site Area - means the total area of the site (or sites) that forms part of the development, but does not include any portion of the site subject to strata title. See also the definition of site' (submission 18).

### *Discussion*

Submission 41 requested that the definition of fixed plant be deleted. The Committee did not support deletion of the definition, but noted that in section 3.44 the standards applying to fixed plant noise had been amended and that this may be sufficient to meet the submitter concerns.

Submission 43 requested that a definition for 'public environment' be added to the plan which specifically excludes loss of amenity to adjacent building owners or strata title owners. The submitter considered that this definition would be used to assist in the application of the height and mass provisions contained in rule 13.3.8. While the Hearing Committee agreed that there should be greater clarification as to what was meant by the 'public environment' in terms of rule 13.3.8, it considered that this should be built into the rule rather than in a separate definition. The Committee directed that rule 13.3.8 be amended as follows:

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13.3.8.4	height (discretion is limited to the effect of building height on: <u>the amenity of surrounding streets, lanes, footpaths and other public spaces; and</u> <u>the historic heritage value of any listed heritage item in the vicinity; and</u> <u>the urban form of the city; and</u> <u>the character of the surrounding neighbourhood, including the form and scale of neighbouring buildings; and</u> any adjacent Residential Area) (standard 13.6.3.1)
13.3.8.5	mass (discretion is limited to the effect of building mass on: <u>the amenity of surrounding streets, lanes, footpaths and other public spaces; and</u> <u>the historic heritage value of any listed heritage item in the vicinity; and</u> <u>whether the proposed building will have on-going access to daylight; and</u> <u>the character of the surrounding neighbourhood, including the form and scale of neighbouring buildings; and</u> any adjacent Residential Area)) (standard 13.6.3.2)

Submission 45 requested that the definition of ‘building mass’ be deleted. This submission was not supported on the grounds that the Committee considered that the building mass provisions should be retained.

Submission 49 requested that the definition of office activities in the Pipitea Precinct be amended as below:

**OFFICE ACTIVITIES (FOR THE PURPOSE OF THE PIPITEA PRECINCT):** means an administrative, professional, or commercial office with a total floor area of greater than 500 sq m. other than those associated with Operational Port Activities.

For the sake of clarity, the Committee considered that this submission should be accepted, as it was always intended that operational port activities should be able to continue in the Pipitea Precinct as permitted activities.

Submission 18 requested that the definition of ‘site area’ contained in Chapter 3 be deleted on the basis that it duplicated the definition contained in rule 13.6.3.2.1. The submission also requested that the definition of site area in rule 13.6.3.2.1 be amended as follows:

**Site Area** - means the total area of the site (or sites) that forms part of the development, but does not include any portion of the site subject to a strata title. See also the definition of site.

This submission was supported by the committee on the grounds that it would improve the clarity of the building mass provisions.

### *Decision*

- **Reject** submission 41 insofar as it requests that the definition of ‘fixed plant’ be deleted
- **Accept** submission 43 insofar as it requests clarification regarding the extent of the ‘public environment’ in rule 13.3.8
- **Reject** submission 45 insofar as it requests that the definition of ‘building mass’ be deleted
- **Accept** submission 49 insofar as it requests amendments to the definition of ‘office activities’
- **Accept** submission 18 insofar as it requests amendments to the definition of ‘site area’

## 3.83 Central Area Urban Design Guide.

Specific issues raised in submissions include:

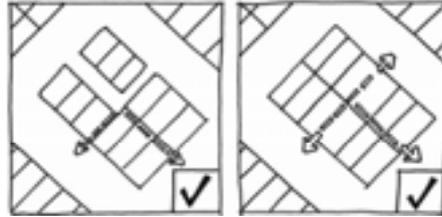
- That the Central Area Design Guide includes a section on block permeability, including a map of suggested lanes and walkways through oversized blocks in Te Aro (submission 24).
- That definitions provided within any design guide to the District Plan should ensure that the width of the remaining 'non-café' public pedestrian way is sufficiently wide to accept the peak pedestrian flow and does not disaffect traffic and pedestrian safety. A reduction in the width of the "cafe" zone for current and future cafe owners may be necessary (submission 27).
- Modify the Plan, including the Design Guide, to encourage and enable buildings to be designed with outdoor living areas projecting over the street without the need for an annual encroachment licence (submission 65).
- While welcoming the proposed changes to Urban Design in principle, we have reservations as the level of discretion the city council will gain from this proposal. A high degree of objectivity measures in the guide is required to mitigate potential personal bias creeping into decisions (submissions 47 & 47A).
- Modify the Plan, including the Design Guide, to provide clearer and less subjective design guidance to decision-makers and property developers (submission 65).
- We support proposals regarding urban design but note that generally the chosen photographs seem inappropriate, esp. pp 9, 15, 17, 18, 23 and particularly 19, and that the five distinct areas (Central Area Urban Design guide page 3) need to be aligned or coordinated with the four 'quarters' of the city (submission 48).
- Item G4.5 of the Central Area Urban Design Guide to be amended to refer specifically to the treatment of boundary walls, with allowance given for either (a) the boundary wall to remain blank, or (b) alternative options such as appropriately located and designed signs to be deemed acceptable (submission 54).
- That the provisions of the new Urban Design Guide be amended to give effect to Progressive's concerns regarding the operational characteristics of large format retail (submission 67).
- Deletion of the paragraph headed "Bulk" in Section 3 of the Proposed Design Guide and deletion of paragraph G3.8 under the heading "Building Bulk" (submission 78).

### *Discussion*

Submission 24 requests that additional guidance be included in the design guide relating to block permeability and through block links. In response, it is noted that one of the central city's strengths is its walkability, and this can be enhanced by increasing the options for pedestrians as they move around the central city. However, the Te Aro grid is formed by large block structures which reduce opportunities of permeability for pedestrians moving through Te Aro. While the street system provides the main access, there are numerous informal links that exist through lanes, parks and squares and under-utilised open spaces that allow people the opportunity to move through the area.

The Committee agreed that opportunities to provide mid-block connections to improve accessibility and safety for pedestrians should be encouraged. These could be by building and enhancing the existing informal system that already exists or by providing new links mid point through the larger blocks within the Te Aro grid. The provision of through block links is difficult to require by rule because it relies on achieving a unique combination of factors:

- a location that would benefit from a link,
- a development that can sustain a link,
- a development site that extends through a block, and
- a land owner that agrees to provision of a link through there site.



As such, the Committee agrees with the advice of officers that the provision of through block links is more likely to occur through Council providing incentives and advice during the early stages of the consent process. The Hearing Committee considered that the Plan does need to be more specific in respect of what it is seeking to achieve with through block links. Consequently, specific design guidance is included in the Central Area Design Guide, as requested by the submitter. The Committee did however consider that a policy was also required to provide some context for the guidance material. Accordingly, policy 12.2.5.4 has been amended to acknowledge that provision of a link is an urban design outcome that is beneficial to the public environment. The Committee considered that the provision or otherwise of such pedestrian links should be a key feature of certain resource consent applications. The inclusion of a specific policy and guideline was deemed more likely to be acknowledged by applicants and Council planners assessing resource consent applications.

The new policy and guideline for the Central Area Design Guide is outlined below. The policy is to be included as part of the ‘pedestrian shelter’ policies.

Central Area Objectives and Policies:

**12.2.6.11 Encourage the maintenance and enhancement of existing pedestrian thoroughfares as well as the creation of new pedestrian thoroughfares through city blocks during site redevelopment.**

**METHODS**

- Rules
- Design Guides
- Pipitea Precinct - Masterplan
- Port Redevelopment Precinct – Masterplan

...

*A comprehensive network of public pathways, partially independent from the main city pedestrian street system, is important in that it provides short cuts through large city blocks and can also provide pedestrian shelter.*

...

*When assessing a consent application not to provide verandah cover, or in assessing whether a proposal would benefit from a public thoroughfare, Council will consider:*

- ...
- *Whether the site is contained within a large city block which would benefit from the provision of a public thoroughfare in order to improve block permeability for pedestrians.*

*The environmental result will be safe, well designed and weather proof protection of pedestrian routes and other public spaces in the Central Area. Similarly, pedestrian permeability of larger city blocks through the use of pathways will be improved.*

Central Area Design Guide:

**O3.5** To enhance the informal pedestrian network within the Central Area, by encouraging the retention and enhancement of existing pedestrian thoroughfares, and promoting the creation of new thoroughfares where they would enhance walkability and permeability for pedestrians.

