

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

Under Schedule 1 of the Resource Management Act 1991

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

**Statement of supplementary planning evidence of Anna Stevens on behalf of
Wellington City Council**

Date: 19 June 2023

INTRODUCTION:

1 My full name is Anna Stevens. I am employed as Team Leader of the District Planning Team at Wellington City Council.

2 I have read the respective evidence of:

Centres and Mixed-Use Zones including City Centre Zone:

Stratum Management Limited ID 249

- a. Craig Stewart for Stratum Management Limited
- b. Maciej Lewandowski for Stratum Management Limited

Eldin Family Trust ID 287

- a. Benjamin Lamason

Kiwirail Holdings Ltd ID 408

- a. Mike Brown
- b. Catherine Heppelthwaite

Woolworths New Zealand ID 359

- a. Yiqianga Shao
- b. Kay Knight

Restaurant Brands Limited ID 349

- a. Mark Arbuthnot

Willis Bond and Company Ltd ID 416 & FS12

- a. Alistair Aburn

Parliamentary Service ID 375 & FS48

- a. Peter Coop

Z Energy Limited ID 361

- a. Sarah Westoby

Foodstuffs North Island Limited ID 476 & FS23

- a. Evita Key

Wellington's Character Charitable Trust Inc ID 233 & FS82

- a. Stuart Niven

Kāinga Ora ID 391 & FS89

- a. Brendan Liggett
- b. Michael Cullen
- c. Matt Heale
- d. Nicholas Rae

Stride Investment Ltd and Investore Management Ltd ID 470 & FS405

- a. Cameron Wallace
- b. Joe Jeffries
- c. Jarrod Thompson

Newtown Residents' Association ID 440 & FS74

- a. Timothy Helm

**Retirement Villages Association of New Zealand Incorporated ID 350 & FS126 and
Ryman Healthcare Limited ID 346 & FS128**

- a. Nicola Williams

**Argosy Property No 1 Ltd ID 383, Fabric Property Ltd ID 425, Oyster Management
Ltd ID 404 and Precinct Properties New Zealand Limited ID 139**

- a. Cameron Wallace
- b. Joe Jeffries
- c. Grant Burns
- d. Kevin Pugh

Wind:

Te Herenga Waka Victoria University of Wellington ID 106

- a. Peter Cooper

Kāinga Ora ID 391 & FS 89

- a. Matt Heale

**Retirement Villages Association of New Zealand Incorporated ID 350 & FS126 and
Ryman Healthcare Limited ID 346 & FS128**

- a. Nicola Marie Williams

3 I have prepared this statement of evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan / PDP)

4 Specifically, this statement of evidence relates to the matters of:

- a. [Hearing Stream 4 - Section 42A Report - Overview and General Matters](#)
- b. [Hearing Stream 4 - Section 42A Report - Part 1 - City Centre Zone](#)
- c. [Hearing Stream 4 - Section 42A Report - Wind](#)

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

5 My [section 42A report](#) sets out my qualifications and experience as an expert in planning.

- 6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

- 7 My statement of evidence:
- a. Addresses the expert evidence of those listed above; and
 - b. Identifies errors and omissions from my s42A report that I wish to address.

RESPONSES TO EXPERT EVIDENCE

Centres and Mixed-Use Zones including City Centre Zone:

- 8 Based on the sheer volume of submitter expert evidence provided for this hearing stream and the limited time to respond I have structured my supplementary evidence based on provisions raised, collectively addressing points from multiple submitters.

Centres hierarchy

- 9 Regarding Mr Liggett's statement that the '*scale of development enabled within Centre Zones does not reflect the role and function of Wellington City within the region, or enable intensification to an appropriate scale to enable people to live within areas with the highest level of accessibility to commercial amenity, community services and public transport*', I disagree. Property Economics¹ development capacity modelling shows that Council has enabled more than sufficient development capacity across the City generally, but also within the Centres hierarchy.
- 10 The Centres and Mixed Use Zone (CMUZ) rule framework is enabling of intensification and increased levels of density and residential development, which support active and public transport, as well as

¹ Property Economics, [Wellington City Qualifying Matters Capacity Assessment](#)

accessibility to a variety of activities and services. The zones give effect to CEKP-O2 which speaks to the centres hierarchy. CEKP-O2 being included in the notified PDP, refutes Mr Liggett's sentiment that '*Kāinga Ora considers the notified planning framework does not correctly identify a centres hierarchy*'.

- 11 The Section 32 – Part 1 – Context to Evaluation and Strategic Objectives report² speaks to the Centres hierarchy, in particular it notes that the '*centres hierarchy is designed to ensure the primacy of the central city (City Centre Zone), and that activities in all other centres are of a scale and type that is commensurate to that centre and the catchment it serves*'.
- 12 I have not addressed Mr Cullen's supplementary evidence. Instead I defer to Dr Lees's supplementary evidence, paras 7-11, to which I agree with. I acknowledge as Mr Rae notes, that Kāinga Ora seeks no change to the application of the CCZ.
- 13 I have reviewed Mr Helm's submission on behalf of Newtown Resident's Association. This submission is very theoretical in nature. Mr Helm notes that his evidence does not analyse or endorse the specific positions taken by any submitter. I note it does address any specific CMUZ provisions either.

Centres and Mixed-Use Zones objectives and policies:

CCZ-P1(2)(a) – Enabled activities, CCZ-P4 – Housing choice, CCZ-P5 – Urban form and scale, MCZ-P1 Accommodating growth, MCZ-P3 – Managed Activities, MCZ-P6 – Housing Choice and MCZ-P7 – Quality Design Outcomes – neighbourhood and townscape outcomes

- 14 I acknowledge Mr Lewandowski's support for my suggested amendment to CCZ-P1(2)(a), as well as for the retention of CCZ-P4 and CCZ-P5. I

² [Wellington City Council Section 32 – Part 1 – Context to Evaluation and Strategic Direction Report, 2022](#)

continue to recommend that these policies are carried through as per my S42A Appendix A for the CCZ.

- 15 I acknowledge Mr Jeffries, on behalf of Stride Investment Management Ltd and Investore Property Ltd, support Ms Hayes's changes to MCZ-P1.1 to remove reference to the MCZ not undermining the ongoing viability, vibrancy and primacy for the CCZ, instead focusing on supporting the purpose of the zone. As Ms Hayes notes there is still requirement within MCZ-P3 to support the vibrancy of MCZ.
- 16 Mr Jeffries considers that this amendment ensures development in the MCZ is able to be considered in its own right '*without the additional administrative burden of potentially requiring assessments of effects on the City Centre*'. I acknowledge Mr Jeffries support for MCZ-P6 to the extent that it enables different housing types, rather than seeking to direct provision of specific housing.
- 17 I note that Mr Jeffries does not support the references to design guides in MCZ-P7 and also seeks that the reference to 'including residential' is struck out. With regards to the design guide reference I refer to paragraph 34 of my supplementary evidence.
- 18 With regards to ground floor conversions and providing flexibility I refer to paragraphs 207-211 of my supplementary evidence. I agree with Ms Hayes that reference to residential should be retained.
- 19 Ms Westoby on behalf of Z Energy raises concerns with CCZ, MCZ and LCZs' 'potentially incompatible activities' policies. I understand the concerns raised by Ms Westoby with regard to ensuring the ongoing operation, maintenance or upgrade of existing yard-based retail activities. However, I have not changed my position and do not support any subsequent changes to CCZ-P2, MCZ-P4 and LCZ-P4. In my view, such changes may mean that there is not a necessary policy hook for certain situations like applications that seek to expand the net area of an existing activity.

CCZ-P9, MCZS-P7 and LCZ-P7 – Quality Design Outcomes

- 20 Ms Westoby seeks the relief sought in Z Energy’s submission to recognise that alternative design response are necessary for functional requirements of a range of activities, including service stations. Ms Westoby has raised an error in paragraph 283 of my report where I incorrectly recorded that this relief was addressed in clause 3 of CCZ-P9. This change was not made and I note that this sentence is incorrect.
- 21 However, I confirm the ultimate decision not to make any subsequent changes in my S42A Part 1 CCZ report to CCZ-P9 and concur with Ms Hayes’s approach to MCZ-P7 and LCZ-P7. I do not consider such a change is necessary for the reasons outlined in the respective S42A reports.
- 22 Dr Zamani, in paragraphs 25-27 of his supplementary evidence, disagrees with Ms Westoby’s argument that *‘design outcomes may need to be influenced by operational and functional requirements’*. Dr Zamani argues that design outcomes should be primarily influenced by their impact on the urban environment rather than solely focusing on operational or functional requirements.

CCZ-O5, CCZ-P12, LCZ-P9, NCZ-P9 and MCZ-P9 Managing Adverse Effects

- 23 In my S42A Part 1 CCZ report in paragraphs 192-193 I accepted Kāinga Ora’s submission point [391.697, 391.698] and made the following change to CCZ-P12:

CCZ-O5	<p>Amenity and design</p> <p>Development in the City Centre Zone positively contributes to creating a high quality, well-functioning urban environment, including:</p> <ol style="list-style-type: none"> 1. Reinforcing the City Centre Zone's distinctive sense of place; 2. Providing a quality and level of public and private amenity in the City Centre Zone that evolves and positively responds to anticipated growth and the diverse and changing needs of residents, businesses and visitors; 3. Maintaining and enhancing the amenity and safety of public space; 4. Contributing to the general amenity of neighbouring residential areas while achieving the anticipated urban form of the City Centre Zone; 5. Producing a resilient urban environment that effectively adapts and responds to natural hazard risks and the effects of climate change; 6. Protecting current areas of open space, including green space, and providing greater choice of space for residents, workers and visitors to enjoy, recreate and shelter from the weather; and 7. Acknowledging and sensitively responding to adjoining heritage buildings, heritage areas and areas and sites of significance to Māori.
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24 I made this change as I consider that there needs to be a balanced approach in the CCZ to enabling development capacity but also providing for on-site, adjacent and public amenity as far as practicable. However, following further consideration and review of the case law³ I agree with Ms Hayes's in her Part 2 MCZ S42A report, namely paragraph 151 in that 'anticipated' can set an expectation of a 'permitted baseline' of which Council do not seek to implement.

25 As such I am recommending a change to my S42A Part 1 amendment to CCZ-O5 matter 4 wording to change 'anticipated' to 'planned' as follows:

CCZ-O5	<p>Amenity and design</p> <p>Development in the City Centre Zone positively contributes to creating a high quality, well-functioning urban environment, including:</p> <ol style="list-style-type: none"> 1. Reinforcing the City Centre Zone's distinctive sense of place; 2. Providing a quality and level of public and private amenity in the City Centre Zone that evolves and positively responds to anticipated growth and the diverse and changing needs of residents, businesses and visitors; 3. Maintaining and enhancing the amenity and safety of public space; 4. Contributing to the general amenity of neighbouring residential areas <u>while achieving the anticipated planned urban form of the City Centre Zone;</u> <p>...</p>
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26 I consider that this change to 'planned' in CCZ-O5 still gives effect to the intent of Kāinga Ora's relief whilst not utilising a word that case law has proven to have unintended consequences. I consider 'planned' is appropriate because it speaks to the density and type of development provided for through the CCZ framework but does not pre-determine any outcomes.

³ Sydney Street Substation Limited v Wellington City Council, CIV 2017-485-11 [2017] NZHC 2489

- 27 Mr Heale identifies in his supplementary evidence that there is inconsistency across the policies CCZ-P12, LCZ-P9, NCZ-P9 and MCZ-P9 in the use of the word 'enabled' versus 'anticipated'. Given my recommended amendment above to not use 'anticipated' in CCZ-O5, I also recommend 'anticipated' is removed from CCZ-P12 and MCZ-P9 and replaced with 'enabled'.
- 28 In this case 'enabled' is more appropriate for these policies because it is then consistent with the managing adverse effects policies in LCZ-P9 and NCZ-P9, and because in the policy wording 'enabled' reads better than 'planned'. I consider both terms to be interchangeable and have the same intended outcome. This change can be seen Appendix 1 of my report.
- 29 I acknowledge the concerns raised by Mr Lewandowski in his commentary on CCZ-P12 and that whilst he has concerns with the drafting of the policy, these concerns are alleviated through my recommended amendment in my Part 1 S42a regarding the additional notification statement in CCZ-R20. I understand the intent of Mr Lewandowski's text addition 'where a building does not meet the relevant standards'. However, I do not consider this to be necessary.
- 30 I note that Mr Jeffries, on behalf of Stride Investment Management Ltd and Investore Property Ltd, seeks changes to remove reference to 'the impact of construction on the transport network'. I disagree with the suggestion to remove this matter. This is a consistent policy approach across the Centres Zones and has been included within the Centres policy framework to allow for consideration of impacts on the transport network in the resource consent process, in response to identified issues through past construction projects.

LCZ-P6 House Choice

- 31 Mr Heale discusses the changes made in my Part 1 CCZ S42a report and those of Ms Hayes Part 2 – Part 4 S42a reports to make reference to

'high density' in each zones' objectives and policies. Mr Heale considers that there is a lack of reference in LCZ-P6 Housing Choice to 'high density' which *'must be an error given the reference in other objectives and policies in the LCZ and the lower order NCZ'*. I consider that this is a technical omission and that LCZ-P6 should be updated to refer to 'high density' as follows:

LCZ-P6	<p>Housing Choice</p> <p>Enable medium <u>to high</u> density residential development that:</p> <ol style="list-style-type: none"> 1. Contributes towards accommodating anticipated growth in the City; and 2. Offers a range of housing price, type, size and tenure that is accessible to people of all ages, lifestyles, cultures, <u>impairments</u> and abilities. <p>...</p>
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CCZ-P10 – On-site residential amenity

32 I note that Mr Lewandowski does not support my suggested amendments to CCZ-P10 matter (2) relating to the provision of private and communal outdoor living space, most notably because Mr Lewandowski, like Mr Stewart, seeks that the associated CCZ-S10 standard be deleted.

33 I have not changed by my view on CCZ-P10(2) or CCZ-S10 and I continue to recommend per paragraphs 293-301 and 672-677 of my S42A CCZ Part 1 report that this matter be retain in the policy and that the standard also be retained, subject to the minor amendments I recommended in the S42A. I refer to paragraphs 245-256 of this report where I have responded to Mr Stewart’s sought deletion of CCZ-S10.

34 I note that Mr Lewandowski has concerns over the phrasing of matter (3) being the reference to the Residential Design Guide. However, this

has been implemented as a consistent set of wording across CMUZ and I do not consider that a changes is necessary. I note that Mr Lewandowski is comfortable with my recommended addition of matter (4) subject to his relief being sought. I have not made any changes to matter, which provides a policy hook for minimum unit sizes.

Centres and Mixed-Use Zones rules:

Supermarket activities:

Foodstuffs North Island Limited ID 476 & FS23

(Evita Key for Foodstuffs North Island Limited)

- 35 I acknowledge Ms Key's support for recommendations made in Ms Hayes's Part 2, Part 3 and Part 4 S42A reports with regards to policies 'Accommodating Growth' Policies (NCZ-P1, LCZ-P1 and MCZ-P1), particularly with removal of reference to "ongoing viability". However, I disagree with Ms Key's position that more changes should be made to the policies to remove references to the vibrancy of other centres.
- 36 This reference to vibrancy reinforces the Centres Hierarchy of the ODP, of which was carried through to the PDP, but still provides sufficient flexibility within each respective zone to enable a variety of activities to occur.
- 37 With regards to the change that Ms Key seeks for CCZ-P2 to remove reference to 'ground level' and ensure consistency with the policy language of the other CMUZ, my position has not changed from that detailed in my S42A Part 1 CCZ report. The strong directive to deter ground level carparking in the CCZ is a response to an identified resource management issue identified within the CCZ in the last 10 years plus. This is the inefficient use and optimisation of CCZ land, where developers have gained resource consent application to demolish sites and then these sites are left vacant before a new development is built or they get utilised for carparking and remain in this use for an extensive period of time.

- 38 In my view, ground level carparking use is an effective use of prime central city sites that instead could be more efficiently utilised and contribute to accommodating more residential development or mixed-use development with the zone to meet housing supply needs. Whilst I appreciate that for supermarkets, ground level carparking will only form some of the proposed use, I still consider that there is better way to optimise the site through either mixed-use development that allows more uses within sites and greater intensification, and/or carparking below ground floor level or provision above ground floor level as part of a larger development.
- 39 In my view, the market is changing from a model where supermarkets are expected to have vast ground floor open carparking available to models where carparking is part of the supermarket building, or in metro supermarket examples, no supermarket carparking is provided due to location and ease of access through public and active transport. Foodstuff's own stores within the CCZ represent this shift in expectations, with Thorndon and Chaffers New World providing mixed carparking model approaches of underground and ground-level spaces, whilst the Railway Metro and Willis Street Metro do not require carparking at all and instead servicing and loading carparks are provided within a nearby vicinity.
- 40 As Dr Zamani notes in his supplementary evidence, ground level carparking is grossly underutilizing CCZ land, and large carparking areas that accompany supermarkets in some situations have resulted in the provision of unsafe environments, particularly after hours. As such I think it is appropriate that carparking at ground floor level remains as a potentially incompatible activity in CCZ-P2.
- 41 I appreciate the further clarity that Ms Key provides regarding Foodstuff's submission point on the CMUZ Quality Design policies (NCZ-P7, LCZP7, MCZ-P7, CCZ-P9, COMZ-P5 and MUZ-P3), in that the submitter did not anticipate requiring an assessment of the functional and operational needs in all cases, instead seeking to 'recognise', rather than 'require' them. However, I do not consider it is necessary to change

the policy wording from 'require' to 'enable' because I note that it cannot be expected that all matters addressed in policies will be incorporated into a development, nor will applicable due to the site context, surrounds and location.

42 I note that the key design elements of the policy sit within clause (2) which states 'Ensuring that the development, where relevant...'. Hence, the use of the word 'where relevant' identifies that not all clauses will be applicable to a development. As such I do not support any changes to these policies.

43 I concur with Ms Key that it is important to have supermarkets located within centres than in out-of-centre locations and that it is possible that not all urban design outcomes can be achieved. However, this is where the Restricted Discretionary Activity consenting pathway allows for this consideration and if this cannot be achieved as Ms Key notes, that a satisfactory alternative can occur. This would be Council's preference and not 'refusal of consent'. My position has not changed that I do not think it is necessary to have to detail 'operational and functional needs' within the policy.

44 I acknowledge Ms Key's continued support for supermarket activities being permitted activities in the CMUZ.

Woolworths New Zealand Limited ID 359

(Kay Panther Knight for Woolworths New Zealand)

*Activity Statuses for Supermarkets within the Centres and Mixed-Use Urban Zones
(CMUZ)*

45 Ms Knight considers that the PDP does not adequately provide for supermarkets within the CMUZ as there is no permitted activity status available and instead, they need to go through a consent process.

- 46 I do not disagree with Ms Knight that supermarkets are an essential and are important for the community both from an economic and social value aspect.
- 47 However, I disagree that the PDP does not adequately provide for supermarkets. While I acknowledge that due to the nature of supermarket buildings there is unlikely to be a scenario where supermarket buildings are permitted, I note that there is a consenting pathway to the development of a building for a supermarket in each of the CMUZ. As discussed within my Section 42A Reports, I consider that this is appropriate because a resource consent process allows for an assessment of the design of a building, to ensure a positive outcome for the public environment.
- 48 Ms Knight considers that various amendments to the planning framework in the CMUZ are needed in relation to supermarkets. In her view, the Council's framework is punitive and more enabling provisions are required. I address Ms Knight's recommended amendments below.
- 49 Ms Knight seeks amendments to 'Carparking Activities' in the NCZ, LCZ, MCZ, and CCZ. The requested amendments are consistent throughout these chapters and seek that car parking activities are amended to Restricted Discretionary rather than Discretionary. I do not agree with this approach as the Discretionary Activity status allows a more comprehensive assessment of carparking activities, the effects of which can vary significantly depending on location and scale. In addition, I note that the permitted activity status for carparking allows for carparks above and below the ground floor of buildings. In my view this is an achievable outcome for supermarkets and is evidenced by the Countdown Supermarket in Newtown on the corner of Adelaide Road and John Street. However, I direct Ms Knight to my proposed changes to CCZ-R14 in Appendix 1 which supports some of her relief.
- 50 Ms Knight seeks the addition of specific matters of discretion for supermarkets within the 'construction of, or additions and alterations to, buildings and structures' Rules for NCZ, LCZ and MCZ. I do not agree with the requested additions. I consider that the Matters of Discretion as

notified are suitable to apply to supermarkets and separate matters for supermarkets are not required. This is to ensure a consistent form of development within centres, regardless of the building that is being constructed. I consider that supermarkets can be developed under the notified framework.

51 Ms Knight seeks the deletion of the minimum height standard from the NCZ, LCZ and MCZ. I disagree with the removal of this standard. The standard is intended to ensure that the CMUZ enables the level of development that is anticipated within a centres environment and under the NPS-UD policy 3 (a) and (b). The minimum building heights give effect to the NPS-UD by maximise development potential.

52 I refer to Dr Zamani's supplementary evidence in paragraph 21 where he responds to Ms Knight's evidence. Dr Zamani considers that the existing design of supermarkets and the prevailing status quo have led to significant challenges for urban centres in New Zealand. Dr Zamani furthers that supermarkets tend to be bulky, inward-looking structures that underutilize the available sites, often resembling large box-like buildings accompanied by extensive parking areas. Dr Zamani details various issues that have arisen as a result of these designs including unsafe environments, underutilisation of land etc.

Woolworths New Zealand Limited ID 359

(Yiqiang Shao for Woolworths New Zealand)

53 Mr Shao sets out the reasons that supermarkets are unique in his evidence and uses this as justification for why the PDP should include a permitted activity status for the construction of supermarket buildings across the CMUZ and CCZ. I disagree with a permitted activity status and consider that the scale of supermarket buildings is such that a resource consent pathway is necessary, to determine the effects of each proposal as they arise.

54 It is important to differentiate between the land use activity and the building and construction activity. Supermarkets are provided for as a permitted activity under the commercial activity rules in the NCZ, MCZ,

CCZ and LCZ. Supermarkets are also provided for as a permitted activity under the COMZ and in the MUZ, up to 1,500m² total GFA.

55 Mr Shao considers there is a need to recognise the functional and operational requirements of supermarkets in the design provisions. However, Mr Shao has not provided any detail on how to achieve this. I refer to my argument above in relation to the suggested amendments by Ms Knight.

56 In his evidence Mr Shao states that the development of supermarkets has become difficult to the point that no major supermarkets have been constructed in Wellington since 2013. I do not agree with this statement and note that Countdown Metro on Lambton Quay opened in 2016. Metro supermarkets are becoming increasingly popular around the country, particularly in Auckland where it is common for supermarkets to be multi-level, and where carparking is incorporated within the building itself.

Parliamentary Activities

57 Peter Coop, on behalf of the Parliamentary Service, seeks that the 'Parliamentary Precinct' should be accorded similar recognition under the CCZ to the Te Ngākau Civic Square Precinct, with specific objectives, policies and rules by way of the introduction of a Parliamentary Precinct.

58 I note that the original submission by Parliamentary Precinct discussed a 'Parliament Precinct' and that the provisions *'such as those included for the Te Ngākau Civic Square Precinct are likely to be an appropriate base to work from, as it is submitted that the Parliamentary Precinct has a role and qualities that are analogous and at least as significant as that Precinct'*. However, the original submission in my view, did not speak to a precinct within the sense of the precinct tool set out in the National Planning Standards.

59 Although I have general sympathy with what Parliamentary Services are seeking, I note the relief in my S42A Part 1 CCZ which recommends specific recognition be given to Parliament Activities. In response to the submission received, I recommended the following:

- That 'parliamentary' and 'civic' activities be referenced in the CCZ introduction.
- That 'Parliamentary', 'Government' and 'Civic' activities be listed in CCZ-P1 Enabled Activities.
- That new permitted activity rules be provided for 'Parliamentary activities', 'Government activities' and 'Civic activities'.

60 Height is managed through the Heritage Chapter provisions noting the heritage listed buildings and Heritage Area for the Parliament Area. Because I considered that it was not clear if a precinct was being sought for the Parliament area in accordance with the National Planning Standards, I did not include a new precinct akin to the approach for Te Ngākau Civic Square Precinct.

61 I also note that no compelling reasons or S32AA evidence has been provided in the submission or Mr Coop's expert evidence to support this change to a precinct. In comparison, Te Ngākau has a framework and changes have been approved by Council as I have detailed in my Section 42A Part 1 CCZ report.

62 If Parliamentary Services still seeks to establish a precinct, akin to Te Ngākau (which would create a second precinct within the CCZ) Council would be open to a plan variation or plan change in the future. However, this would be subject to its unique activities and development being adequately justified for needing a standalone precinct, rather than relying on the CCZ alone. It would also require more detail from the submitter justifying this change.

63 I acknowledge Mr Coop's support for my recommendations in my Part 1 CCZ S42A report with regard to the provision that 'parliamentary activities' are a permitted activity. Mr Coop also seeks an exemption for the Parliament Precinct from CCZ-S4 minimum building height limits. Again, I note that sufficient rationale or S32AA assessment has not been provided to support this change. I consider this could also be incorporated into a plan change or plan variation request as mentioned above.

CCZ-R12 Residential Activities

64 I acknowledge Mr Lewandowski's support of my changes to CCZ-R12. I note that Mr Heale seeks that CCZ-R12.2 (and the equivalent rules in MCZ, LCZ and NCZ) should be amended to a Restricted Discretionary rule, instead of the notified PDP Discretionary Activity status. I disagree, and my position has not changed on this matter as canvassed in paragraph 360 of my Part 1 CCZ S42A report.

65 I also disagree with Mr Heale's suggestion that the CMUZ 'Conversion of Buildings, or Parts of Buildings, for Residential Activities' rules be deleted and changes made to the Residential rules across these zones. Mr Heale considers there to be a mistake, which I do not with application of the residential rules.

66 In my view the rules have been carefully articulated in the manner they have for a purpose to ensure that residential activities are enabled where appropriate without undermining any other controls like active frontages, and that developments that contain residential activities are built to properly provide for on-site residential living and on-site amenity like adequate internal living space.

67 It is important that the building conversion rule is retained to ensure a necessary consenting pathway and matters for resource consent planners to consider for when an application is received to convert non-residential building to one which is fit for residential activities.

Buildings developed for non-residential activities can be ineffectively designed for residential activities and consequently retrofitted to ensure that they meet the requirements for residential accommodation. I have provided rationale for CCZ-R21 (and the equivalent rules in MCZ, NCZ and LCZ) in paragraphs 470 – 474.

CCZ-R14, MCZ-R15, LCZ-R13 and NCZ-R13 Carparking activities

68 As noted under the General Approach chapter, the entire district is zoned and all land is identified as part of a ‘zone’ on the planning maps, including roads. Following the Draft District Plan, a consequential change was made to map the zones that apply to roads within the district. As such I am proposing a minor consequential change to CCZ-R14 to provide a permitted activity clause (vi) to acknowledge that the Plan permits provision of carparks on a road.

69 This reflects the function of road controlling authorities such as Wellington City Council to make decisions about allocation of road space in the City. I have suggested this change to make it clear within the rule framework that this process is undertaken through a separate regulatory framework and this activity does not require resource consent.

70 I acknowledge that Ms Key clarifies that her concerns regarding the Discretionary activity status under the CMUZ rules are to do with solely ancillary customer/staff parking with respect to retail activity, i.e. short term parking, whilst she acknowledges this activity status is appropriate for longer term carparking. I note Mr Jeffries’s, on behalf of Stride Management Investment Ltd and Investore Management Ltd, and also Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, request for MCZ-R15.2 to be changed from Discretionary to Restricted Discretionary.

71 I also acknowledge Ms Key’s point regarding removing the term ‘viability’ means that the argument for not undermining the viability of

a centre in such terms cannot be used. However, I believe there is a strong argument for arguing for the vibrancy of a centre, as well as optimisation of land in a centre. My position has not changed with regard to Ms Key and Mr Jeffries's requests for short-term carparking at ground level to be a restricted discretionary activity. Nor has my position changed on the notification setting for carparking rules across CMUZ.

72 However, in line with Ms Key's commentary in para 8.19 of her evidence, I consider that the rule framework could be more enabling of situations where carparking is provided at the back of a building away from the street frontage, thus still enabling active frontages, if it is not visible from streets or public spaces. This change reflects the kind of development seen at Countdown Newtown where carparking is completely within the building and not visible from the front of the site.