**G3.12** Pedestrian Block Permeability

To maintain or enhance existing pedestrian thoroughfares through a site, or consider the creation of a new public thoroughfare as part of the site redevelopment where a thoroughfare would enhance walkability and permeability for pedestrians.

*A comprehensive and connected series of public pathways, partially independent of a city's street system, is important for people's collective orientation and their knowledge of different parts of the city. These pathways form short cuts, improve walkability, provide access to sheltered areas of public space, open up centres of larger city blocks and help inhabitants to develop a strong sense of place and attachment to parts of their city.*

Submission 27 requests that the design guide be amended to include controls on the maximum width of footpaths that can be occupied by café activities, while submission 65 requests that the design guide be amended to encourage buildings to provide outdoor living space that projects out over the street, without the need for annual encroachment licence. The management of the use of public footpaths is not dealt with in the District Plan. This issue falls under the ambit of the Council's Encroachment Bylaw which has recently been reviewed in relation to the leasing of footpath space.

Submissions 47 and 47A support the proposed design guide in principal, but are concerned with the level of discretion that the Council now has over building design. As noted elsewhere in this report, The Committee believed that improving the overall urban design quality in the Central Area was one of the most important issues of Plan Change 48. The purpose of the revised approach was to ensure a general improvement to all buildings in respect of their urban design quality. In light of this, the Committee considered that in order to achieve a better standard of urban design, there was a need for greater Council discretion over this issue. The Committee was mindful that this discretion would place greater onus on the Council to ensure that its discretion is used wisely when considering applications against the design guides (ie. in providing consistent, timely and transparent urban design advice). The Committee agreed that elevating the design assessment to a Discretionary Activity (Restricted) will increase the importance of pre-application meetings between developers, architects and Council's urban design team. The Committee noted its support for the changes being made within the Council's urban design team to deliver high quality urban design advice to customers in a timely manner.

Submission 65 considers that the design guide should be amended to provide clearer, less subjective design guidance to decision makers and property developers. When DPC48 was prepared, the design guides for the Central Area were completely reviewed and redrafted. The Committee considered that the revised Design Guide was a vast improvement on the previous design guide, especially now that the content had been updated. Given that every development proposal is different, the application of the guidelines will need to reflect those different circumstances - and because of this, it may appear that the assessments contain some subjectivity. In spite of this, the Committee was satisfied that the proposed design guides provide a robust framework for the assessment of new Central Area buildings and structures.

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Submission 48 supports the proposed design guide, but requests that photos 9, 15, 17, 18, 19 and 23 be replaced by more appropriate images. The Committee is satisfied, based on the advice of officers, that the photos used in the design guide are generally appropriate for demonstrating the relevant guideline.

Submission 48 requests that the Central Area Design Guide be amended to aligned with the city's 'Four Quarters'. The Committee did not support this, largely on the basis that the 'four quarters' relate to a marketing strategy for retail and entertainment activities in central Wellington. The quarters do not relate to the physical form of the city and are therefore not an appropriate means of managing urban form and urban design in the Central Area.

Submission 54 requests that guideline G4.5 be amended in relation to boundary walls, with allowance given for either (a) the boundary wall to remain blank, or (b) alternative options such as appropriately located and designed signs to be deemed acceptable. The guideline currently reads:

G4.5 Articulate or eliminate wall surfaces that are featureless or plain.

The height limits in the Central Area provide for new buildings that will be significantly taller than the height of existing buildings in the surrounding area. Consequently, the treatment of boundary walls is important as the upper storeys of many new buildings will be highly visible from surrounding spaces, and will remain visible until adjoining sites are eventually developed up to a similar height. The Committee considered that while boundary walls can eventually be built out, their design should still be carefully considered, though they may not be required to provide the same level of articulation and detailing as street elevations. The level of articulation should increase in proportion to the visibility of the proposed building or structure. Accordingly guideline G4.5 is to be retained to ensure that some consideration of all elevations is carried out.

Submission 67 requests that the urban design guide be amended to better allow for the operational characteristics of large format retail. The Committee did not agree with this submission, noting that the guidelines are based on sound urban design principals (rather than on the characteristics of specific activities) and that the proposed design guides would be appropriate for the assessment of large format retailing. Issues such as the creation of ground level open space, and the requirement to provide active frontages may place some constraints on large format retailing, but they are considered important in ensuring that new developments and buildings make a positive contribution to the public environment of the city. The Committee discussed various examples of large format retail sites around the central city and concluded that there were examples currently operating that have been sensitively incorporated into the existing context (eg. Thorndon New World).

Submission 78 requests the deletion of the paragraph headed "Bulk" in Section 3 and paragraph G3.8 under the heading "Building Bulk". This is consistent with one of the submitter's other requests that the proposed building mass provisions be deleted from DPC 48. In light of the Committee's decision to retain the proposed building mass provisions, the Committee did not believe it appropriate to delete the reference to bulk in the design guide. The design guide is the most appropriate tool the Council has in considering the urban design implications of the 75% mass rule. In some circumstances, the sensitive treatment of building mass is important in ensuring new buildings are successfully integrated into the surrounding context. This is particularly so when the mass of a new building is significantly larger than the predominant scale of surrounding buildings.

### *Decision*

- **Accept** submission 24 insofar as it requests additional guidance in relation to block permeability and through block links

- **Reject** submission 27 insofar as it requests that the design guide be amended to manage use of public footpaths by café activities
- **Reject** submission 65 insofar as it requests specific guidance in the Central Area Urban Design Guide encouraging outdoor living areas to extend over the street.
- **Accept** submission 47 and 47A insofar as it requests that Council enhance its internal processes in light of the increased discretion over building design provided under the DPC 48
- **Reject** submission 65 insofar as it requests insofar as it requests that the design guide be re-drafted to improve clarity and remove subjectivity
- **Accept** submission 48 insofar as it supports the proposed Central Area Urban Design Guide
- **Reject** submission 48 insofar as it requests that alternate photos be used in the design guide
- **Accept** submission 48 insofar as it requests that the Central Area Urban Design Guide be aligned with the city's 'four quarters'
- **Reject** submission 54 insofar as it requests that the design guide make provision for blank boundary walls
- **Reject** submission 67 insofar as it requests that guidelines be inserted in to the design guide to recognise the operational constraints of large format retailing
- **Reject** submission 78 insofar as it requests that content relating to bulk and building bulk be deleted from the design guide

### 3.84 Central Area Urban Design Guide, Appendix 1 - Pipitea Precinct.

Specific issues raised in submissions include:

- The submitter notes that the naming of the Precinct in the Appendix 1 map is incorrect (Appendix 1 Pipitea Precinct page 1) (submission 48)
- Modify the map on page 1 of the Central Area Design Guide to align with changes requested in other parts of CentrePort's submissions (submission 49).
- GWRC supports a number of transportation principles identified in the plan change and supported its objectives, policies, methods and design guides, and seeks that the general provision for cyclists be stronger and more explicit in some of the precinct design guides (submission 68).
- Delete the footnote on page 3 of the Central Area Design Guide – Appendix 1 Pipitea Precinct (submission 49).
- Add at the end of the final bullet point on page 5 of the Central Area Design Guide add the words "the blocks shown in the masterplan for the Port Redevelopment Area (Chapter 13, Appendix 02A) are considered appropriate for this area" or similar wording (submission 49).

#### *Discussion*

Submission 48 noted an incorrect notation to the map on page 1 of the design guide. The map referred to the Takutai Precinct when it should refer to the Pipitea Precinct. The Committee agreed that this change should be corrected.

Submission 49 requested that the map on page 1 be amended to acknowledge requested changes in the boundary of the Port Redevelopment Precinct. This submission was accepted for those boundary adjustments that were agreed by the Committee.

Submission 68 requested that the design guide make stronger provisions for cyclists. The current objectives relating to access are:

- (PI) 01.1 To promote walking as the primary local transportation mode.
- (PI) 01.2 To provide convenient and extensive opportunity for pedestrian access to and from all parts of the surrounding city, particularly the central city and waterfront.

**(PI) O1.3** To provide a choice of safe, convenient access routes within the area for all modes of transport.

**(PI) O1.4** To allow for the extension of all public transport networks into the area.

Objective O1.3 provides for safe and convenient access routes for all modes of transport. While cycling could be specifically highlighted the Committee considered that this would be of limited value as the existing objective provides scope to consider the access needs of cyclists. Guideline (PI) G1.10 also specifically provides for consideration of cycle access:

**(PI) G1.10** Ensure that the needs of cyclists are considered and provided for, including by extending cycling routes through to the city centre.