73 This enables carparking opportunities for buildings that can effectively enclose carparking within the building to the rear, but it also supports quality design outcomes and seeks to avoid perverse visual effects. This solution would support short-term carparking that Ms Key discusses. I note that loading spaces are permitted through the transport chapter.

74 As such I proposed the following amendment as set out in Appendix 1 track changes:

CCZ-R14	Carparking activities
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1. Activity status: **Permitted**

Where:

a. The activity involves:

- i. Provision of carpark above ground [floor](#) level; or
- ii. Provision of carpark below ground floor level; or
- iii. Provision of parking spaces for people with disabilities; or
- iv. Provision of ground [floor](#) level carpark that form part of a building specifically constructed and used for carparking purposes; [or](#)
- v. [Provision of ground floor level carpark that form part of a building, are located to the back of the site, do not cause non-compliance with CCZ-S8 and are not visible from the street; or](#)
- vi. [Provision of carpark on a road.](#)

75 Mr Jeffries, on behalf of Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, seeks that the mandatory notification is removed from CCZ-R14. I have not changed my position on this from S42A Part 1 CCZ report. Paragraphs 48-49 and 372-378 of my report traverse the approach to CCZ-R14.

CCZ-R15 Yard-based retailing activities

76 In paragraph 384 of my S42A Part 1 CCZ report I agreed with submitters BP Oil New Zealand, Mobil Oil New Zealand and Z Energy Limited (the Fuel Companies) [372.153, 372.154, 361.119, 361.120] that activities associated with the ongoing operation, maintenance, and upgrades of existing service stations/yard-based retail activities need not be subject to the public notification requirement under CCZ-R15. Whilst I still hold this position, I have noticed a technical omission in that the notification settings now does not address an application that is a new activity or expands an existing activity.

77 The wording I proposed in my S42A amendment being an exemption to public notification when the 'activity relates to maintenance, operation and upgrading of an existing activity' potentially allows maintenance or upgrading that expands an existing activity would not be subject to the

requirement for public notification. I do not consider this to be appropriate, as such I proposed to amend the wording as follows:

CCZ-R15	Yard-based retailing activities
	<p>1. Activity status: Discretionary Notification Status: An application for resource consent made in respect of rule CCZ-R15, <u>that is a new activity or expands the net area of an existing activity must be publicly notified must</u> <u>be publicly notified except when the application activity relates to the maintenance, operation and upgrading of an existing activity.</u></p>

78 This proposed change to the notification setting wording for CCZ-R15 in my view still gives effect to the relief sought by submitters BP Oil New Zealand, Mobil Oil New Zealand and Z Energy Limited (the Fuel Companies) [372.153, 372.154, 361.119, 361.120], whilst expansion of yard-based retail activities.

79 I note an error in paragraph 385 of my S42A Part 1 CCZ report where I detail that *‘I agree that yard-based activities adjacent to arterial or principal roads will potentially be appropriate, and the underlying policy framework establishes that these activities are ‘potentially incompatible’ within the CCZ. As such, I consider that the mandatory requirement for public notification is appropriate as it discourages these activities from occurring within the zone at the expense of more appropriate activities’*. I meant to note that I disagree that yard-based activities adjacent to arterial or principal roads will be potentially appropriate. My reasons for this view are detailed in paragraph 385 as noted.

80 Regarding Ms Westoby’s request that Z Energy’s submission that another public notification exclusion is provided for an activity that relates to the development of a new activity that is located at the periphery of the zone and/or adjacent to an arterial or collector road, I have not changed my position that is set out in paragraph 385 of my S42A CCZ Part 1 report.

CCZ-R18 Demolition or removal of buildings and standards

81 Mr Jeffries, on behalf of Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, partially agrees with my position in my S42A Part 1 CCZ report that long-term derelict or vacant sites can have negative effects on the city. He therefore agrees that it is appropriate for the district plan to include provisions which seek to manage demolition to avoid the creation of long term vacant sites.

82 However, Mr Jeffries considers that the rule does not provide sufficient flexibility to enable demolition for staged development that may require a building to be demolished before resource consent is sought for a new building. He also notes that it may also be a better outcome to demolish a vacant and/or dangerous building. As such Mr Jeffries proposes a change to Restricted Discretionary Activity.

83 I acknowledge Mr Jeffries support in part for the intent of the rule. However, I note that for dangerous buildings there is a permitted activity clause under the rule to permit demolition or removal of a building if its 'required to avoid an imminent threat to life and/or property'.

84 I have not changed my position from my S42A report and I consider that Non-Complying is appropriate for when a proposal does not meet any of the extensive list of permitted activity matters.

CCZ-R19, CCZ-R20 and CCZ-S1 and City Outcomes Contribution

85 I note that a dominant theme of submitter expert evidence for Hearing Stream 4 related to the City Outcomes Contribution mechanism. This was raised by the following submitters:

- **Stratum Management Limited** ID 249 (Craig Stewart and Maciej Lewandowski)
- **Restaurant Brands Limited** ID 349 (Mark Arbuthnot)
- **Willis Bond and Company Limited** ID 416 & FS12 (Alistair Aburn)

- **Foodstuffs North Island Limited** ID 476 & FS23 (Evita Key)
- **Wellington’s Character Charitable Trust Inc** ID 233 & FS82 (Stuart Niven)
- **Kāinga Ora – Homes And Communities** ID 391 & FS81 (Brendan Liggett, Michael Cullen, Matt Heale, Nicholas Rae)
- **Stride Investment Limited and Investore Management Ltd** ID 470 & 405 (Cameron Wallace, Joe Jeffries, Jerrod Thompson)
- **Retirement Villages Association of New Zealand Incorporated and Ryman Healthcare Limited** ID 346 & FS128; 350 & FS126 (Nicola Williams)
- **Argosy Property No 1 Ltd, Fabric Property Ltd, Oyster Management Ltd and Precinct Properties New Zealand Limited** ID 383, 425, 404 & 139 (Cameron Wallace, Joe Jeffries, Grant Burns & Kevin Pugh).

CCZ-S1 Maximum Height – Unlimited Building Heights:

86 I note that Mr Lamason has provided evidence on behalf of the Trustees of the Eldin Family Trust in the form of a visual simulation of the addition of six and nine storey building envelopes in Selwyn Terrace, Thorndon, from the perspective of Viewshaft (VS1) and Viewshaft 4 (VS4) in the PDP. I note that this evidence has not identified which Hearing Stream it relates to. I have taken it to apply to both Hearing Stream three and four, as it relates to both viewshafts and heights.

87 I consider this visual simulation to be useful, noting that it models buildings located on Selwyn Terrace under both the notified PDP maximum height limit of 27m for Thorndon (which applies to Selwyn Terrace) under the CCZ-S1, as well as CCZ-S4 minimum building height requirement of 22m.

88 There is a marked difference in the two viewshafts between six storeys (minimum building height) and nine-storeys (PDP maximum height) upon PDP-VS1 and PDP-VS4. As the viewshaft S42A officer I am

concerned with the impact these heights have upon PDP-VS1 and PDP-VS4, particularly 9 storeys, noting that that these two viewshafts are 'Category 1' viewshafts. This will be addressed further in my Hearing Stream three Viewshafts topic Right of Reply response.

89 As discussed in my Viewshafts supplementary evidence and during the course of Hearing Stream three, it was the intent of the notified PDP Viewshaft Chapter's provisions and Viewshaft Overlays to apply to the whole viewshaft (viewshaft itself, the context elements and focal elements).

90 This is demonstrated in the detail in Schedule 5 which includes descriptions of the viewshafts and also photo frames showing full extents of viewshafts. This is also captured in the notified PDP ePlan mapping for VS-15, for example, which extended all the way to cover these areas. It is also captured through the Operative District Plan's Central Area Appendix 11 (chapter 13) which shows the visual representation in full for each viewshaft.

91 In my view, the PDP chapter and Overlay Mapping should be amended (as I proposed in my supplementary evidence and addendum evidence) to clearly show the full extent of viewshafts to their focal and context elements apart from the exemptions I discussed in my supplementary evidence, i.e. not extending into the Remutakas etc. The full overlay mapping would capture Selwyn Terrace as identified in Mr Lamason's evidence.

92 If the viewshaft overlay and thus viewshaft control was extended to the Te Ahumairangi context element, thus covering Selwyn Terrace, then the Viewshaft Chapter's provisions would apply to any development in this site. Any application for development within the viewshaft would require a resource consent application as a Discretionary Activity under the Viewshaft rule framework.

93 If this was to be the case, I consider Selwyn Terrace should remain subject to CCZ zoning and the CCZ-S1 height proposal. Given the mixture of activities within Selwyn Terrace and the wider area, I still consider that

the CCZ zoning should be retained for this area as canvassed in para 117 of my Part 1 CCZ S42A report.

94 However, if these changes to the Viewshaft Overlay and Viewshaft rule framework do not occur, I recommend an exemption to CCZ-S1 for Selwyn Terrace should be provided and a maximum height limit of 22m/ six storeys be considered. I am of this view because I am concerned that the potential loss of view to Te Ahumairangi and dominance that would be created by tall buildings within the Selwyn Terrace area if they were not subject to the Viewshaft Chapter provisions, particularly tall buildings enabled under CCZ-S1 within VS1 and VS4's background.

95 I acknowledge Mr Aburn's support , on behalf of Willis Bond Ltd, of my recommendation that the 'maximum building height' is replaced by the 'city outcomes contribution height threshold'. I am in agreement with Mr Aburn's reasoning, being:

- The change is consistent with NPS-UD Policy 3(a)
- The change is consistent with CCZ-P5 Urban Form and Scale
- As Mr Aburn notes the change better captures the intent of the Proposed District Plan (PDP), noting that under Rule CCZ-R20 and Rule CCZ-PREC01-R78 there is the opportunity to gain additional building height, so the 'maximum' height threshold limit could be exceeded.

96 Mr Stewart also supports my recommendation to remove maximum height limits in CCZ-S1. I acknowledge in the associated commentary that he anticipates future development in the CCZ will be within the range of 12-14 storey range based on his experience. I also note that Dr Zarmani in paragraph 10 of his supplementary evidence agrees with Mr Stewart's assessment that the current cost-effective height range for buildings is around 12-14 floors. Whilst this is useful to note, I still consider it is important to provide for unlimited building heights in alignment with Policy 3(a) of the National Policy Statement on Urban Development (NPS-UD).

- 97 I acknowledge Mr Wallace's support, on behalf of Argosy Property No 1 Ltd, Fabric Property Ltd, Oyster Management Ltd and Precinct Properties New Zealand Ltd, for my recommendation to remove building height limits within the CCZ. I also acknowledge Mr Burns and Mr Pugh's respective support for it.
- 98 Mr Wallace notes that *'there are a number of benefits associated with increased commercial and residential densities enabled through greater building height such as reduced infrastructure costs, more affordable housing, increased vibrancy / vitality of centres due to a greater concentration of people within them, and reduced reliance on private vehicle use'*. Mr Wallace also notes that *'in design terms, the removal of height limits allows for more design flexibility with a greater focus on the overall building design and quality, and subsequently encouraging greater variety in design responses without the need to "squeeze in" the necessary floor area to support overall feasibility.*
- 99 Mr Wallace also identifies that new buildings will still be subject to a design review and assessment process under CCZ-R20, which I agree with. Mr Wallace considers that *'this will enable appropriate consideration of the design of taller buildings and would include achieving quality design outcomes and managing the adverse effects of taller buildings over and above the permitted heights set out within the Proposed Plan as notified'*. However, I note that Mr Wallace does not support C.O.C., as he considers that it creates a potential barrier for greater heights to be realised.
- 100 I note that Mr Jeffries, on behalf of Argosy Property No 1 Ltd, Fabric Property Ltd, Oyster Management Ltd and Precinct Properties New Zealand Ltd, also supports my recommended changes to remove maximum height limits. I agree with Mr Jeffries' rationale for removing maximum height limits in section 7.5 of his expert evidence.
- 101 I note that although Ms Key acknowledges that the aim City Outcome Contributions (C.O.C.'s) to provide public benefits and that taller buildings can have negative effects, that she does not consider that these two concepts are necessarily linked. Furthermore, she does not agree

that non-compliance with under-height development in the CCZ (CCZ-S4) should be linked to C.O.C. Ms Key notes that this is because the C.O.C.s do not address the potential adverse effects of building heights and that she is of the opinion that the assessment of any building height non-compliance should be based on the effects that they create and the positive outcomes of a development should be assessed separately.

102 As raised by Ms Williams, Mr Liggett and Mr Heale, Kāinga Ora share Ms Key's opposition to the use of the C.O.C. policy in relation to height non-compliances on the basis that it is inappropriate for the provision of these publicly beneficial outcomes to be connected to non-compliance with height rules. Like Ms Key, Kāinga Ora (Mr Liggett) also considers that developments that breach height standards should instead be assessed based on their potential or actual effects.

103 Mr Niven, on behalf of Wellington's Character Charitable Trust Inc, notes that the proposal to remove height limits in the CCZ, and for these limits to solely become thresholds above which compliance with C.O.C. is required, is in his opinion a *'flawed incentive mechanism'*. Mr Niven furthers that he is concerned that it means that *'the effects associated with very tall buildings would not be directly assessed when considering a resource consent application'*.

104 Dr Zamani notes that he believes that most buildings requiring resource consent in the Central City will already undergo an urban design assessment. Dr Zamani furthers that removing the maximum height limit does not eliminate the need for such an assessment. Dr Zamani disagrees with Mr. Niven's assertion that removing the maximum height limits implies an unrestricted approach. Dr Zamani identifies that regardless of a development surpassing the height threshold, other policies, standards, and the Design Guide will still apply to the project as listed in the restricted discretionary rule.

105 Dr Zamani, in paragraphs 29 – 32 of his supplementary evidence, has responded to the points raised regarding the C.O.C. in Mr Niven's evidence.