The Committee considered that guideline G1.6 could be improved by the addition of a specific reference to cyclists:

**(PI) G1.6** Allow for the street and open space structure to be used by pedestrians, cyclists and vehicles, providing different carriageways or surfaces as necessary for safety.

Submission 49 requested that the footnote at the bottom of page 3 be deleted. The footnote at the bottom of page 3 is a definition of the term 'manawhenua'. The footnote reads:

Customary authority and title over land and other taonga (treasures)

The Hearing Committee considered that the footnote should be retained on the grounds that it helped to clarify the introductory text of the design guide.

Submission 49 requested that the final bullet point on page 5 of the design guide be amended by adding the words "the blocks shown in the masterplan for the Port Redevelopment Precinct (Chapter 13, Appendix 02A) are considered appropriate for that area". This submission was accepted.

### *Decision*

- **Accept** submission 48 insofar as it requests that a reference to the Takutai Precinct on page one be corrected to read Pipitea Precinct
- **Accept** submission 49 insofar as it requests amendments to the precinct boundaries shown in the map on page one of the design guide.
- **Accept** submission 68 insofar as it requests stronger provision for cyclists in the design guide
- **Reject** submission 49 insofar as it requests deletion of the footnote at the bottom of page 3
- **Accept** submission 49 insofar as it requests that additional text be added to the last bullet point on page 5 relating to block size

### **3.85 Central Area Urban Design Guide, Appendix 2 - Te Aro Corridor.**

Specific issues raised in submissions include:

- The Central Area Urban Design Guide, Appendix 2 - Te Aro Corridor National War Memorial Area: it is considered that this section was drafted prior to the proposal being developed for a National War Memorial Park. We seek that the design guide reflect the potential for a park to be created (final location undefined) and that guidelines with respect to landscaping TA G1.1 G1.3 be less prescriptive (submission 39).
- The NZHPT supports the objectives and guidelines for the National War Memorial Area (submission 72).

### *Discussion*

Submission 39 (Ministry of Culture and Heritage) requested that guideline (TA) G1.3 be amended to recognise the potential for a National War Memorial Park to be developed in front

of the existing war memorial. Guideline G1.3 was developed on the understanding that a park was likely to be developed opposite the National War Memorial and included a concept plan of a park for guidance purposes. At the Hearing the submitter noted that the park design incorporated in the design guide was the result of old discussions. The submitter noted that the project has now progressed to the pre-design stage and considered that the design guide should be amended to reflect the most current thinking regarding the design of the park. However at the time of the Hearing the submitter was not in a position to provide any clarification as to the likely final design for the proposed park. On the basis that the park design was not yet finalised, the Hearing Committee considered that there was little benefit in amending the concept plan that was included in the design guide. Rather the Committee considered that this matter could be most effectively dealt with by adding the following note to guideline G1.3:

**This plan is a concept only and does not represent a final agreed design for the National War Memorial Park.**

The support of submission 72 was noted and accepted.

### *Decision*

- **Accept** submission 39 insofar as guideline (TA) G1.3 regarding the proposed National War Memorial Park is amended to note that the indicative landscape plan included in the guideline does not represent a final agreed plan for the park.
- **Accept** submission 72 insofar as it supports the guidelines relating to the National War Memorial Area

### **3.86 Central Area Urban Design Guide, Appendix 3 - Heritage Areas.**

Specific issues raised in submissions include:

- Amend the BNZ/Head Office Heritage Area Design Guide (Appendix 3) by the inclusion of the following: - Insert the words "heritage listed" prior to the words "building" and "features" in objective 01.1; - Include an additional guideline as follows "Respect that owners of non-heritage buildings may either wish to retain, add to, or demolish and redevelop their sites with a new building, and that building height and mass above permitted activity "thresholds" will be assessed on a site specific basis" (submission 16).
- That the language used in the Heritage Area design guides to control heritage activities must be direct and clear rather than suggestive and open to wide interpretation (submission 27).
- The map at the start of the Heritage Area design guides is difficult to read and needs stronger hatching to denote heritage areas (submission 48).
- The NZHPT would appreciate it if the Council would alert users to the requirements pertaining to archaeological sites under the Historic Places Act (wording supplied) (submission 72).
- The NZHPT supports Appendix 3 in its entirety with one minor exception, that the guideline regarding uncovering of archaeological remains during construction be added to ALL heritage areas (i.e. BNZ, Civic Centre and St Johns Church) (submission 72).

### *Discussion*

Submission 16 requested that additional text be added to the BNZ/Head Office Design Guide to clarify that non-heritage sites may be developed to heights above those specified in the District Plan. The Hearing Committee considered that matter of height in more detail in section 3.48 above, where it was agreed that there should be scope for additional building height in the BNZ/Head Office Heritage Area. The Committee agreed that there should be additional guidance added to the design guide, particularly relating to the development scenario that was discussed and endorsed in section 3.48.

Submission 27 considered that the wording of the heritage area design guides should be clear and direct, rather than suggestive and open to interpretation. In response the Committee noted that design guides are only guides, and therefore must contain a degree of interpretation. This was considered appropriate. If the design guides were overly prescriptive then they risked becoming a design checklist that proscribed a single style of development. This could impact negatively on the quality of buildings that are developed within these areas.

Submission 48 correctly noted that the map in the heritage area design guide does not adequately highlight the heritage areas. The Committee noted that this will be fixed when the design guide is re-printed.

Submission 72 requested that a note be added to the design guide to alert users to the requirements pertaining to archaeological sites under the Historic Places Act. Such a note would provide clarity to users of the design guide and was supported. It was considered that the text should be added as a note at the bottom of the first page of the design guide.

Submission 72 requested that the general guideline relating to the possible uncovering of archaeological material contained in the design guide for Post Office Square Heritage Area be included in the guidelines for all heritage areas. This submission was supported on the grounds that the proposed heritage areas include many of the oldest, least 're-developed' parts of the city. The possibility of uncovering archaeological material in each of the heritage areas was therefore comparatively high.

### *Decision*

- **Accept** submission 16 insofar as it requests that additional text be added to the design guide for the BNZ/Head Office Design Guide
- **Reject** submission 27 insofar as it requests that the text in the design guides be made clear and direct
- **Accept** submission 48 insofar as it requests that a better quality map be included in the design guide
- **Accept** submission 72 insofar as it requests that a note relating to archaeological sites be added to the design guide
- **Accept** submission 72 insofar as it requests that all design guide contain the guideline on archaeological material

### **3.87 Design Guide for Signs.**

Specific issues raised in submissions include:

- The Design Guide for Signage be deleted. The objectives and policy relating to signs be amended so that they are more realistic and achievable. Clarification on how Rule 13.3.9 is to be implemented (submission 40).
- That signage needs to be considered in relationship to the building and to the street (submission 48).
- Move the definition of 'architectural feature' from the Sign Design Guide (page 5) to the definition section of the District Plan (submission 54).
- The NZHPT supports the proposed provisions relating to Signs and Heritage, Objective 08 and Guidelines G8.1. The submitter requests that the fifth bullet point of the guidelines be amended to read as follows: attached to the building with minimal intrusion into the building fabric, and in such a way as to be easily removable in the future without damaging the building (submission 72).

### *Discussion*

Submitter 40 (Craig Erskine) requested that the Design Guide for Signs be deleted. In his evidence Mr. Erskine noted that the design guide contained no photographic examples of poor

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quality or inappropriate signage from within Wellington. In his opinion this demonstrated that the current sign standards were sufficient and were not resulting in poor signage within the Central Area.

The Committee did not support this submission on the basis that the policies and design guide are considered necessary to aid the interpretation of the current rules, as it is anticipated that they will come under increasing pressure in years to come. The purpose of the design guide is considered in more detail in section 3.13 above. The submitter's primary concerns appear to be that the design guide will be interpreted as a strict rule structure rather than as a guide. The Committee considered that the submitter concerns are misguided on the grounds that the role of the design guide is to provide a framework to consider applications for signage that do not comply with the standards specified in the District Plan. The vast majority of signage within the Central Area will continue to be established as a permitted activity without need for reference to the proposed Design Guide for Signs.

In relation to Mr. Erskine's reference to the lack of Wellington examples of poor signage within the guide, the Committee noted that officers had made a judgement call not to include local examples of poor signage when the Design Guide was prepared. Officers believed it would be unhelpful to specifically target local signage that was of poor quality, as the developers of the signage might be sensitive to such treatment. Having undertaken various site visits, the Committee was satisfied that poor examples of signage do exist in the Central Area. The Committee considered that the Design Guide was a helpful and necessary tool to better manage the potential adverse effects of future signage.