- 106 I note that Mr Heale has detailed that *'Most of the matters assessed in the City Outcomes Contribution provisions do not relate to effects arising from the height of a building, but are instead concerned with how a building will be used and performs and the impacts on other matters such as public space.'*
- 107 In response I note that it is important to recognise that significantly tall buildings do create effects - both visually within their context (and the wider cityscape) and with respect to the levels of amenity available to adjacent sites. In order to accommodate growth and provide for well-functioning urban requirements, as required by Objective 1 and Policy 1 of the NPS-UD, the Council proposes the C.O.C. mechanism as a means to provide for additional heights where these offer demonstrable positive benefits to the city and its occupants. These could be tangible benefits, such as public open space, or less evident benefits such as seismically resilient buildings and accessible apartments, that also improve quality of life.
- 108 Height is a trigger for C.O.C.'s being applied (as was also the case with design excellence in the Operative District Plan (ODP)) and the C.O.C. response and unlimited building height should not be construed as being indicative of a lack of concern about the effects of height. Instead, in light of the direction in Policy 1 and Policy 3 of the NPS-UD, and the density anticipated within the CCZ, I consider that it is about accepting these effects will be an outcome of height exceedance and that developments should be required to reciprocate in kind as a result.
- 109 It is important to note that the C.O.C.'s themselves are focused on Wellington Council's city goals⁴, for example being a sustainable, climate friendly eco capital (environmental wellbeing), being a people friendly, compact, safe and accessible capital city (social wellbeing), align with the PDP's Strategic Direction, i.e. Sustainability, Resilience and Climate

⁴ Wellington City Council, Vision Framework, Wellington Towards 2040: Smart Capital, 2011

Change, and also align with Objective 1 and Policy 1 of the NPS-UD, particularly in relation to 'well-functioning urban environments'. In light of this I consider that the focus of the C.O.C.'s is not on building performance or public space as suggested but instead on the positive environmental and social effects that can be derived from a development in exchange for any increase or decrease in the height threshold or limits in the PDP that are enabled (i.e. provision of new public space, more resilient building design through base isolation etc.), noting that the definition of 'effect' in section 3 of the RMA also extends to include any positive effect.

110 It is because of the effects from tall buildings that exceed the identified height thresholds in CCZ-S1 (which are based on the notified CCZ-S1 maximum building heights in the PDP), and the need to positively counter-balance these effects for the wider environment and social benefit of the city and public, that I have suggested amendments the consent pathway and notification settings for applications that do not provide C.O.C. through CCZ-S1.

111 I note that Ms Key does not provide any further clarity on where or how positive outcomes should be assessed separately in the CCZ framework. Whilst I understand the concerns raised by Ms Williams, Ms Key and Kāinga Ora, as I have extensively canvassed in section 8.10 of my Overview and General Matters S42A report, this does not represent a novel new approach, but a variation on one that is already in place.

112 Aside from height, I note that the notified PDP version of the CCZ also applied C.O.C. related considerations to developments that met the definition of 'Comprehensive developments', developments that were considered to be 'large-scale residential' developments (based on a metric of 50 units or more being provided) and developments that did not provide for 'residential activities'.

113 In paragraphs 196-198 of my Overview S42A report I discuss the decision to reduce these considerations down to exceedance of the height thresholds or non-compliance with the minimum building height for reasons relating to simplicity of C.O.C. application thresholds. I maintain

the views expressed in these paragraphs and consider there are no further considerations aside from height to which C.O.C.'s should be applied, noting that Ms Key has not provided any alternative suggestions.

114 I also note in response to Ms Key's and Kāinga Ora's point around C.O.C. not addressing the potential adverse effects of building heights that mitigating adverse effects it is not its prime intent. Instead, the C.O.C is proposed as a means of ensuring positive effects and outcomes are derived from under and over height developments for city-wide benefit. Indirectly this can be considered in the realm of resource consent applications alongside mitigation of adverse effects. It is the assessment criteria, matters of discretion, policy direction, assessment against the design guides that provide the means of assessing potential adverse effects, including those of height.

115 I disagree with Ms Key's and Kāinga Ora's sentiment that non-compliance with under-height development in the CCZ (CCZ-S4) should not be linked to C.O.C.s. As discussed in paras 574 – 584 of my Part 1 CCZ S42A report, CCZ-S4 minimum building height was informed and directed by the Spatial Plan, was approved by Councillors and has been widely engaged on with stakeholder across the Spatial Plan, Draft District Plan (DDP) and PDP. The minimum building height aligns with the City Centre walking catchment height of six storeys and directly links to CCZ objectives, policies and rules seeking to efficiently optimise the development capacity of sites within the CCZ. This includes CCZ-O2, CCZ-O3, CCZO6, CCZ-P4, CCZ-P5, CCZ-R18 and CCZ-R20.

116 CCZ-S4 also clearly responds to an identified issue in the City Centre in that the enabled development capacity on some sites has been inefficiently utilised, for example the two-storey Paddington development on Taranaki Street, the Reading Cinema Wakefield Street carpark, the vacant carpark behind the St Paul's Church on Molesworth Street, and the four-storey Aro Living 3.5 development on the corner of Willis Street, Vivian Street and Victoria Street, whether that is through low rise development, ground floor carparking or being an empty

demolished site. The effects of this include suboptimal development capacity, impaired residential and commercial building supply and adverse aesthetic and streetscape effects.

- 117 Based on this rationale for having a minimum building height, I think it is important to required C.O.C. where there is non-compliance so that city-wide benefits or outcomes can be derived from a development that at face value is not giving effect to objectives and policies such as optimisation of a site but is able to deliver two or more of the outcomes sought in CCZ-P11 C.O.C.
- 118 I understand Ms Key's point regarding not describing C.O.C. as an incentive and that there is a risk it may discourage the construction of buildings that may otherwise be acceptable. Brenden Liggett for Kāinga Ora also makes this argument. I consider that the risk of development being discouraged is relatively low given as I note further in this report in paragraph 165, based on data over the last 10 years it is unlikely Council will see many exceedances beyond the height thresholds for various reasons discussed in para 165 - for example past resource consent trends, greater enabled height thresholds in the PDP than the ODP, construction costs and market forces etc.
- 119 This is reinforced by Mr Stewart's views expressed in paragraph 3.1 of his evidence where he notes that *'We have constructed buildings of up to 17 storeys in the past few years but due to changing seismic requirements the additional cost that comes with height to this level, or even higher, is proving not to be very cost effective. Therefore, residential buildings in the 12-14 storey range are where we see the future'*.
- 120 Regardless of the appropriateness or otherwise of referring to the C.O.C. as an 'incentive', I maintain the view that its intent is to achieve positive effects that derive city-wide benefits in exchange for non-compliance with the height thresholds in CCZ-S1 and CCZ-S4. These benefits, in turn, may result in a beneficial financial return to developers through making development more attractive to building occupants, whether these be potential residential owners or companies looking to let spaces etc.

- 121 Mr Heale notes that irrespective of the removal of the maximum building height limit, building height in the CCZ will continue to be limited by view shaft controls and wind assessment requirements. I have also identified this in paragraph of 549 of my CCZ S42A report.
- 122 Mr Heale notes that it is unclear how Appendix 16 and relevant policies will be applied in Centres outside the CCZ and HRZ. The C.O.C. applies to CCZ, MCZ, LCZ, NCZ and HRZ which is reflected in each zone's C.O.C. policies and construction rules. I refer Mr Heale to Section 8.10 of my Overview S42A report which contains the recommendations for C.O.C. for each of these zones, and the recommended Appendix 16 which contains the height thresholds for all Centres Zones and the HRZ. These height thresholds, apart from the CCZ-S1 changes, are the same as those included in the notified PDP . Residential Design Guide (RDG) and Centres and Mixed Use Design Guide (CMUDG). I consider the changes I proposed in Appendix 1 of this supplementary evidence and below will provide more clarity in response.
- 123 Mr Heale also details that *'a number of the City Outcomes matters duplicate matters of discretion and standards referenced in the construction of buildings and structures rule (CCZ-R20), such as: (a) open space (CCZ-S10, and CCZ-P8 and CCZ-P9); (b) pedestrian access and accessibility (CCZ-P9); (c) heritage (CCZ-P9); and (d) natural hazard resilience and climate change (CCZ-P9)'*.
- 124 Whilst I understand Mr Heale's concerns, in my view, the C.O.C. outcomes and policy directions support and compliment the objectives and policies of those in the CCZ and the intensification, design quality, open space provision and amenity intent of these policies and matters of discretion. I also note that there are nuances between the outcomes sought (and examples given in the matrix table in Appendix 16) and the standards in the CCZ zones. For example, CCZ-S10 seeks to ensure good on-site amenity outcomes through providing for private or communal on-site outdoor living space. The C.O.C. outcome allows for the provision of public open space. The key difference here being 'living' and 'private or communal' space versus 'public space'. Regardless, this is an example

where both the plan provisions and C.O.C. outcomes compliment one other.

- 125 Likewise the policy framework around sustainable buildings, resilience to hazards, accessibility etc. is reinforced and given effect to through the C.O.C. outcomes, i.e. base isolation buildings, reduction in embodied carbon, lifemark certification etc.

City Outcome Contribution – purpose:

- 126 As already outlined in paragraphs 17, 18 and 22 above the broad purpose of the C.O.C. is to counterbalance under and over height development by ensuring positive effects and city-wide benefits are derived from such proposals. The policy and rule framework for the C.O.C. sets up a scheme whereby the CCZ provisions are enabling but, in the event that development proposes to either exceed the height thresholds or reduce the minimum height limit identified in CCZ-S1 and CCZ-S4, there are additional city wide outcomes which the Council, in the public interest, wants to see accommodated. This is because there are city wide impacts from not doing so, for example additional pressure on public space infrastructure, public amenities, public transport, services etc., noting that constructing a significantly tall development will have an effect beyond just the adjoining sites and streets in terms of visual effects, effects upon infrastructure from increased population provided through the development etc.

- 127 For example, the effects of a 40 plus storey development on the Terrace would inevitably extend beyond the immediate site. It is not only effects upon developments adjacent to the site, like shading for example, but flow on effects upon the wider street and environment, including visual effects, effects upon services, capacity pressures on existing infrastructure provision and public amenities etc. However, I am of the opinion that the impacts of allowing for taller developments can be successfully balanced through providing public outcomes – this is further supported by Dr. Zamani in his supplementary evidence. For example, acknowledging the lack of green space in the City Centre by providing more public space as part of the development, not only positively

benefits site users, whether these be residents or workers, but provides additional public space for wider public use and enjoyment. Alternatively providing for green star buildings or base isolation assists in providing a public benefit of a safer and/or more resilient city.

128 Whilst I acknowledge Mr Stewart's concerns about the point system being 'overly complicated', I consider that it is important that the point system and associated detail is provided in a comprehensive manner to provide greater degree of certainty to plan users, developers and resource consent processers', along with improved clarity and comprehension regarding its implementation.

129 While the idea itself is not a new concept, noting that 'design excellence' is a clear outcome presently included in the ODP in Policy 12.2.5.5 (Chapter 12 Central Area Objectives and Policies), as the C.O.C. design, method and scope is new I am of the view that the points system offers necessary direction as to how points will be allocated and considered in respect of a development. Regardless, to complement the content in Appendix 16 I propose to further recommend that a non-statutory user guide be developed for developers and resource consent processing planners to provide further clarity as to how an application that triggers the C.O.C.'s will be assessed, weighted and allocated points.

130 I note that a few submitters have raised the counterargument to C.O.C.'s on the basis that 'any scheme should be judged on the merits of the scheme in totality', or alone without requiring C.O.C. as Mr Stewart argues. Whilst I appreciate the concerns raised in these submission points I note that applications will continue to be assessed on their merits, with a heightening of this under the points system in terms of the positive benefits to the city or occupants of proposed development derived in exchange for exceeding the relevant height threshold or reducing the minimum height limit.

131 Whilst additional costs will be incurred to achieve these outcomes, it is likely that developers will also accrue benefits. For example, a green star rating or base isolation will make the development more attractive to future occupants, whether that is residential or commercial. This is akin

to Mr Burns, on behalf of Argosy Property Ltd, on page 14 of his evidence who when discussing the developments of building generally notes that developers *‘also have an incentive to construct attractive buildings, with high amenity, in order to attract and retain good tenants. Enhancing a building’s attractiveness and public amenities are good community outcomes – while building additional storeys on a site often makes these outcomes feasible, not just for initial construction but ongoing maintenance and upkeep’.*

- 132 Mr Stewart refers to Policy 3(a) of the NPS-UD seeking to realise as much development capacity as possible, noting that this is ‘principally achieved through increased height’. Whilst I agree with this, and hence my proposed amendment to have unlimited building heights to give effect to Policy 3(a) as well as other measures like the minimum building height requirement in CCZ-S4, I also note that Policy 3(a) seeks to ‘maximise benefits of intensification’, something that the C.O.C. seeks to achieve by enabling greater heights subject to in exchange for delivering positive effects that derive city-wide benefits.
- 133 Objective 1 and Policy 1 of the NPS-UD seek that planning decisions contribute to ‘well-functioning urban environments’ which are environments that enable a variety of homes, have good accessibility for all people, support reductions in greenhouse gases and are resilient to the likely current and future effects of climate change, amongst other considerations.
- 134 This directive aligns well with the policy intent and outcomes sought by CCZ-P11 C.O.C., as extensively canvassed in paragraphs 82 and 513 – 549 of my Part 1 CCZ S42A report and section 8.10 of the Overview and General Matters s42A report, including tables 6 and 7. Importantly, I am also of the opinion that the pre-mentioned sections of my Overview S42A report, coupled with the detail contained in this supplementary evidence, reinforce that the C.O.C. aligns with the policy direction in the NPS-UD, contrary to Mr Liggett’s assertions.
- 135 Reflecting on the outcomes described by Mr Stewart that Stratum has provided throughout the city in the form of laneways, parks and other

residential amenities, I consider that these are all great intended examples of the nature of the outcomes intended to be delivered through the C.O.C., and which the Council seeks to enable more of.

136 I acknowledge Mr Aburn's support for my Overview s42A Report recommendation that the C.O.C. 'design guide' guideline content is moved from the Design Guides to Appendix 16, with references made in the rules and standards to Appendix 16.

137 Mr Niven, on behalf of Wellington's Character Charitable Trust, argues that 'bonused public goods' will not achieve the outcomes sought by the city, referring to New York City's examples from the 1960 – 1980s and Wellington in 1985 when the Council introduced in 1985 a system for which 'public goods' could be given in return for a developer to receive increased floor space. I note that Dr Zamani responds to this in paragraph 30 of his supplementary evidence noting that these 'public goods' cannot be mandated but can be requested as incentives.

138 I note that Mr Liggett and Mr Heale advise that Kāinga Ora considers the C.O.C. policy as currently proposed does not achieve the intent of "design excellence", and that a design outcomes policy is a more appropriate policy to manage positive design outcomes for development in Centre zones. Mr Liggett also notes that Kāinga Ora considers that the complexity of the C.O.C. Policy in the Centre Zones (and High Density Residential Zone) has the potential to limit intensification in areas that are the most appropriate for intensification and development. This sentiment is also expressed in the evidence prepared by Mr Rae and Mr Heale.

139 In paragraph 38 of this report, but also paragraphs 82, 513 - 549 of my Part 1 CCZ S42A report and section 8.10 of the Overview and General Matters s42A report, I identify that C.O.C. neither disenables the development capacity provided through the PDP nor inhibits Council's ability to provide sufficient housing supply to meet anticipated demand in the city as identified in the Housing and Building Assessment. Development capacity is still being maximised with the removal of maximum height limits and enabling unlimited heights as per HS4-P1-

CCZ-Rec94, noting that this was an outcome sought by Kāinga Ora in its submissions on the CCZ. I also note that C.O.C. only applies above the height threshold of the superseded maximum height limits in the notified PDP CCZ-S1 or under CCZ-S4.

140 Again, I consider it is also important here to reemphasise that the C.O.C. gives effect to well-functioning urban environments Objective 1 and Policy 1 of the NPS-UD, and particularly to the directive to 'maximise the benefits of intensification' under Policy 3(a), outcomes which closely align with the operating principles that apply to Kāinga Ora under the Kāinga Ora – Homes and Communities Act. As such, I strongly disagree with Mr Liggett and Kāinga Ora's sentiment that C.O.C.'s have the potential to limit intensification. Further to this, in other Centres and zones there is only one consideration that triggers C.O.C. - exceedance in height. Most notably, this only applies when an exceedance of 25% or more above the maximum height limits is sought, thus providing for ample development capacity. In the notified PDP this is set out in the CMUDG (guideline G137) and RDG (guideline G97), and in my S42A recommended change this is set out in the proposed Appendix 16 section 8.10 of my Overview S42A Report.

141 Regarding the achievement of "design excellence", I note that this is not the intended purpose of the C.O.C. Whilst the C.O.C. has its origins in the design excellence policy of the ODP Policy 12.2.5.5 (Chapter 12 Central Area Objectives and Policies), the outcomes sought are different and much more focused on city-wide public benefits and outcomes that align with the Spatial Plan goals, PDP strategic direction and Council city goals more broadly such as contributing to the city's resilience, carbon reduction, accessibility and connectivity and liveability.

142 By contrast, the focus of C.O.C.'s is not on design excellence, architectural quality or building design alone, noting that the CCZ has a specific design outcomes policy (CCZ-P9 quality design outcomes) and that the outcomes sought by CCZ-P11 C.O.C. are separate to this. Dr Zamani addresses this in his supplementary evidence. As such, I strongly disagree with Mr Liggett that the C.O.C. has 'unclear intent' as I am of

the opinion that its intent is clearly expressed in detail in the C.O.C. policies (CCZ-P11, MCZ-P10, LCZ-P10, NCZ-P10 and HRZ-P13) and in proposed Appendix 16 included in section 8.10 of my Overview S42A report (which contains an updated version of the notified PDP C.O.C. outcomes (included in the notified PDP in the CMUDG and RDG)). For the pre-mentioned reasons, I also strongly disagree with Mr Liggett that the C.O.C. policy and detail regarding C.O.C.'s intent and outcomes is not clear as to how this will achieve positive development outcomes for the city.

143 I agree with Mr Aburn's sentiment that the 'design excellence' concept in the ODP is inadequate with regards to providing clarity as to the outcomes sought, with nothing more than a brief statement in Policy 12.2.5.5 of the Central Area providing a degree of insight into what these might entail. As Mr Aburn alludes to there is a lack of definition and clarity as to what constitutes design excellence.

144 I also acknowledge and support Mr Aburn's sentiment that he considers that the C.O.C. mechanism provides more direction and certainty as to the outcomes sought when buildings exceed the height threshold.

145 I disagree with Mr Niven's statement, for Onslow Resident's Association, that the C.O.C. should not apply to Khandallah Centre. I agree with Dr Zamani's response in paragraph 20 of his supplementary evidence which notes he considers *'problematic to make an exemption for the Khandallah Local Centre Zone to be exempt from providing diverse accessible and sustainable developments, public amenities, or other beneficial outcomes, because of the historical urban form of the building that is subject to significant change in near future'*. I do not consider that compelling rationale or S32AA assessment has been provided for why this change is appropriate.

146 Regarding Kāinga Ora's concern about requiring public open space I direct the submitter to my response in paragraphs 245-256 of this report. In terms of its further concerns regarding 'assisted housing', firstly I note that use of this term is not intended to stigmatise public housing developments but is instead terminology that is commonly

utilised within Council, with the context to assisted housing being included in the C.O.C. outlined in paras 194-195 of my S42A Overview report. There is broad support within Council and by Councillors to provide for assisted housing, and the C.O.C. is only one suggested mechanism to do so.

- 147 Further context on this matter is provided in the Council's Section 32 report centred on Assisted Housing⁵. This report notes that there is uncertainty about how the Wellington housing market will react to mandatory contributions and the C.O.C. assisted housing outcome. As the report notes on page 27, this is why the contribution rate is set at a conservative level and that effects on commercial feasibility should be low enough to not affect overall realisable housing supply.
- 148 Also of relevance in this regard is the 'Assessment of potential social effects from the draft District Plan's inclusionary zoning provisions' report prepared by Quigley and Watts Ltd⁶ in 2021, with Option 2 being the closest option assessed to the C.O.C. scenario in the PDP (see pages 24-27).
- 149 Mr Heale has raised that it is difficult to understand how this system will help with assisted housing problems when only 1 point is allocated for every 1% of the net floor areas of new assisted housing. In response, and as an example, a resource consent application for an apartment building higher than the relevant CCZ height threshold with 80 new apartments would, as a C.O.C. outcome, allocate 8 of these to assisted housing. In this example, the developer has a signed agreement of sale for a community housing provider to buy or lease (likely at a reduced price) the 8 apartments and to manage them as long-term affordable⁷ rentals for low to median income households.

⁵ Wellington City Council, [Section 32 Evaluation Report – Part 2: Assisted Housing](#), 2022

⁶ Quigley and Watts, [Final Social Impact Assessment on assisted housing provisions in draft WCC District Plan](#), 2021

⁷ Affordability is in reference to the Wellington Housing Affordability Model

- 150 Assuming all 80 apartments are the same size, this would mean that 10% of the net floor area is allocated towards new assisted housing, with 10 C.O.C. points assigned to the assisted housing contribution. However, I note that the application would still need to satisfy at least one other C.O.C. outcome to comply with CCZ-S1 and CCZ-P11.
- 151 Mr Heale also notes that *'the risk of including encumbrances for assisted housing is creating a mandatory requirement for public housing providers who have infringed maximum height limits to enter into encumbrances on title, which effect the ability of public housing providers to efficiently manage their portfolio'*.
- 152 I consider that if a public housing provider lodges a resource consent for a building that exceeds the height threshold, the provider is not required to use the Assisted Housing C.O.C. to receive the points needed but can instead rely on other options such as the contribution of public space and amenity, accessibility, sustainability and resilience.
- 153 My understanding is that encumbrances are an effective method to ensure that assisted housing continues to be used for its intended purpose for at least 25 years, and is not on-sold or up-sold for private gain or to bolster the balance sheets of public entities in the future. Encumbrances on title are a relatively easy legal instrument for the Council to discharge or apply to another title if the future landowner can transfer the obligation to retain assisted housing to other new residential units.
- 154 Mr Jeffries notes that the *'City Outcomes would benefit from a broader assessment of the potential contribution to affordable housing of a development, rather than one that is limited to 'assisted housing'*. I consider that development of housing at affordable price points can help contribute to more affordable housing in the long term. However, assisted housing has positive social and economic effects in building a well-functioning urban environment, more than just supply of dwellings at more affordable price points, because:

- Assisted housing increases supply of secure, retained affordability. The ‘assistance’ part of assisted housing (e.g. a subsidy, long-term lease, capital sharing) can allow for people on low to median incomes to live in houses and locations that are suitable for them, good quality, near where they work, study, play, and to build a more diverse community.
- Housing that is currently “affordable” may not remain “affordable” in the open market long term. For example, affordable housing sold at discounted prices through KiwiBuild can be sold or rented at market rates after just 1-3 years, depending on the Deed of Covenant (so would not be “assisted housing” under the PDP definition). This means the positive effects of the affordable housing to low income households and the City are lost, with a financial benefit to the homeowner.
- Currently, new dwellings at more affordable price points in Wellington City are still unaffordable for many lower income households. Assisted housing provides opportunities for lower income households to keep the city’s economy and community vibrant and growing by living near where they work, study and play. If the new dwellings are truly at the affordable end of the scale for low to medium income residents at below current market prices the dwellings may be suitable to meet the Assisted Housing C.O.C. requirements, including meeting the assisted housing definition long-term.

155 For context about how assisted housing as a method aligns with RMA and national direction, I refer Mr Jeffries to the Section 32 assessment⁸ on assisted housing. Much of this assessment related to an option for mandatory assisted housing contributions which is not part of the notified Plan, but still contains useful context relating to this voluntary C.O.C. method in the Plan.

⁸ Wellington City Council, [Section 32 Evaluation Report – Part 2: Assisted Housing](#), 2022

156 I note and acknowledge that Mr Rae considers that the assisted housing points are clear and achievable. I also acknowledge his concerns raised in section 11.12 -11.19 of his report, as well as those raised in Mr Wallace's and Mr Thompson's evidence. In response, I consider that as an aid to implementation of the C.O.C. it would be helpful for a companion non-statutory user guide to be developed by Council which provides further clarity on such matters as the points system, how points can be allocated per outcome, and weighting – it could also include worked examples. Further, I am of the view that it would assist in alleviating concerns raised in submissions regarding matters such as the allocation of points.

City Outcomes Contribution – Proposed amendments to correct technical omission:

157 Mr Lewandowski notes that the use of 'must' in matter CCZ-S1 (2) is in this context akin to the use of avoid, suggesting there is no alternative. CCZ-R19 (Additions and Alterations) and CCZ-R20 (Construction of a building) are the associated rules for C.O.C. and, as Mr Lewandowski notes, CCZ-19 and CCZ-R20 require resource consent as a restricted discretionary activity for a new building or additions and alterations to an existing building in the CCZ. Mr Lewandowski notes that the resource consent requirement only elevates to a discretionary activity status where the minimum height standard is not complied with.

158 Mr Lewandowski also notes that where a building proposal seeks to exceed the height threshold and not follow the City Outcomes Contribution route, the use of 'must' in standard CCZ-S1 suggests that that application would need to be declined. He further observes that policy CCZ-P11 also appears to support this view as it requires developments exceeding the height threshold to deliver the City Outcomes Contribution.

159 Some technical omissions which do need to be rectified and further explanation given have also been identified by Mr Lewandowski in pages 8-12 of his evidence, these include:

- The use of ‘must’ in matter 2, which Mr Lewandowski considers to be akin to the use of avoid – *‘it suggests there is no alternative’*;
- Mr Lewandowski notes that where building proposal seeks to exceed the height threshold and not follow the City Outcomes Contribution route, the use of ‘must’ in standard CCZ-S1 suggests that that application would need to be declined;
- Mr Lewandowski furthers that in this new context, policy CCZ-P11 would also support this view as it requires developments exceeding the height threshold to deliver the City Outcomes Contribution;
- Mr Lewandowski also notes that *‘In seeking to remove the maximum height standard, the s42A report is imposing a requirement that is tantamount to a maximum height standard and that on its face does not provide an alternative consenting pathway. As drafted, it appears to seek to prevent any exceedance of the height threshold without reference to the City Outcomes Contribution, no matter how small the height exceedance may be.*
- Mr Lewandowski in his evidence identifies his concerns with the notification settings of CCZ-R20.2. Namely amending the second existing non-notification to remove reference to CCZ-S1. He also sought that CCZ-S1 be added to the first notification setting precluding limited or public notification for non-compliance with CCZ-S1. Mr Lewandowski notes this has been complicated by the removal of maximum height limits and the change for CCZ-S1 to City Outcomes Contribution Height Thresholds.

160 As a result of reviewing and considering these and other relevant points raised by submitters I have concluded that following technical amendments to CCZ-R19, CCZ-R20 and CCZ-S1 are required in response to improve their comprehension and workability. These are briefly outlined below, with proposed track changes set out in Appendix 1:

- Removal of the word 'must' from clause (2) of CCZ-S1 so that it does not read like a rule.
- Addition of new Restricted Discretionary Activity rule to CCZ-R19 and CCZ-R20 to cover circumstances where CCZ-S1 C.O.C. height thresholds are exceeded and C.O.C. is not provided for, thereby providing a clear, separate rule pathway for developments that exceed the height thresholds in CCZ-S1. As a consequential amendment the associated matter of discretion (clause 2 in CCZ-R19 and clause 3 in CCZ-R20) would also be relocated to this new Restricted Discretionary rule.
- Addition of a public notification statement to the pre-mentioned rule boxes which details that an application for resource consent made in respect of CCZ-R19 or CCZ-R20 which results in non-compliance with CCZ-S1 must be publicly notified.
- Removal of the CCZ-S1 reference from CCZ-R19.1 and CCZ-R20.1 permitted activity rules as unlimited building heights are now proposed.
- Removal of the CCZ-S1 reference from CCZ-R19.2 and CCZ-R20.2 as these matters of discretion are to be included under proposed CCZ-R19.3 and CCZ-R20.3.
- Given the intent of C.O.C. is to also apply to 'under height' development where it does not comply with CCZ-S4, removal of the reference to 'or is under the minimum height limit' in CCZ-R20.2 matter of discretion (3) as the pathway for this, as Mr Lewandowski identifies, is through CCZ-R20.3 as a Discretionary Activity.
- Addition of a new notification statement to CCZ-R20.3 noting that an application that results in non-compliance with CCZ-S4 and does not give effect to CCZ-P11 C.O.C. must be publicly notified.

- Deletion of the CCZ-S1 reference from CCZ-R19.2 and CCZ-R20.2 given that there are now unlimited building heights.
- Amendment of CCZ-P11 C.O.C. where it notes ‘including through either’ and then lists outcomes to ‘including through at least two of the following outcomes’.
- Amendment of clause (2) of CCZ-P11 to focus on ‘universal accessibility’ by specifically referring to ‘universal accessibility within buildings for people of all ages and mobility/disability’.
- Relocate the reference to the C.O.C.’s in Appendix 16 from CCZ-R19.2(2) and CCZ-R20.2(3) to proposed rules R19.3 and CCZ-R20.3 and amend the associated wording from ‘City Outcomes Contribution as required in Appendix 16...’ to ‘the extent of which the C.O.C. set out in Appendix 16 is provided for’.