The Committee also noted that the Design Guide for Signs is intended to apply to the whole City and not just to the Central Area, and should be retained to allow consideration of resource consents for signage located in other zones.

A number of the specific points raised by submission 40 regarding the design guide are agreed with. The submission requests that the definition of 'architectural feature' be removed. The Committee agreed that the definition of architectural feature is excessive insofar as it refers to 'down pipes and rain water heads' as architectural features, but it is recommended that the remainder of the definition be retained. The issue of 'what is an architectural feature' is one of the most common sticking points with regards Central Area signage. It is considered that the proposed definition will provide much greater certainty to all parties. Any application for signage on a Central Area building involves an assessment of whether the sign obscures windows or architectural features, and it considered that this assessment will be considerably easier and less subjective if the District Plan contains a definition of 'architectural feature'.

Mr. Erskine additionally requested clarification as to what constitutes an 'important vista' as referred to in Guideline 3.2. The Officer's report amended this term to 'an identified viewshaft.' The Committee agreed that the guideline required clarification in the matter, and supported the amendment made in the Officer's Report.

Guideline 5.1 relates to signs and traffic safety. Mr. Erskine stated that there is no evidence that signs impact on traffic safety. The advice from the Council's traffic engineers is that there is evidence that signage can create traffic safety issues, particularly when traffic speeds increase above 50 kph. The Officer's report to the Hearings Committee suggested that the guideline be amended to focus on situations where traffic is travelling at speeds in excess of 50 kph. Mr. Erskine submitted that there were no roads in the Central Area where speed limits exceed 50 kph and the guideline is therefore redundant. The Committee disagreed with this statement, noting that the Urban Motorway which passes through the Central Area permits a higher speed limit than 50kph. As a result, the Committee endorsed the Officer's recommendation and rejected the submission.

Guideline 6.1 relates to the quality of design for signs. The submitter sought clarification as to the definition of “design detail” under the second bullet point. The Committee agrees that there is a certain level of ambiguity surrounding this term, and considered that the guideline be amended as follows:

**G6.1** New signs should:

- be visually interesting, and effectively convey information
- exhibit a high level of design detail and graphic design quality  
*(for the sake of this guideline, design detail relates to all aspects of the proposed sign, including materials, workmanship, detailing, installation, and lighting)*
- use high quality materials appropriate to the streetscape context and its locality

Mr Erskine also made a similar comment about guideline 8.1, citing the terms ‘materials and colours’ as cause for confusion. The Committee believed that the guideline, as written, is clear and indicative of good design principles. Consistency between signage materials and colours is seen as a positive outcome in this instance, and the Committee rejected the submission as such.

Submission 48 considers that new signs need to be considered in relationship to the building and the street. The Committee believed that this submission should be accepted in that the signage provisions in the District Plan are focused on achieving signage that respects the building or sites on which it is located.

Submission 54 requests that the definition of ‘architectural feature’ be moved from the design guide to the definitions section in chapter 3 of the District Plan. This submission is supported by the Committee on the grounds that the definition will be used to help interpret the sign rules, and so would be more conveniently located in Vol I of the District Plan.

Submission 72 requests that the guideline for signs on heritage buildings be amended to read as follows:

- attached to the building *with minimal intrusion into the building fabric, and* in a way that allows easy removal without damage to any significant fabric

The Committee recommended that this submission be accepted.

### *Decision*

- **Reject** submission 40 insofar as it requests deletion of the Design Guide for Signs
- **Accept** submission 40 insofar as it requests amendments to guidelines 3.2, 5.1 and 6.1 and the definition of ‘architectural feature’
- **Reject** submission 40 insofar as it requests amendments to guideline 8.1.
- **Accept** submission 48 insofar as it considers that signage should relate to the building and the street
- **Accept** submission 54 insofar as it requests that the definition of ‘architectural feature’ be moved to Chapter 3 - Definitions
- **Accept** submission 72 insofar as it requests an amendment to Guideline 8.1

## **District Plan, Volume 3 - Maps**

### **3.88 General.**

Specific issues raised in submissions include:

- Replace the boundary delineation for the Central Area on the Maps referred to, or clarify the boundary of the Central Area in some other way (submission 49).

### *Discussion*

Submitter 49 requested that an additional boundary delineation be added to the planning maps, to clarify the boundary of the Central Area.

The Operative District Plan contained a notional central area boundary, that did not directly correlate to the boundary of the Central Area zone. The boundary was put in place because it was proposed to install certain ‘character’ based rules that covered both the Central Area zone and some adjoining pockets of land that were zoned Inner Residential (i.e. in east Thorndon), and a mechanism was required that allowed the two different zones to be managed together. The Hearing Committee noted that under DPC 48 there were no longer any rules that applied to both the Central Area zone and the Inner Residential areas of Thorndon. As a result the Central Area boundary notation was removed from the map, and the Central Area and Inner Residential zones are distinguished using the colours on the planning maps. The Hearing Committee considered that the colour system is sufficient to differentiate the Central Area, and that the addition of another notation to the planning maps could risk cluttering the planning maps making it harder to convey other important planning information.

### *Decision*

- **Reject** submission 49 insofar as it requests that an additional boundary delineation be added to the planning maps.

## **3.89 Map 12.**

Specific issues raised in submissions include:

- Amend Map 12 to show the correct coastal marine area boundary. CentrePort also seeks an amendment to the boundaries of the Operational Port Area and the Port Redevelopment Precinct (see submission 43) (submission 49).
- That the colour on Map 12 for the bulk of 21 Hania Street be changed to ensure that it is clearly within the inner residential area and consistent with maps 32 and 32a (submission 62).

### *Discussion*

Submission 49 requested that Map 12 be amended to correctly show the boundary of the coastal marine area. The submission indicated that boundary should be amended in the vicinity of Glasgow Wharf and Kings Wharf, but the map supplied shows the boundary in much the same location as the boundary shown on the District Plan maps. The Hearing Committee agreed that the planning maps should show the Coastal Marine Area boundary as accurately as possible.

Submission 49 also requested amendments to the boundary of the Operational Port Area and the Port Redevelopment Precinct as per the map included in their submission. This matter is discussed in more detail in section 3.62, where the Hearing Committee agreed that a number of changes should be made to more accurately show the land that was likely to be required for operational port activities in the short-medium term. The Committee did not agree with the removal of the Ferry Plaza site from the Port Redevelopment Precinct.

Submission 62 sought clarification that Map 12 be amended to clearly show that the majority of the property at 21 Hania Street was zoned Inner Residential. The Committee noted that when the Maps for DPC 48 were prepared, the colours for the surrounding zones were toned down to highlight the Central Area. The Committee were satisfied that when the maps are included in the District Plan following the plan change process, the colour of the adjacent Inner Residential area will be more clearly defined.

## *Decision*

- **Accept in part** submission 49 insofar as it requests amendments to the boundary of the coastal marine area, the Operational Port Area and Port Redevelopment Precinct in map 12
- **Accept** submission 90 insofar as it supports rule 13.4.6

## **3.90 Map 15.**

Specific issues raised in submissions include:

- Amend Map 15 to show the correct coastal marine area boundary (submission 49).
- Amend Map 15 to show the correct extent of the Pipitea Precinct (submission 49).

## *Discussion*

Submission 49 requested that Map 15 be amended to correctly show the boundary of the coastal marine area and Pipitea Precinct. The Committee agreed that these changes would improve the accuracy and clarity of the planning map and should be implemented (see discussion in 5.89 above).

## *Decision*

- **Accept** submission 49 insofar as it requests amendments to the boundary of the coastal marine area and the Pipitea Precinct in map 15

## **3.91 Map 16.**

Specific issues raised in submissions include:

- Consideration should be given to opening an avenue to Vivian Street and the National War Memorial, crossing Frederick and Haining Streets, and moving Mt Cook School to provide open space with appropriate planting (submission 1).
- Rezone buildings and land on Willis St south of Abel Smith St to more accurately reflect their role, use and location (submission 80).
- Concerned that the proposed rezoning along the by-pass will have the effect of turning the bypass into a dividing line, limiting the integration of the bypass into the city fabric (submission 48).
- The submitter does not support the proposed zoning along the edge of the bypass because they consider there is an opportunity to provide more generous open space areas that can improve biodiversity and amenity values. I request that the zoning for Open Space along the Inner City Bypass be extended to include all edges of the bypass from Arthur Street to the tunnel that are not currently built on (as per the supplied diagram) (submission 79).
- Oppose the proposal to rezone the Ghuznee St intersection from Inner Residential to Central Area and a building height standard of 27m above ground level to apply. Should multi-story buildings be constructed around us we would lose privacy, lose our view and sunlight which was a major decision in purchasing in the first place, and the plummeting value of the property would just destroy us. The council should abort its current zoning proposal in the Ghuznee/Willis area and take into view the needs of existing residents in St Peters Apartments and the surrounding community, coming up with a less drastic and more suitable plan for the land, i.e. not more than 2 storeys. The submitters request that the zoning be changed to either open space or green space, at the tunnel entrance Ghuznee Street intersection (submission 11, 17, 25, 71, 74, 83 & 84).
- That the Ghuznee St off-ramp be rezoned as Open Space A rather than Central Area, or failing this, as a special development site for eco-housing (submission 80).
- That this submission be accepted, and Plan Change 48 be accordingly amended by excluding 264-266, 244-250, 236-242, 257-259, 267-273, 275-283 Cuba Street and 45 Abel Smith Street as identified on the attached plan from the Cuba Street Heritage Area, so that they are subject to the Central Area Rules generally, and by including such new

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objectives and policies as are appropriate to lay a foundation for such rules. AND (b) That this submission be accepted in part and Plan Change 48 be amended accordingly by enlarging the boundaries of the Central Area Urban Design guide - Te Aro Corridor to include properties south of 264-266 and 275-283 Cuba Street that are presently included in the Cuba Street Heritage Area around the junction of Tonks Avenue and Cuba and Arthur Streets, and uplifting the Cuba Street Heritage Area from those properties; OR, in the alternative (c) That this submission be accepted in part and Plan Change 48 be amended accordingly by exempting 264-266, 244-250, 236-242, 257-259, 267-273, 275-283 Cuba Street and 45 Abel Smith Street as identified on the attached plan from the same height restrictions as the rest of the Cuba Street Heritage Area, and by including such new objectives and policies as are appropriate to lay a foundation for such rules. AND (d) Such amendments to the District Plan planning maps as are necessary to give effect to the amendments in clauses (a), (b) or (c) above; and (e) Such other relief that may address the issues raised by this submission (submissions 58, 59 & 60).

### *Discussion*

Submission 1 requests that consideration be given to opening an avenue to Vivian Street and the National War Memorial, crossing Frederick and Haining Streets, and moving Mt Cook School to provide open space with appropriate planting. The Committee agreed with Officer's that the District Plan does not contain the necessary mechanisms to acquire land in order to move the school. Therefore, this submission cannot be actioned via the District Plan. The Council is currently in talks with various parties (specifically the Ministry of Culture and Heritage and Transit) to facilitate a park in front of the war memorial which may involve a different alignment of Buckle Street. Any discussions about the future of the school need to occur with the Ministry of Education who have a designation in place providing for the school at that site.

Submission 80 requested that the properties fronting Willis Street, south of Abel Smith Street be zoned as Inner Residential to more accurately reflect their form, use and location (see photo to right). The Committee considered the arguments put forward by the submitter (primarily that the properties are generally residential in scale and form, and whilst some have small scale commercial use at ground floor, most contain some residential activity) and the reasons from Council officers why the sites should remain zoned Central Area. Having visited the sites in question the Committee was very much of the view that the area conveys a commercial feeling and contains a mixture of uses. The Committee considered that while the buildings were residential in scale, the uses were not and that they typically had a 'suburban centre' feeling to them, that is, they provide a range of shops and services to the surrounding properties and for pedestrians. The Committee decided that the Central Area zoning will allow this vibrant mix of uses to continue (a key feature of the Central Area zone), which is desirable as this location is a busy pedestrian street on the edge of the main CBD. Further, the height limits associated with these properties will ensure that the buildings provide a suitable transition from the main part of the Central Area through to the adjacent Inner Residential zoned properties.



*Upper Willis Street (western edge)*

Submission 48 was concerned that the proposed re-zonings along the edge of the bypass would have the effect of turning the bypass into a dividing line. The Hearing Committee noted that the sites that are proposed for rezoning are located north of the intersection of Willis Street and Abel Smith Street. In this area the bypass enters a trench leading down to the entrance of the Thorndon Tunnel. The bypass trench creates a very significant physical boundary that will exist

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irrespective of the land zoning on either side. The Hearing Committee considered that the proposed re-zonings would rationalise the situation created by the bypass trench, but would not exacerbate the physical boundary that has already been created. The Hearing Committee did however share the submitters concerns regarding the need to ensure that the bypass corridor is effectively integrated into the urban fabric of Te Aro. In this regard the Committee considered that the ownership of land on the edge of the bypass would play an important role in determining whether any significant development occurred. The Committee was concerned that little permanent development would occur as long as the sites remained subject to Transit's bypass designation. If the designation is retained over large areas of land the Committee considered that any future development would be limited to temporary buildings and structures. The Committee was strongly of the view that this should be avoided, as temporary buildings are generally of poor quality and do little to enhance the quality of the public environment. The Committee therefore considered that special consideration should be given to any new buildings and structures proposed for a site that was subject to the bypass designation. If the designation is rationalised in the future then any sites removed from the designation would be subject to the normal Central Area building controls. The following text has been added to Policy 12.2.4.5 to address this issue:

*The construction of new buildings along the edge of the bypass will be an important element in helping to integrate the bypass into the urban environment of Te Aro. As such they must be of high quality and must establish a positive relationship to the bypass corridor. Sites that are retained within the bypass designation (H2) are unlikely to be the subject of significant building works, with any development being limited to either temporary buildings (or structures) or buildings with a short life span. Costs constraints applying to temporary buildings can sometimes result in reduction in the quality of building design and materials. Within the Te Aro Corridor the limited life span of a building or structure will not be considered as justification for poor quality development. Any such buildings must take particular care to ensure that they enhance the quality of the public environment along the edge of the bypass.*

Submission 79 opposed the proposed zonings along the edge of the bypass and requested that all vacant land along the bypass be zoned open space so that over time the area could work as a ecological corridor into the city. While the philosophy behind increasing ecological values in the Central Area was supported by the Committee, it considered that the development of a vegetative corridor along the bypass could have significant negative impacts on the urban form of southern Te Aro. In designing the bypass, considerable effort was made to ensure that the new road did not become a barren transport corridor. Activity and building along the edges of the bypass was identified as a key element in helping to integrate the new road into the urban fabric of Te Aro. If the land on either side of the bypass was zoned as Open Space the Committee held concerns that the bypass could become a 'no-mans land' and a physical dividing line between the neighbourhoods north and south of the bypass. Accordingly the Committee considered that the Open Space zoning be applied to the identified parks and open spaces along the bypass route (as per DPC 48), but that the Central Area zone be retained along the majority of the bypass route to facilitate new building works.

Submissions 11, 17, 25, 71, 74, 80, 83 & 84 request that the area of land adjoining the former motorway off-ramp at the corner of Ghuznee Street and Willis Street be rezoned from Central Area to Open Space. Numerous submissions also sought a proposed rezoning and that height be reconsidered bearing in mind the setting of St Peter's Church and adjoining residential activities. Prior to DPC 48 the majority of the land in question was zoned Inner Residential, with only the portion of the site fronting Willis Street being zoned Central Area. When DPC 48 was prepared, it was anticipated that the former motorway off-ramp would be decommissioned and the site made available for development. The majority of the land was zoned Central Area and a height of 27 metres was installed to provide a transition between the 43.8 metres height covering sites to the north, the 27 metre height covering properties to the south, and the Inner Residential properties to the west across the motorway.

In coming to its decision on the appropriate zoning of this land, the Committee has noted that Transit NZ (which owns the land in question) has now considered the future use of that land and has stated that it is unlikely to release the land for development, preferring to retain the land to provide emergency access to the Terrace Tunnel. Further, Transit NZ have agreed that the land could be zoned Open Space and they intend to landscape the area in such a way as to retain the ability for emergency access to the Tunnel. The Committee noted that the decision to zone the land Open Space has been made only because the landowner has agreed to the restrictive zoning. In this respect, the decision follows the case law (particularly W4/2000 Capital Coast Health Limited v Wellington City Council) regarding the zoning of private land as Open Space. As a result, the Committee were confident that this decision would not create a precedent for other re-zoning requests.

Submissions 58, 59 and 60 request that Map 16 be amended so that the properties at 264-266, 244-250, 236-242, 257-259, 267-273, 275-283 Cuba Street and 45 Abel Smith Street are subject to the standards Central Area rules and not the provisions applying to the Cuba Street Heritage Area. Issues relating to the Cuba Street Heritage Area are discussed in more detail in section 3.78 above, where it is recommended that all buildings fronting Cuba Street be retained in the heritage area.