161 I consider that these changes should also be reflected in the Metropolitan Centre Zone (MCZ), Local Centre Zone (LCZ) and Neighbourhood Centre Zone (NCZ) and High Density Residential Zone (HRZ) as detailed in Appendix 1 of this supplementary evidence because the C.O.C. also applies to these zones and the changes proposed to CCZ are also needed in these zones to provide a clearer C.O.C consenting pathway, for example adding a new Restricted Discretionary rule, making the same changes to the C.O.C. policies, updating matters of discretion and notification settings akin to the changes proposed for CCZ.

162 Whilst not all changes identified in paragraph 160 are applicable to other zones which are subject to C.O.C., i.e. unlimited building heights and under-height development, the majority are.

163 Consequently, a further restricted discretionary activity category needs to be added to MCZ-R20, LRZ-R18, NCZ-R18 and HRZ-R14 for applications where development exceeds both the relevant maximum height limits set out in MCZ-S1, LRZ-S1, NCZ-S1 and HRZ-S1 and C.O.C. height thresholds in Appendix 16. A new notification setting also needs to be added directing that any application for resource consent made in

respect of these rules that does not give effect to MCZ-P10, LCZ-P10, NCZ-P10 and HRZ-P13 must be publicly notified.

Section 32AA assessment:

164 In my view, the technical amendments outlined in paragraph 65 and detailed in Appendix 1 are required to provide more clarity on how the C.O.C. mechanism would be implemented and the implications if development is proposed above the height thresholds in CCZ-S1.2 (or CCZ-S1 as proposed in Appendix 1) but the C.O.C. is not provided for in the application. In my opinion the proposed amendments to CCZ-R19, CCZ-R20 and CCZ-S1 are the most appropriate way to achieve the purpose of the Act and the relevant objectives and policies of the CCZ Chapter relative to the notified provisions. In particular, I consider that:

- The amendments give better effect to Objective 1 and Policy 1 of the NPS-UD by enabling a well-functioning urban environment whilst also aligning with the directive to maximise development capacity in Policy 3(a) by enabling unlimited building heights.
- Policy 3 of the NPS-UD does not sit in isolation, and does not elevate recognising the national significance of urban development above broader RMA outcomes. To achieve the purpose of the RMA, the PDP must also recognise the national significance of urban development in a way that assists in achieving the overall purpose of the Act. Objective 1 to the NPS-UD reflects this wider scope by requiring well-functioning urban environments, with Policy 1 listing a broad range of matters that make up a well-functioning urban environment. The C.O.C. is considered a key method in the PDP to implement the NPS-UD Policy 1 directives as set out in tables 6 and 7 of my Overview and general matters S42A report.
- As detailed in paragraph 188 of my Overview S42A report, in formulating the rules in the PDP Council has had regard to the actual or potential effects on the environment of activities

including, in particular, any adverse effect (section 76 of the RMA). These effects include positive effects and cumulative effects (section 3 of the RMA), which are particularly relevant to the City Outcomes Contribution. These enabling provisions for plan-making are in the context of territorial authority functions under section 31 of the RMA. However, the definition of “effects” (section 3 of the RMA) also includes reference to positive effects which, by extension, includes those relating to the urban environment, the immediate neighbourhood, current and future residents, and cumulatively to achievement of a well-functioning urban environment. This is a clear focus of the C.O.C., with its emphasis on maximising the benefits of intensification while realising as much development capacity as possible (NPS-UD Policy 3(a)) to contribute to a well-functioning urban environment as outlined in NPS-UD Policy 1.

- The amendments are consistent with PDP objectives and policies, particularly, CCZ-O2, CCZ-O3, CCZ-O5, CCZ-P4, CCZ-P5 and CCZ-P11, in that unlimited heights will help to accommodate growth, enable efficient, well integrated and strategic use of available development sites and enable greater overall height and scale of development to occur in the CCZ relative to other centres. They will also help mitigate potential adverse effects at a public level through great provision of public space infrastructure, public amenities, assisted housing etc. while enabling positive effects and outcomes at a city-wide scale, including ensuring adequate public space, resilient building outcomes etc.
- The C.O.C. is based and expands upon the Design Excellence (Policy 12.2.5.5) existing mechanism in the ODP aimed at securing benefits for the city and consequently is neither a novel or widely diverging concept to that which is currently implemented in the city.

- The proposed changes outlined in this supplementary evidence do not negatively alter development capacity, nor the ability to implement NPS-UD Policy 3(a), as development capacity potential is maximised with the removal of maximum height limits and enabling unlimited building heights as per HS4-P1-CCZ-Rec94. If anything, these changes give greater effect to relevant strategic directions in the plan, for example HHSASM-O2, SRCC-O1, SRCC-O2, UFD-O6 and UFD-O7, in parallel with enabling a well-functioning urban environment.
- The proposed changes also provide greater clarity through a dedicated C.O.C. policy, rule and standard (in concert with Appendix 16) that specify the activity status and notification settings for compliant and non-compliant C.O.C. related activities. Further, they provide clearer direction as to how the NPS-UD directive to achieve a well-functioning urban environment while enabling greater development capacity and height are to be provided for to ensure positive city wide benefits.
- These changes seek to provide a balanced approach whereby, in exchange for allowing taller developments and exceedances beyond the proposed height thresholds, public benefits are derived from a development that generate positive effects beyond the site itself.

165 The environmental, economic, social and cultural effects of the proposed amendments outlined in paragraph 65 and detailed in Appendix 1 are evaluated below, noting that this is solely limited to these changes as those relating to unlimited building heights and C.O.C. were extensively canvassed in paragraphs 82, 513 - 549 of my Part 1 CCZ S42A report and section 8.10 of the Overview and General Matters s42A report, including tables 6 and 7.

Environmental	<ul style="list-style-type: none"> • An environmental benefit of these changes is that they will help to provide greater clarity and direction for plan users, including
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	<p>developers and resource consent processing planners, in terms of a clearer consenting and associated notification pathway for the C.O.C. related activities, clearer distinction of rules relating to C.O.C. compliance and non-compliance and recasting standards so they do not read as rules.</p> <ul style="list-style-type: none"> • This can be further supported by the further development of a companion user guide for developers and resource consent processing planners to provide increased clarity and certainty as to how a C.O.C. related application will be assessed, weighted and allocated points . • Another environmental benefit is that through introducing a clearer notification setting a greater focus has been placed on ensuring developments provide for a well-functioning urban environment and that it is not development at all costs, noting however that the benefits of intensification will be maximised as per Policy 3(a) of the NPS-UD. • From a plan administration perspective, the recommended amendments provide a clearer separation within the CCZ-R19 and CCZ-R20 consent pathways for developments that are below proposed the CCZ-S1 height thresholds that comply with CCZ-S1 versus those that do not. • One potential environmental cost is that through directing that public notification is required where CCZ-S1 C.O.C. is not met in an application that exceeds the height thresholds, developers may be deterred from developing above the thresholds and triggering the C.O.C. This, in turn, could lead to a potential reduction in the scale and pace at which environmentally beneficial outcomes such as a climate or earthquake resilient buildings, public space and assisted housing are provided in the city.
Economic	<ul style="list-style-type: none"> • On a similar note to the above point, there is an economic cost to developers through the change to the notification settings for

non-compliance with CCZ-S1, in that if they seek to go above the height thresholds, but do not provide for C.O.C., they will have to incur the financial and time delay costs of public notification.

- Additionally, if a developer is deterred from building above the thresholds in CCZ-S1 due to the C.O.C. provisions then this could lead to a loss in yield and financial return from not maximising the development potential of the site. Dr Lees, in section 1.2 of his statement of evidence, notes that for tall buildings construction costs per additional storey increase with each storey added to the building. He further notes that average revenue can increase with height, as this provides amenity such as views and better access to sun.
- Conversely, there is a potential economic cost if developers are deterred from providing C.O.C.'s and building higher. Dr Lees notes in his statement of evidence that a key benefit in relaxing height restrictions and allowing additional building height uplift is an increase in housing affordability, not just within the City Centre, but across the City. He further notes that building up provides additional supply that reduces the cost of housing and that, compared to a context with height restrictions, removing restrictions allows more people to live in the city centre. This in turn reduces demand on the edges of the city, lowering land prices and costs of housing. However, this economic benefit could be diluted by the proposed public notification setting as this may deter developers and, in turn, diminish the affordable housing potential created through increased building height.
- A further important consideration is that the number of applications that may seek to build above the proposed height thresholds could be relatively low irrespective of C.O.C.'s. This is based on a number of factors including:
 - Resource consent trends detailed in the Central Area Monitoring report from October 2013 to July 2019

	<p>illustrate that of the 408 consents analysed in the Central Area only 23 (or 6%) breached height rules in the Operative District Plan (ODP). This, in turn, appears to indicate that there is not a strong appetite, nor compelling financial incentive, to develop over the ODP heights. Furthermore, 50% of breaches were in Te Aro which, through the Spatial Plan direction and subsequent changes in the PDP, saw the maximum height in this area increase from 27m to 42.5m. This change in height reflects the fact that some developments in Te Aro breached the maximum height limit by 30 – 35%, as enabled through the Central Area provisions. Mount Victoria had the second highest number of breaches with 5 consents (23% of exceedances), with this area also subject to subsequent increases in maximum height limit in the PDP, with a change from 10.2m and 18.6m to 28.5m. The PDP, as detailed in the Wellington City Qualifying Matters Capacity Assessment⁹¹⁰, provides sufficient housing and business land development capacity through increased height limits around the edges of the zone and within Te Aro and Thorndon, increases to the spatial extent of the CCZ, a minimum requirement for building heights.</p> <ul style="list-style-type: none">○ Market constraints and financial settings such as the costs of labour, costs of materials, developers financing/market forces which may deter their ability or appetite to keep building up and add additional floors. As Dr Lees in his statement of evidence in section 5.1 notes,
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⁹ Property Economics, [Wellington City Qualifying Matters Capacity Assessment](#)

¹⁰ This is further addressed in Hearing Stream1 – [Section 42A Report – Part 1 plan wide matters and strategic direction](#).

	<p>the construction costs per additional floor increase with each storey.</p> <ul style="list-style-type: none"> • For the reasons outlined above it appears unlikely that the impacts of the proposed amendments will be significant and wide-spread, contrary to the view expressed by Mr Heale, on behalf of Kainga Ora, that ‘the restrictive rules mean that most buildings and additions would be subject to the C.O.C. requirements where height thresholds are not met’.
Social and Cultural	<ul style="list-style-type: none"> • A social and cultural benefit is that these changes help to give effect to objective 1 and policy 1 of the NPS-UD by achieving a well-functioning urban environment. Part of achieving a well-functioning urban environment is to provide more general public outcomes as identified in NPS-UD Policy 1 for example providing good accessibility for all people, supporting reductions in greenhouse gas emissions and resilience to the likely current and future effects of climate change, something the proposed changes to the rule framework and notification setting do by imposing a strong directive that increases above the threshold need to provide public, city-wide benefits. • This includes C.O.C. outcomes which the S42A Overview report (tables 6 and 7) identifies as aligning with the directives in policy 1 and objective 1 of the NPS-UD. Examples include contributing to the resilience of the city through a development being designed to be resilient to earthquakes above and beyond the NBS rating, providing for more sustainable buildings that reduce embodied carbon, or providing assisted housing in the CCZ close to jobs. • Publicly notifying applications provides more certainty for CCZ residents and members of the public more broadly with regards to the notification setting for applications that do not enable COC within their development designs, as well as the ability to input and provide feedback on substantial developments that are not

	<p>proposing to provide a positive public outcome or effect that benefits the city in exchange for any exceedance sought.</p> <ul style="list-style-type: none"> • Whilst additional costs will be incurred to achieve these outcomes, there will be benefits to the developer for implementing these outcomes. An example being that achieving a green star rating or base isolating a building will likely make a development more attractive to future occupants, regardless of whether they are residential or commercial. • The proposed amendments to the rules enable development through the respective activity status applied and associated policy framework through providing a clear consenting pathway, contrary to Mr Heale's assertion that the rule framework is 'restrictive'. Given it is the CCZ (where the highest level of density is anticipated), the GFA limits and directive for developments to not be visible from public spaces is appropriate because these permitted activity rules are only intended to allow small development where getting a resource consent would be overly onerous and there is a small GFA, for example a small accessory building. Anything beyond this needs to more efficiently optimise sites and requires resource consent.
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166 Under the PDP notified provisions, C.O.C. applies to additions and alterations to existing buildings that exceed the maximum height limits in the CCZ, MCZ, LCZ, NCZ and HRZ. C.O.C. also applies to *new* buildings that are below the CCZ-S4 minimum building height. I consider that the notified rule framework is not clear whether C.O.C. applies to additions or alterations to existing buildings that do not meet CCZ-S4, i.e. remain below the 22m minimum building height.

167 I have considered whether the C.O.C. requirement should apply to these additions and alterations. It would mean that any additions and alterations, even minor ones and ones not publicly visible, would all require C.O.C.s.

168 In my view, applying C.O.C. to additions and alterations that do not comply with CCZ-S4 would be too onerous. The C.O.C. costs could also stop minor additions and alterations from happening. As such I have not made any changes to the notified provisions to apply C.O.C. in these circumstances. However, C.O.C. does still apply to additions and alterations that exceed the C.O.C. height thresholds in CCZ-S1 and also maximum height limits in MCZ, LCZ, NCZ and HRZ based on the threshold triggers in Appendix 16 identified below in figure 1.

Threshold	Points required				Comments
	MCZ	NCZ	LCZ	HRZ	
Any development that exceeds the maximum height limit by 25%-49%	20	10	10	20	Developments that are within the 25% height threshold do not need to meet the outcomes, however they need to satisfy the relevant guidelines in this guide.
Any development that exceeds the maximum height limit by +50%	30	15	15	25	-

Figure 1: MCZ, NCZ, LCZ and HRZ – Thresholds for any over height development

Alternatives to the proposed recommendations:

169 I note that some submitters sought to remove the C.O.C. in its entirety, raising a counterargument that ‘any scheme should be judged on the merits of the scheme in totality’, or alone without requiring C.O.C. as Mr Stewart argues. Whilst I appreciate the concerns raised in these submission points, I note that applications are still assessed on their merits and even more so through the points system in terms of the benefits they are proposing to provide back to the city or occupants of the proposed development in exchange for the additional height uplift sought.