### *Decision*

- **Reject** submission 1 insofar as it requests creation of an avenue from Vivian Street to the National War Memorial.
- **Reject** submission 80 insofar as it requests rezoning of properties fronting Willis Street south of Abel Smith Street.
- **Reject** submission 48 insofar as it opposes the proposed rezoning of properties on the edge of the bypass.
- **Reject** submission 79 insofar as it requests that all vacant land on the edge of the bypass be zoned open space
- **Accept** submissions 11, 17, 25, 71, 74, 80, 83 & 84 insofar as they request that the former motorway off-ramp at the corner of Willis Street and Ghuznee Street be zoned as open space.
- **Reject** submissions 58, 59 and 60 insofar as it requests that properties be removed from the Cuba Street Heritage Area

### **3.92 Map 17.**

Specific issues raised in submissions include:

- Amend Map 17 to show the correct coastal marine area boundary (submission 49).
- Amend Map 17 to show the correct extent of the Pipitea Precinct (submission 49).

### *Discussion*

Submission 49 requests that Map 17 be amended to correctly show the boundary of the coastal marine area and Pipitea Precinct. The Committee agreed that these changes will improve the accuracy and clarity of the planning map and should be implemented.

### *Decision*

- **Accept** submission 49 insofar as it requests changes to the extent of the coastal marine area and Pipitea Precinct on map 17

### **3.93 Map 18.**

Specific issues raised in submissions include:

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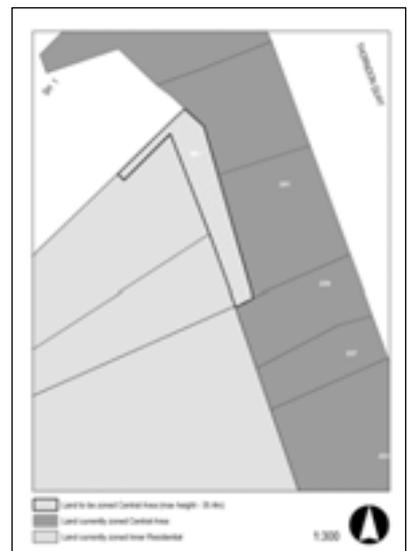
- The submitter opposes the zoning of the former Hotel Cecil site which excludes the part area of bus parking that is under dispute with the Wellington City Council (with that part being left as 'road'). The relief sought is the incorporation of the whole of the former Hotel Cecil site within the Central Area zone. As an alternative relief, the provision of adequate financial compensation for the "taking" of the land for road purposes, with the financial compensation being based on an underlying zoning of Central Area (submission 53).
- Amend DP Map 18 as follows, to correct an apparent zone anomaly relating to properties on Thorndon Quay:
  - a) Display subdivided Lots 1-4 DP 348486 on DP Map 18.
  - b) Change land use zone of Lot 4 DP 348486 from Residential (Inner) to Central Area(submission 89).
- Amend Map 18 to show the correct extent of the Pipitea Precinct (submission 49).
- The NZHPT considers confusion exists between the proposed Pipitea Precinct and the existing Maori Precinct in the Pipitea Area. It recommends another name be used for the new proposed precinct, or some other alternative (submission 72).

### Discussion

Submission 53 requests that the former Hotel Cecil site be included in the Central Area zone (see image on right). The site, at the corner of Lambton Quay and Mulgrave Street, is currently shown as being road on the planning maps (it is coloured white). It appears that when the maps were prepared, the site was coloured as road because it was used as a bus turning area. The Committee agreed with the Officer's assessment of the situation, stating that as the site is contained in one certificate of title it is considered inappropriate to leave it notated as road on the District Plan map. Consequently it should be zoned as Central Area as this is the zone of the adjoining sites and the surrounding blocks. In making this decision, it is necessary to identify a height limit for the site (map 32) and again the Committee agreed with the recommendation of the Officer's that the site should have a height limit of 35.4 metres as this will match adjoining properties.



Submission 89 requests that the boundary of the Central Area be amended to reflect a recent subdivision of properties along Thorndon Quay. The site in question (Lot 4 DP 348486) is a relatively small lot situated behind the existing Thorndon Quay buildings (see map to right). The lot is wedged between the Thorndon Quay buildings and the motorway. It is currently zoned Inner Residential. The Committee agreed that the given the subdivision and site's location and shape, then it does relate more logically to the adjoining Central Area properties. Consequently Lot 4 DP 348486 is to be rezoned Central Area.



The Committee noted the point raised by submission 89 that the planning maps be updated to reflect recent subdivisions. When the District Plan maps are reproduced following hearings and appeals the most recent available subdivision data will be included.

Submission 72 requests that the notations on Map 18 be amended to clarify that the Pipitea Precinct shown in the vicinity of Pipitea Marae is a Maori Precinct, and that the new Pipitea Precinct is a planning mechanism used to manage future development of port and

rail land. The Committee agreed there was scope for the notations to be clarified, and so the precinct covering the marae and surrounds is to be labelled as the 'Pipitea (Maori) Precinct'.

Submission 49 requests that Map 18 be amended to correctly show the boundary of the coastal marine area and Pipitea Precinct. It is agreed that these changes will improve the accuracy and clarity of the planning map and should be adopted in the final planning maps.

### *Decision*

- **Accept** submission 53 insofar as it requests a Central Area zoning for the former Hotel Cecil site.
- **Accept** submission 89 insofar as it requests a Central Area zoning for Lot 4 DP 348486 beside Thorndon Quay
- **Accept** submission 89 insofar as it requests that the subdivision data used in the planning maps be updated
- **Accept** submission 72 insofar as it requests that the notation of the two Pipitea Precincts be clarified
- **Accept** submission 49 insofar as it requests amendments to the coastal marine area boundary shown on map 18.

### **3.94 Map 32 – Building Heights.**

Specific issues raised in submissions include:

- Building height within the CBD should be unlimited. Recognition should be given that the intensification of the city, out weighs potential negative effects including shading, heritage, wind etc (submission 42).
- Building Height in Te Aro: each block ought to permit a single tall structure (10-16 storeys) on the basis that it does not dominate the block (i.e. no greater than 15% of the plan area of the block) (submission 42).
- To reject any proposed amendment to the proposed height limits, other than a reduction in the maximum heights proposed (submission 46).
- The proposed rules for height control outlined in the plan are supported on the understanding that these have the same effect as the current rules (submissions 63 & 64).
- Regarding general Central Area building heights; reduce the low city's highest permitted height which is in the railway yards, from 50m to 27m. 50m would also have significant shading effects - compromising the future amenity of the waterfront in that area (submission 24).
- Recognition of the interests and rights of existing inner city residents other than those in properties to the west of the proposed development. Submitter opposes the proposed changes that provide for commercial development at the tunnel entrance and Ghuznee St intersection. Enhanced consideration should be given to ensuring adequate protection of the historic value of St Peter's Church. If commercial development is to be allowed, significant reduction in the proposed 27 metre height restriction to take property account of the existing amenity values of adjacent residents and the value of the historic St Peter's Church property (submission 25).
- That the area around the "motorway tunnel entrance and Ghuznee Street intersection be developed as a park space". The submitter opposes the proposal to apply a building height standard of 27 metres (above ground level) over the land rezoned as Central Area" (submission 84).
- That land adjacent to the bypass be zoned to encourage low-scale development in keeping with the heritage character of the area, especially West of Tory St. Isolated pockets of pre-1930s buildings need to be protected - especially in the area of Victoria, Webb, Willis, Abel smith Streets and Kensington St (submission 80).
- DPC 48 proposes to retain the current operative height limit for 26 Kent Tce 10.2m (2 storeys). This height limit is inconsistent with nearly all other sites along the eastern side

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of Kent Terrace which have a maximum height limit identified by District Plan Map 32 of 18.6m (4 storeys). This existing inconsistency is now to be continued by Proposed District Plan Change 48 which adversely affects the submitter's interest in maximising the utilisation of this valuable physical resource. That the maximum permitted activity height limit (above ground) for 26 Kent Terrace be increased from the proposed 10.2m up to 18.6m (submission 12).

- That the heights along Kent and Cambridge Terraces be reduced to a maximum permitted height of 14.4m (i.e. 4 storeys) above ground level. The Kent and Cambridge corridor is a part of the city that is in transition. Common height limits along the corridor would create a greater sense of cohesion and allow more sunlight to enhance existing and new buildings along Kent Terrace (submission 62).
- Map 32 and 32a show the maximum heights for the Eastern side of Hania Street as being 10.2 metres above ground level. This height limit is unclear on Map 12 as 21 Hania Street is shown in a different colour. An amendment is sought to Map 12 to clarify that the inner residential rules continue to apply to the bulk of 21 Hania Street (submissions 63 & 64).
- With the exception of the Courtenay Place Heritage Area, the height limits in the blocks from the north side of Courtenay Place through to Cable Street and the Te Papa Museum site be reduced from 27 metres above ground level to 14.4 metres. If this is not supported, as an alternative I suggest a height limit of 18.6 metres (submission 62).
- Reduce the 27m permitted height limit in the block between Lambton Harbour area and the Courtenay Place heritage area. When combined with the proposed lower height of the Courtenay Place Heritage area there would be considerable contribution towards a better harbour view from the CBD (submission 24).
- Map 32 needs to show the correct coastal marine area boundary (submission 49).

### *Discussion*

Submission 42 requested that unlimited height be provided for in the CBD on the basis that the benefits of urban consolidation outweigh any other effects relating to shading, heritage, wind etc. The submission also requested that the plan provisions be amended to provide for one tall building per block in Te Aro. These issues are considered in more detail in section 5.48 above. In that section the Hearing Committee concluded that the current CBD and Te Aro height limits should be retained.

Submission 46 (Save Our Streets) opposed any increase in building heights in the Central Area. Submissions 63 and 64 supported Map 32 on the understanding that it is consistent with the heights in the Operative District Plan. The Hearing Committee noted that for a limited number of properties heights had been increased in response to specific submissions, but that in general building heights had not increased as a result of DPC 48. Accordingly the Committee considered that these submissions should be supported insofar as they agree with the suggested height increases.

Submission 24 requested that the heights limits be lowered from 50 metres to 27 metres in the area of the 'low city' to the north of the Railway Station. The submitter is concerned that the height of 50 metres will create shading and compromise the future amenity of the waterfront in this area. The Hearing Committee noted that there had been considerable focus on developing appropriate heights of these properties as part of Variation 8 to the Proposed District Plan and this was later endorsed by the Environment Court. Similarly, the Council agreed with the Officer's assessment that given the width of Waterloo Quay and the distance to the waterfront, a 50 metre height limit was appropriate.

The Committee also noted that 50 metres was an appropriate height limit in light of the decision (elsewhere in this report) that an increase in height limit be adopted for selected sites within the Port Redevelopment Precinct (those sites that front Waterloo Quay, south of Hinemoa Street). That decision determined that a 40 metre height limit was appropriate for those properties. The effect of these two decisions is that there will be a stepping down of heights from the western

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side of Waterloo Quay to the eastern side of Waterloo Quay and then down to 27m for the remainder of the Port Redevelopment Precinct towards the harbour.

Submissions 25 and 84 requested that the proposed height of 27 metres covering the land around the old motorway off ramp be lowered to respect the setting of St Peter's Church and the amenity of neighbouring residents. As noted in a previous decision (section 3.91), the Committee have agreed to rezone this land Open Space (with the agreement of the landowner Transit NZ). This will have the effect of achieving the main aims of these submitters. Transit intend to keep the land for emergency access to the Terrace Tunnel and have indicated an intention to landscape the area in such a way as to improve the quality of the local environment, while also maintaining capacity for vehicle access over the land. If any buildings or structures are subsequently proposed these will be limited in height to 10 metres under the provisions of the Open Space zone.

Submission 80 requested that building heights be lowered along the length of the new Inner City Bypass to recognise the scale of the heritage buildings that have been relocated and restored in the area (see photos to right). The Inner City Bypass traverses an area that currently has a height limit of 27 metres. In delivering the bypass project, Transit NZ and Council spent significant time and money to relocate and restore 18 original buildings along the bypass route. These buildings are covenanted to ensure they are retained in perpetuity. Given the resources that have



*Relocated buildings on the northern edge of the bypass*

been invested to retain these buildings it is considered appropriate that the height limits in this area be amended to more accurately reflect the scale of the restored buildings (which is generally one or two storeys). The majority of the relocated and restored buildings are in the two blocks between Cuba Street and Willis Street. Accordingly the Committee considered that the height limits for the Transit owned land adjacent to the Inner City Bypass, on the northern side of the bypass between Cuba Street and Willis Street be lowered to 14.4 metres to better reflect the scale of the restored buildings. On the southern edge of the bypass the Committee considered that a height of 18.6 metres would be appropriate. It would match the height limit for properties facing Webb Street and would allow reasonable development for the north facing sites along the bypass. The revised 14.4 metre and 18.6 metre height limits would also help to provide a transition from the 27 metre heights of Te Aro, to the more domestic scale of properties fronting Webb Street and upper Willis Street.

Submission 80 also requested that heights be lowered for properties fronting Buckle Street and Arthur Street. This was not fully supported by the Committee as these blocks do not contain the same concentration of relocated buildings as the blocks further west. Also, the Committee noted that the bypass has significantly increased the width of Arthur Street and that buildings up to 27 metres tall were justified as they would help to provide enclosure to the street. However the Committee did consider that building heights should be lowered to 14.4 metres for the sites on the northern edge of Karo Drive, between Cuba Street and the recently located Boys Institute building, to reflect the scale of the Institute building and the buildings fronting Cuba Street..

Having visited the bypass area the Committee also considered that the revised heights should be accompanied by additional guidance within the Te Aro Corridor Design Guide to better articulate the development outcomes that Council sought for the area.

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Submission 62 considered that Kent Terrace height should recognise its location in the transition between the Central Area and Residential Area. The submission requested that the current height limits of 18.6 metres be lowered to 14.4 metres. The Committee did not agree with this submission as it considered that taller buildings are justified along the edges of the Kent/Cambridge corridor as they will help to provide enclosure for the public spaces beside these streets. The Committee particularly noted that the majority of the properties fronting Kent Terrace do not directly abut the residentially zoned areas of Mt Victoria as there is still another row of Central Area zoned properties that have a height limit of 10.2 metre. Those properties act as a suitable buffer.

In considering that decision, the Committee were strongly of the view that it would be desirable to have a minimum height control in place along Kent Terrace and that buildings along the street should be built to the street edge. It is acknowledged that there is no scope to make such a change within this process, as no submissions requested such a change, but the Committee consider that this issue should be addressed at the next available opportunity.

Submission 12 requests that the height applying to 26 Kent Terrace is increased from 10.2 metres to 18.6 metres to match sites to the south that also front Kent Terrace (see photo to right). At the hearing the submitter noted that the Officer's report did not appear to have appreciated that the Liquor King site was comprised of three certificates of title and so the recommendation did not allow for the 18.6 metre height to be applied across all three sites owed by the landowner. The submitter noted that there is an intention to



*26 Kent Terrace*

develop the site once the current lease expires and that the sites will be amalgamated into one site when this development occurs. The submitter explained that the effects of this height increase on adjacent Residential zoned properties would be mitigated by the 'height control adjoining Residential Areas' rule in the Plan. Having considered the situation, the Committee agreed that what was proposed by the submitter was appropriate and reasonable in light of other heights along the street edge of Kent Terrace and that the residential property in question was further separated from the boundary with a driveway. Further the Committee was satisfied that the 'height control adjoining residential areas' rule, in combination with the proposed new building mass rule, could be used together to reduce the impact of a taller building adjacent to the residential property. It is considered that if the majority of the future building's mass is directed towards Kent Terrace frontage (rather than having a carpark on the street edge of Kent Terrace as presently occurs) then this should significantly reduce the building's impact on the adjoining residential property.

Submissions 63 and 64 seek clarification that the height limit for 21 Hania Street is 10.2 metres. It is confirmed that under DPC 48 the height at 21 Hania Street remains at 10.2 metres.

Submissions 62 and 24 request that the height limits be reduced for the blocks between Courtenay Place and the Lambton Harbour Area (i.e. between Cable and Wakefield Streets). The submissions seek that the height be reduced from 27 metres to 14.4 metres or 18.6 metres, to improve views to the harbour. The Committee did not agree with these submissions noting that the Plan does not seek to protect private views and that there was no relevant public vantage point that could take advantage of reduced heights in these blocks. The Committee also agreed with the Officer's comments in relation to this submission, stating that the building heights for these blocks were fully considered during the preparation and hearing of Variation 22 – Lambton Harbour Area and it was resolved that 27m was appropriate. The Committee noted

that buildings have already been constructed to this height limit, and other resource consents have been approved for more 27 metre high buildings in this block.

Submission 49 requests that map 32 be amended to show the correct Coastal Marine Boundary. This submission is supported in the interests of accuracy.