170 Mr Lewandowski, in his evidence, identifies that the primary issue is that Policy 3(a) of the NPS-UD requires that city centre zones provide for building heights that realise as much development capacity as possible in order to maximise the benefits of intensification. As I canvassed in paragraphs 82, 513 - 549 of the Part 1 CCZ S42A report and section 8.10

of the Overview and General Matters s42A report, including tables 6 and 7, and in paragraph 164 (and others) of this supplementary evidence, I consider that Policy 3(a) is still being enabled through the CCZ and the changes proposed.

171 In particular I have proposed unlimited building height in the CCZ, noting that this is within a context where the PDP already provides more than sufficient development capacity to meet projected demand under the HBA through the maximum height limits in the notified PDP version of CCZ-S1. As further noted, and as reinforced by Mr Stewart who notes he sees development in the CCZ largely building to a maximum of 12-14 storeys, there does not appear to be neither a strong desire, nor evidential basis to support (refer resource consent trend data in paragraph 69 of this evidence), widespread exceedance of the proposed height thresholds. As such, I do not consider that providing for C.O.C. disables development capacity.

172 Instead, what the proposed amendments seek to achieve is realisation of as much development capacity as possible whilst maximising the benefits of intensification through providing public benefits back to the city. This in turn supports both the well-functioning urban environments directive in objective 1 and policy 1 of the NPS-UD as well as the intensification directive in policy 3(a).

173 I also note that Mr Lewandowski, should his initial relief not be agreed to by the panel, is suggesting an alternative approach for CCZ-S1 and CCZ-P11, being that their wording changes from 'requiring' to 'encouraging'. Kāinga Ora (Mr Liggett and Mr Heale) also raise their concerns with the use of the word 'require' and seek 'encourage' is used if the policy is to be retained. Whilst I agree with Mr Lewandowski's partial support for maintaining 'require' for under-height buildings, I disagree with this change for the following reasons:

- 'Encourage' in my view is not a word that can properly give effect to the rule framework or ensure that the intent or outcomes sought by the C.O.C. will properly be provided for. In particular, it is insufficiently directive to help resource consent

planners, as well as council's urban design experts, negotiate better outcomes to align with the intended policy direction.

- I note 'encourage' is only used once in relation to other CCZ objectives or policies, with CCZ-P6 Adaptive Use seeking sufficient flexibility to encourage sustainable, resilient and adaptable change in existing building use over time. I am of the opinion that use of 'encourage' is appropriate in this context, unlike all other policies which rightly rely on much stronger wording like 'achieve', 'recognise', 'enable', 'avoid', or 'require'.
- In my opinion, use of the term 'encourage' in a policy context is more akin to, and aligns with, reliance on a non-statutory method to deliver an outcome sought as opposed to a rule framework. Consequently, given that the intent of the C.O.C. is to provide for positive city-wide outcomes and benefits to enable significantly taller developments, I consider that reliance on this term to deliver the outcomes sought by the C.O.C. would be an ineffective avenue.
- More generally, I note that in preparing the PDP the Council has, as far as practicable, steered away from including reference to 'other methods'(more commonly used in first generation District Plans) as a means of giving effect to policies, instead relying on rules and standards and statutory mechanisms within the District Plan.

174 Another alternative to the proposed approach outlined in in paragraph 65 and detailed in Appendix 1, and that of Mr Lewandowski, is to instead provide more consenting pathway clarity for C.O.C. non-compliance through imposing Non-Complying Activity Status on any development that exceeds the proposed height thresholds but does not provide for C.O.C. This would provide a clear direction, akin to a public notification setting, that the Council places high importance on the provision of city-wide outcomes from large-scale developments to achieve policy 1 and objective 1 of the NPS-UD.

- 175 However, I consider that a non-complying activity status would be contrary to the directive in Policy 3(a) of the NPS-UD to enable and realise as much development capacity as possible. I also consider that it would also be contrary to the meaning of 'plan enabled' in cl.3.4(1) of the NPS-UD. It would also, more generally, not align with the enabling approach of the CCZ rule framework where development is largely treated as a restricted discretionary activity apart from non-compliance with CCZ-S4 (being a Discretionary Activity). This approach would also be at odds with the relevant strategic direction in the plan, CCZ objectives and policies, and limit the opportunities available to the Council's resource consent planners to negotiate good C.O.C. outcomes.
- 176 Mr Lewandowski in his evidence identifies his concerns with the notification settings of CCZ-R20.2. Namely amending the second existing non-notification to remove reference to CCZ-S1. He also sought that CCZ-S1 be added to the first notification setting precluding limited or public notification for non-compliance with CCZ-S1. As Mr Lewandowski accurately notes this has been complicated by the removal of maximum height limits and the change for CCZ-S1 to City Outcomes Contribution Height Thresholds. Given I have recommended unlimited building heights than CCZ-S1 would need to be removed which it has been from 20.2.
- 177 However, my changes detailed in Appendix 1 now include a separate Restricted Discretionary Activity for CCZ-S1 under CCZ-R20.3 (noting CCZ-R20.3 in the PDP regarding CCZ-S4 non-compliance has been proposed to become CCZ-R20.4). This helps to provide a clearer consenting pathway connecting the Centres C.O.C. policy to an explicit rule and then in the case of the CCZ, a specific C.O.C. standard (CCZ-S1). However, another key change is that where CCZ-S1 C.O.C. Height Thresholds are exceeded and C.O.C. as set out in Appendix 16 is not provided for, then applications must be publicly notified. This sends a strong signal that tall buildings beyond the threshold need to provide public outcomes in return.

- 178 I note that Mr Liggett advises that Kāinga Ora considers that plan provisions that require and assess proposed developments against matters not related to their actual and potential effects on the environment are inconsistent with the RMA. I have addressed this concern of the submitter in paras 185 – 193 of my Overview S42A report and paragraphs 109, 155 and 165 of this evidence. I note that effects may include positive effects and cumulative effects (section 3 of the RMA), which are particularly relevant to the C.O.C. For the reasons set out in these sections I do not consider, as Kāinga Ora have inferred, that provision of C.O.C.'s in the manner proposed is likely to be 'vires to the Act'. I note that Mr Whittington will be addressing this matter in his legal submission on hearing stream 4.
- 179 I note that Ms Williams considers that C.O.C. mechanism is inappropriate for retirement villages. In this regard I note that the intent of the C.O.C. was never to carve out specific types of development that may or may not be appropriate for C.O.C. consideration. Given the objectives and policy framework of the CCZ, that this area is the densest zone in the City and sites need to be efficiently utilised, I am of the opinion that there is no compelling reason to support a specific exemption for retirement villages, nor for them to be exempt from providing for C.O.C.'s for exceedances about the height threshold or below the minimum height limit. I also note that Ms Williams has not provided sufficient supporting evidence or s32AA evaluation to support this sentiment.
- 180 Mr Aburn raises a concern that as a consequence of the recommendation in the Overview S42A report to delete "Urban Design Panel" from Table 3, that this *'would mean that a building's architectural design excellence' in relation to 'urban form and building typology' and 'overall design quality' would no longer be an avenue to earn additional height above the height threshold. Such outcomes would no longer be encouraged.'*
- 181 I acknowledge Mr Aburn's consideration that an outcome seeking excellence in architectural design should be encouraged, and in response have proposed that a design panel be developed through a method

incorporated into CMUZ chapters through recommendations in section 8.10 of my Overview S42A report. I support a design panel being established, as does Dr Zamani in his supporting evidence. However, my position on retaining reference to a design panel in the proposed C.O.C. remains unchanged as I consider that referring to it in a method is a more appropriate avenue, particularly as doing so provides the opportunity for a design panel to be used more broadly than just C.O.C. applications.

182 Given there is strong direction in the CMUZ chapters for quality design outcomes through their respective Quality Design Outcome policies (CCZ-P9, MCZ-P7, LCZ-P7 and NCZ-P7) and that buildings be designed to a high quality already through the policy framework and design guidelines, I do not consider it is necessary or appropriate for architectural design excellence to be an outcome in the C.O.C.

183 I acknowledge Mr Aburn's intent for supporting this, however, this is not an outcome that I consider holds the same weight as the other identified outcomes. For example, it does contribute to providing more assisted housing, nor does it generally support the sustainability or resilience of the city. Whilst it is beneficial to the city in terms of the aesthetic values it would champion, it does not as readily align with the relevant strategic directions of the PDP, CMUZ objectives and policies and well-functioning urban environment outcomes sought by the NPS-UD.

184 Dr Zamani in paragraph 24 of his supplementary evidence responds to Mr Aburn's request for architectural design excellence to be considered. He notes that *'whilst it is a great outcome for the city, however, this outcome should not be an incentive, but needs to be applied to all buildings regardless of their height. This needs to be achieved through the Design Guides direction. Also, design "excellence" is a subjective matter and can prolong the process of resource consent and complicate the assessment'*.

185 I acknowledge Mr Niven's support, on behalf of Wellingtons Character Charitable Trust Inc, for the recommendation in my Overview S42A report to include an Urban Design Panel in development assessment

process for new CCZ developments, noting it is a *'sound and somewhat overdue matter'*.

186 Mr Niven notes that over the last 10 years a number of Councils have acquired urban design panels, with Wellington doing so through the operation of the Waterfront Technical Advisory Group (TAG) for projects on the waterfront. Mr Niven provides advice for how Urban Design Panels work best based on his experience.

187 Dr Zamani, in paragraph 32 of his supplementary evidence, agrees with Mr Niven's statements concerning urban design panels, noting Council will take his advice into consideration during the panel's establishment.

Applying unlimited building heights and C.O.C. to Te Ngākau Civic Square Precinct

188 Mr Aburn notes in his expert evidence that he does not support the retention of the maximum height concept for the Te Ngākau Civic Square Precinct as he considers that the approach to building height for the CCZ should also apply to the Precinct, including my recommended amendments to CCZ-S1. Mr Aburn reinforces that *'Maximum height in this instance again does not mean 'maximum' given that the relevant rule (CCZ-PREC01-R8) enables additional height above the maximum height to be consented as a Restricted Discretionary activity'*.

189 Mr Aburn considers that this is because, as notified, if the PREC01-S1 maximum height standard was 'infringed' there would be no ability under Rule CCZ-PREC01-R8 to require compliance with C.O.C. Consequently, new buildings that exceed 40m in height in the Precinct would potentially not have to 'deliver' the public amenity outcomes sought through the application of the C.O.C.

190 I agree with Mr Aburn's conclusions. I consider it to be largely a technical omission that C.O.C through the notified PDP provisions does not appear to apply to the Precinct, noting that there is no direct reference to CCZ-P11 or an equivalent policy in the Precinct provisions as notified, nor a reference to the guideline in the Centres and Mixed Use Design Guide.

191 Mr Aburn seeks that CCZ-PREC01-S1 should be amended in accordance with the recommended changes to CCZ-S1 and CCZ-R20 in the Overview S42A report. Specifically:

- replace “maximum height” with “City Outcomes Contribution Height Threshold”;
- delete the assessment criteria where the standard is infringed (as is recommended for CCZ-S1); and
- Amend and update CCZ-PREC01-S1.1 to align with the changes to CCZ-S1: “the following maximum height limit above ground level must be complied with: Entire Precinct 40m” and replace with:
 - 1. there are no maximum heights for buildings and structures in the Te Ngākau Civic Precinct; and
 - 2. above the 40 metre height threshold the City Outcomes Contribution must be complied with (measured above ground level unless otherwise specified).
- Add an additional matter of discretion to CCZ-PREC01-R8 as follows: xx. City Outcomes Contribution as required by Appendix 16 for any building that exceeds the CCZ-PREC01-S1.

192 I agree with the proposed amendments and rationale provided by Mr Aburn in his supplementary evidence. Given the zone within which the Precinct sits is now proposed to have unlimited building heights, but with complementary C.O.C. height thresholds and application of C.O.C. to developments above these heights, I consider that it is therefore appropriate that the Precinct is subject to these changes as set out in Appendix 1.

193 Not only does this provide greater certainty for development in the Precinct, and thus aligns with the Te Ngākau Civic Square’s anticipated redevelopment, but it also ensures city wide benefits and outcomes are afforded an area of identified public significance to residents, workers

and visitors to the city. It is therefore appropriate in my view that the C.O.C. outcomes can be considered through new development proposed in future for the Precinct, like, for example, the provision of new public spaces, laneways, and resilient buildings.

Minimum building height

194 I acknowledge Mr Lewandowski's support for CCZ-S4, noting the standard is important realising as much development capacity as possible in the CCZ. I concur that a resource consent pathway is provided for the limited circumstances where lower height may be appropriate.

195 Mr Arbuthnot on behalf of Restaurant Brands Ltd notes that Restaurant Brands seek the deletion of the minimum building height standards in their entirety on the basis that they are not required to achieve a well-functioning urban environment, are overly prescriptive, unworkable, and will only serve to increase the cost and/or regulatory processes of the development. Mr Arbuthnot considers that these standards lack flexibility and has the potential to discourage activities.

196 Furthermore Mr Arbuthnot counters that the minimum building height standard does not align with the NPS-UD. I disagree with this sentiment; I consider that minimum height standards across Centres are giving effect to Policy 3 (a) and (b) directives by realising as much development capacity as possible by requiring development to a minimum height level.

197 I also disagree with Mr Arbuthnot's sentiment that that the minimum building and minimum ground floor height standards could undermine the objectives of the Proposed District Plan, particularly by reducing development capacity and limiting economic and social wellbeing. I believe the opposite, that these standards give effect to more efficient optimisation of sites, increased development capacity and ability to accommodate growth, as well as a mixture of activities at the ground floor. Not only does this align with the strategic direction of the PDP, plus the objectives and policies in the CMUZ, but also objective 1, policy 1 and

Policy 3 of the NPS-UD, enabling development capacity and well-functioning urban environments.

198 I disagree with Ms Key that the CMUZ minimum building height and ground floor height requirements are unnecessary or that it would be better to place these as matters of discretion or design guidelines. They are standards to send a clear signal that the outcomes of efficient use of land and ability to enable a mixture of activities over time at ground floor are key outcomes that Council are seeking to provide for. In my opinion, it is imperative they remain as standards.