### *Decision*

- **Reject** submission 42 insofar as it requests unlimited height limits in the central CBD
- **Reject** submission 42 insofar as it requests provisions to allow one tall building per block in low city area of Te Aro.
- **Accept** submissions 46, 63 and 64 insofar as the heights in map 32 remain relatively unchanged under DPC 48.
- **Reject** submission 24 insofar as it requests that the 50 metre height limit for land north of the railway station be reduced to 27 metres
- **Accept** submissions 25 and 84 insofar as they request that lower heights be applied to land around the former motorway off-ramp at the corner of Ghuznee and Willis Streets
- **Accept** submission 80 insofar as it requests lower buildings heights along the edges of the Inner City Bypass west of Cuba Street
- **Reject** submission 80 insofar as it requests lower buildings heights along the edges of the Inner City Bypass east of Cuba Street
- **Reject** submission 62 insofar as it requests lower building heights for properties fronting Kent Terrace
- **Accept** submission 12 insofar as it requests a height of 18.6 metres for the property at 26 Kent Terrace, note that this decision applies to Lots 1, 2 and 3 of DP1470.
- **Accept** submission 63 and 64 insofar as they request retention of the existing height limit of 10.2 metres for the property at 21 Hania Street.
- **Reject** submission 62 and 24 insofar as they request a reduction in building height in the blocks between Cable and Wakefield Streets.
- **Accept** submission 49 insofar as it requests amendments to the coastal marine area boundary shown on the maps.

### **3.95 Map 33 – Road Hierarchy.**

Specific issues raised in submissions include:

- That the Council adopt Planning Map 33 (submission 77).

### *Discussion*

The support of submission 77 was noted and accepted.

### *Decision*

- **Accept** submission 77 insofar as it seeks the adoption of Planning Map 33 as notified

### **3.96 Map 49a - Verandah and Display Windows.**

Specific issues raised in submissions include:

- We support the updating of the verandah network to ensure practical passage through key parts of the city for pedestrians in inclement weather (submission 48).
- That the whole of the central area should have a mandatory requirement for verandahs and that the map should be one of defining areas excluded. If this approach is not supported, as an alternative I seek an increase in the number of significant thoroughfares where verandahs need to be a requirement. The decision sought is either to change this map to show exclusions only or alternatively to add the following thoroughfares: Kent and Cambridge Terraces, over the full length; Taranaki Street, both sides over the full length;

Lorne and College Streets, the western ends; Majoribanks Street, extend verandahs to number 20 on the south side and number 29 on the north side (submission 62).

### *Discussion*

The support of submission 48 was noted and accepted.

Submitter 62 (Craig Palmer) spoke at the Hearing on the importance of verandahs in providing shelter for pedestrians moving in and around the Central Area, and suggested that the network of verandahs be extended.

Of the submitter's many suggestions for inclusion, the Committee found merit in the addition of Kent and Cambridge Terraces, and Taranaki Street. Kent and Cambridge receive a significant volume of commuter foot traffic going to and from Hataitai, Mt. Victoria, Newtown, and other southern suburbs. As much of the frontage is service-related, it is a logical conclusion that these pedestrians are provided with suitable shelter. Similarly, many walkers utilise Taranaki Street's vast array of services, ranging from churches and schools to large retail stores and the film archives. Taranaki is an important thoroughfare as such, and should be included into the city's verandah network.

### *Decision*

- **Accept** submission 48 insofar as it supports the proposed verandah network
- **Accept** submission 62 insofar as it requests that the verandah network be expanded to include Kent Terrace, Cambridge Terrace, and Taranaki Street.

## **3.97 RMA considerations**

The Committee noted that the proposed District Plan Change 48 could only be endorsed (taking in account Council's responsibilities under s32 of the RMA) if they were satisfied that provisions proposed would better meet the requirements of the RMA and the objectives of the District Plan. The proposed changes of particular importance to the Committee were the amended building heights, the proposed heritage areas, revised discretionary provisions, and the implementation of the Central Area Design Guide.

In making its decision, the Committee was mindful of its responsibilities set out under the Resource Management Act, 1991 (RMA), in particular the requirement to promote the sustainable management of natural and physical resource (section 5). The Committee acknowledged the additional obligations under sections 6, 7 and 8 of the Act, in particular:

- Section 6
  - (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers:
  - (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, waahi tapu, and other taonga:
  - (f) The protection of historic heritage from inappropriate subdivision, use and development:
- Section 7
  - (b) The efficient use and development of natural and physical resources:
    - (ba) The efficiency of the end use of energy:
    - (c) The maintenance and enhancement of amenity values:
    - (f) The maintenance and enhancement of the quality of the environment:
    - (g) Any finite characteristics of natural and physical resources:
    - (j) The benefits to be derived from the use and development of renewable energy:

The Committee noted that the review of the Central Area chapters had been guided by those provisions of the RMA, in tandem with the Council's strategic policy framework, and also reflected the results of the District Plan monitoring programme (as required by section 35 of the RMA).

In respect of the monitoring work carried out, the Committee agreed that the philosophies underpinning the operative plan provisions remained generally sound. These included a strong commitment to achieve high quality urban design outcomes and providing a 'one zone for all', effects based approach to managing activities in the Central Area. The Central Area has thrived under those philosophies and the Committee's approach in considering submissions was to ensure that the revised provisions would further enhance the vibrant and dynamic nature of the Central Area.

The Committee agreed with officers that monitoring results indicated that some of the Operative District Plan provisions had not been as effective as anticipated in terms of managing adverse effects on the Central Area environment. Plan Change 48 represented the Council's response to those findings.

Mindful of its obligations under s32, the Committee considered that the objectives notified in Plan Change 48 are the most appropriate way to achieve purpose of Act and for this reason the Committee only made minor changes to the proposed objectives.

The Committee did make numerous changes to the policies and methods (rules and standards) however, in order to ensure that they were the most appropriate and effective way to achieve the objectives. The changes, made in response to submissions, generally sought to improve clarity of the intended approach (in respect of the objectives and policies) and allow for flexibility in the application of the rules and standards.

In this respect, the revised Plan Change 48 provisions (as a result of this decision) represented a refinement of the approach adopted by the Operative District Plan. Although there are a number of significant changes to specific provisions, the basic philosophy regarding the management of the Central Area environment remained unchanged.

The Hearing Committee was satisfied that the provisions of Plan Change 48 struck a better balance between facilitating new development within the Central Area, whilst ensuring that the development maintains and enhances amenity values associated with the public environment, respected recognised heritage values, encouraged sustainable building design, built on the vibrancy of the Central Area and significantly enhanced the community's sense of place.

### **Decision:**

- **Adopt** District Plan Change 48 on the grounds that it is consistent with Part II of the RMA.

## **4. CONCLUSION**

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the individuals who appeared before the Committee.

One submitter opposed the proposed plan change in its entirety on the grounds that the proposed heritage areas were unreasonable and unduly onerous. One submission supported the plan change in its entirety and requested that it be adopted as notified. The remaining submissions sought various amendments to the provisions contained in the plan change.

## APPENDIX 1

Having considered the requirements of the RMA and the issues raised in submissions, the Hearing Committee considered that the plan change was generally appropriate and would allow the Council to better manage the effects of new development within the Central Area. The Committee made a number of amendments to the provisions (as notified) to improve their clarity, application and effectiveness. These changes include:

- Revision of the height controls that apply within the proposed Heritage Areas
- Additional site specific guidance for new development in the Cuba Street, BNZ/Head Office and Stout Street Heritage Areas
- Amendments to the boundaries of the Courtenay Place, Cuba Street and BNZ/Head Office Heritage Areas
- Deletion of the Wesley Church Heritage Area
- Installation of an office cap for new development within the Port Redevelopment Precinct
- New provisions relating to the development of through block links
- A new 'guiding principle' in section 12.1 relating to the sustainability of the Central Area (12.1.8) and modification of a policy to include a reference to environmental sustainable design principles (ESD).
- Stricter provisions to control the effects of outdoor electronic speaker systems emitting noise into public spaces
- A stricter noise insulation requirement for noise sensitive activities in the Courtenay Place Area (35dB instead of 30dB), in recognition of the reverse sensitivity issues associated with that entertainment precinct
- Two new viewshafts, specifically from Featherston Street looking back up Whitmore Street towards the Beehive, and along Lambton Quay looking towards the MLC heritage building.
- Stronger cross referencing between rules and policies

Alick Shaw

**Chair, Hearing Committee -  
District Plan Change 48 – Central Area Review**