199 Ms Westoby seeks exemptions to CCZ-S4 for activities that have a functional and operational requirement and that cannot meet this standard. Ms Westoby has picked up that Ms Hayes has recommended the following exemptions to MCZ-S2, LCZ-S2 and NCZ-S2 minimum building heights, to which I did not agree to for CCZ-S4. Ms Hayes states that the standard in MCZ, LCZ and NCZ does not apply to:

- Accessory buildings, ancillary to the primary activity on the site.
- Any building or structure that is unable to be occupied by people.

200 I note in paragraph 26 of Dr Zamani's supplementary evidence that he disagrees that minimum building height should not be considered. He elaborates that minimum building height serves as a valuable mechanism to address underutilized sites, especially in areas where high density is crucial and where access to transportation and other public amenities is readily available.

201 Ms Westoby gives examples of potential structures that could be caught by CCZ-S4. I note that this standard applies to new buildings and structures, not existing ones, so does not affect upgrading existing infrastructure. CCZ-S4 was never intended to apply to small important public amenity structures like new rubbish bins or play infrastructure, or other non-building structures. Acknowledging this, I support removing "and structures" from CCZ-S4, so the standard only applies to new buildings. This is explained further below.

- 202 I have not changed my position with respect to the exemptions identified above that have been sought by Z Energy and have been made to MCZ, LCZ and NCZ. My view remains the same as in paragraphs 582-583 of my S42A report. CCZ-S4 responds to an identified resource management issue of inefficient optimisation of CCZ land which impacts development capacity. As such I do not think these exemptions are appropriate for the CCZ's high density environment. I also consider that these suggested exemptions lack specificity, are vague and could create interpretation challenges, and are contrary to the intent of CCZ-S4.
- 203 CCZ-S4 responds to an identified resource management issue of inefficient optimisation of CCZ land which impacts development capacity. As such I do not think these exemptions are appropriate for CCZ.
- 204 The minimum height standards across Centres are giving effect to Policy 3 (a) and (b) directives by maximising intensification opportunities in the city centre. Without a minimum, low density development could undermine this intent, for example the Paddington development in the CCZ (see figure 2).



Figure 2 – The Paddington development, Taranaki St. Image source: Tommy's Real Estate website. Red outline added by report author.

205 As discussed above, the minimum building heights standards were intended to relate to buildings only and everything captured through the definition of 'building':

BUILDING	<p>means a temporary or permanent movable or immovable physical construction that is:</p> <ul style="list-style-type: none"> a. partially or fully roofed; and b. is fixed or located on or in land; <p>but excludes any motorised vehicle or other mode of transport that could be moved under its own power.</p>
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206 As such some further clarity can be provided by removing the words 'or structures' as follows:

CCZ-S4	Minimum building height
<p>1. A minimum height of 22m is required for new buildings or structures.</p> <p>This standard does not apply to:</p> <ul style="list-style-type: none"> 1. Any site adjoining a site located within a character precinct or Residentially Zoned Heritage Area and thus subject to CCZ-S3; and 2. Any site within the Te Ngākau Civic Square Precinct. 	<p>Assessment criteria where the standard is infringed:</p> <p>-</p> <ul style="list-style-type: none"> 1. The extent to which a reduced height is necessary to provide for the functional needs or operational needs of a proposed activity; and 2. Whether topographical or other site 3. constraints make compliance with the standard impracticable or unnecessary.

Minimum ground floor height

207 I acknowledge that Mr Jeffries, on behalf of on behalf of Argosy Property No 1 Ltd, Fabric Property Ltd, Oyster Management Ltd and Precinct Properties New Zealand Ltd, Mr Wallace, on behalf of Fabric Properties

Ltd and Precinct Properties Ltd, Mr Arbuthnot, Ms Key, Mr Stewart and Mr Lewandowski are opposed to CCZ-S5's uniform 4m ground floor height and seeks an amendment to 3m for residential only buildings, with 4m remaining for commercial or mixed-use developments.

208 In the absence of compelling evidence to the contrary I have not changed the position, and supporting reasoning, outlined in paragraphs 590-593 of my S42A Part 1 CCZ report that the single ground floor height requirement of 4m apply to all development typologies in the CCZ (and across other applicable Centres).

209 As noted in my S42A Part 1 CCZ report, supported by Dr Zamani's evidence (para 31), this standard provides necessary flexibility to enable a variety of activities to establish at ground floor level over time. I disagree with Mr Stewart's sentiment that applying this standard to a residential building is unnecessary. Whilst I appreciate that there are additional costs involved, as it is likely the ground floor of buildings within these zones will experience change in use from residential to commercial uses or vice versa over time, I am of the opinion that requiring higher heights to accommodate this is appropriate. I also note that this standard is supported by the applicable building conversion rules (CCZ-R21).

210 Dr Zamani, in paragraphs 12 of his supplementary evidence notes that the ground floor of residential buildings in the central city may be repurposed for commercial or retail spaces in the future, a minimum 4m ground-to-floor height is necessary to accommodate these potential conversions. Dr Zamani notes in paragraph 23 that this control allows for long term flexibility of the building and ability for the ground floor to be adapted to different uses.

211 I disagree with Mr Arbuthnot's suggested amendment that the minimum building height should only apply to sites subject to active frontage and/or verandah coverage. I do not consider sufficient rationale or S32AA has been supported for this amendment. I consider that the minimum building height should be applied as proposed, in a uniform zone wide approach.

CCZ-S6 Minimum sunlight access – public space

212 I note that minor corrections are needed to CCZ-S6 and WFZ-S2 Minimum Sunlight Access – Public Space to aid comprehension for plan users as follows:

CCZ-S6	Minimum sunlight access – public space
	<p>1. All buildings or structures within the City Centre Zone must be designed and located to maintain sunlight access to any area mapped with the "Minimum Sunlight Access - Public Space Requirements", during the time periods specified in Table 1 of Appendix 9;</p> <p>2. For areas in Appendix 9 with a specified time period:</p> <ul style="list-style-type: none"> a. 11:30am-1:30pm; b. 12:00pm-2pm; or c. 1:30pm-3:00pm; and <p>Sunlight access must be maintained in the entire area during this period.</p> <p>3. For areas in Appendix 9 with a specified time period:</p> <ul style="list-style-type: none"> a. 10:00am-3:00pm; or b. 10:00am-4:00pm; and <p>Sunlight access must be maintained in a minimum of 70% of the area during this period.</p> <p><u>4.</u> This standard does not apply to:</p> <ul style="list-style-type: none"> a. Any temporary structure erected and dismantled in less than 30 days; and b. Any public amenity facility erected within an identified public space.

Active Frontages and non-residential activity frontage controls

213 I acknowledge Ms Key's support for my recommended amendments to the active frontage controls in CMUZ to exclude vehicle and pedestrian access and service stations. I note that experts, including Ms Key and Mr Wallace, have sought that in the MCZ, LCZ and NCZ, the active frontage and non-residential activity frontage controls be amended so that this only applies to the part of the building that is also required to meet the minimum height standard (MCZ-S2, LCZ-S2, NCZ-S2).

I agree with the requested change, on the basis that this would provide for design flexibility, for example for podium and tower style design, whilst maintaining the uniformity of setback and scale for the first seven metres vertically at the street edge. As such I recommend that CCZ-S8.1(a), MCZ-S6.1(a), MCZ-S6.4(a), LCZ-S6.1(a), LCZ-S6.4(a), NCZ-S6.1(a) and NCZ-S6.4(a) be amended to include a reference to ‘at ground floor level’ as follows:

CCZ-S6	Active frontage control
<p>1. Any new building or addition to an existing building adjoining facing an identified street with an active frontage control must:</p> <ol style="list-style-type: none"> a. Be built up to the street edge at ground floor level along at least 90% of the full width of the site that borders the street(s) on all street boundaries <u>with an the identified active frontage control</u> and of the full width of the site bordering any street boundary, excluding vehicle and pedestrian access; b. Provide a minimum of 60% of continuous display windows or transparent glazing along the width of the ground floor building frontage; and c. Locate the principal public entrance on the front boundary. <p>Except that: This does not apply to any heritage building identified in SCHED1-heritage buildings <u>or service stations</u>; and</p> <p>2. Any ground level addition to, or alteration of, a building or structure facing a public space must not result in a featureless façade that:</p> <ol style="list-style-type: none"> a. Is more than 4 metres wide; b. Extends from a height of 1m above ground level to a maximum height of 2.5m; and c. Any roller shutter doors, security grilles, screens or 	<p>Assessment criteria where the standard is infringed:</p> <ol style="list-style-type: none"> 1. The extent to which: <ol style="list-style-type: none"> a. Any non-compliance is required for on-site functional needs or operational needs; b. The building frontage is designed and located to create a strong visual alignment with adjoining buildings <u>or otherwise enhances the streetscape</u>; and c. An acceptable level of passive surveillance is maintained between the interior of the building and the street.

similar structures fitted to the facade of any building must be at least 50% visually transparent.	
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- 215 I consider that 'at ground level' addresses these concerns around the requirement to build out the boundaries only applies to the ground floor level. I consider this meets the relief sought and provides clear parameters to which the active frontage requirement applies. In my view, this wording is more fitting than referring to the minimum building height, as this would work for MCZ, LCZ and NCZ but it does not work for CCZ given the substantial difference in metric from 7m to 22m.
- 216 Kāinga Ora seek amendments to the active frontage controls also. Some of the relief is given effect to through the suggested amendment above. I disagree with their request for verandah coverage to be removed and do not consider that there is any sufficient justification in Mr Heale's argument that this is particularly important when '*ground floor development is controlled on active frontages and non-residential activity frontages*'. Active frontages and verandah coverage serve separate purposes. One focuses on activating a street interface, and the other provides protection for pedestrian from weather impacts.
- 217 Both are important to provide for in the City's Centres Zones and support the purpose of having vibrant centres that enable a mixture of activities and are liveable places. Wellington is subject reasonably often to adverse weather effects whether this is rain or wind, and it is important that there is a linked up and well-connected system of verandah coverage across the city to protect Wellingtonians from adverse weather effects wherever practicable. This is important for ensuring these centres are well utilised spaces which is important for a multitude of reasons.
- 218 I acknowledge Mr Rae's support within his discussion on frontage controls in the CCZ, particularly when he notes that the objectives and policies (CCZ-O5, CCZ-P2, CCZ-P6, CCZ-P8, CCZ-P9) provide clear direction about the importance of the design of buildings as they relate to public space. Mr Rae supports these as he notes that the edge

condition at the street interface (particularly at ground level) is critical to the function of streets and other open space.

219 I acknowledge that Mr Rae largely supports CCZ-S7 Verandahs, as it will assist with a comfortable pedestrian experience. Mr Rae notes that he does not understand why on narrow streets (such as Tennyson Street or Lorne Street) a verandah is required along the northern side of the street but not the southern side, yet the active frontage is required along the southern side and not the northern side. Mr Rae questions whether any verandah is required along these streets as they are very narrow.

220 In response, Dr Zamani in paragraph 38 of his supplementary evidence provides further context for Mr Rae. Dr Zamani identifies that primary purpose of verandahs is to offer protection from the elements, including the strong winds and rain often experienced in Wellington. Dr Zamani furthers that on the northern side of streets such as Lorne Street, buildings would provide shade, ensuring that the provision of verandahs does not hinder sunlight. However, on the southern side, the ground floor of certain buildings may receive some sunlight, particularly when there are breaks in the urban form.

221 Dr Zamani notes that this allows for better-quality street frontage, especially for hospitality operations, as customers can enjoy the sunlight. Dr Zamani details that he strongly believes that at least one side of the street, regardless of the street's width, should have a verandah to create a sheltered continuous network for pedestrians to navigate Wellington's unique climatic conditions.

222 I agree with Dr Zamani's sentiments and am in full agreement that due to Wellington's climate, verandah coverage should be provided on one side of the majority of CCZ streets to provide protection.

223 Mr Rae questions the origins and merits of the active frontage standard (CCZ-S8). I note that the standard is largely a carry over of the Central Area ODP ground floor frontages, display windows and 'active' building edges standards (13.6.3.7.1 – 13.6.3.7.3) but with some minor refinements. I refer Mr Rae to my refinement in paragraph 63 above. I

do not consider that further changes to CCZ-S8 (or the NCZ, LCZ and MCZ equivalent standards) are necessary.

224 Mr Rae notes that in terms of where the active frontage control applies, there was no specific assessment referenced in the Section 42A reports. I point Mr Rae to paras 621-625 of my Part 1 CCZ S42A report, whilst this assessment sits under CCZ-S7 verandah, it also discusses active frontage coverage. Both controls were reviewed in tandem from the Operative District Plan's Central Area extent.

225 A comprehensive assessment was done to understand what changes were needed (both in terms of removing areas of verandah coverage or active frontages, and additions to ODP extent) within the Centres and City Centre. In the City Centre, a street by street assessment approach was taken which also considered the wider block and suburb in terms of what provision was provided in the ODP and what changes were needed through the PDP. Workshops were undertaken between the Urban Design and District Plan teams.

226 I have provided a draft assessment in Appendix 2 that documents some of the analysis done at the Draft District Plan stage for changes to the extent of verandah coverage and active frontage control in the CCZ. I note the changes discussed evolved between this time period, the Draft District Plan and then the notified PDP and so it may vary to what is shown in the notified PDP ePlan. However, this may be a useful snapshot in time for the panel of the assessment done for these control as part of the District Plan review as requested by Mr Rae.

227 I disagree with Kāinga Ora's proposed methodology for active frontage controls being applied in paragraph 7.15 of Mr Rae's evidence. I do not consider that it is sufficient to only apply them along principal roads/arterials. As Mr Rae will see through my appendix, a lot more consideration went into the assessment of active frontages and verandah coverage beyond just the type of road. It was important to consider how each street had evolved in use, development and pedestrian use since the most recent large-scale Central Area chapter review (Plan Change 48 made operative in 2013).

- 228 Council's methodology included looking at such things as:
- Current building use and potential future uses;
 - Pedestrian count rating as per the Place and Movement Framework¹¹;
 - Key public and active transport routes and considerations for potential future LGWM changes;
 - 'Priority streets' under the Place and Movement Framework;
 - Connections between streets;
 - Any changes to street use in the last 10 years plus;
 - The mixture of activities provided etc.
- 229 Mr Rae notes that the northern side of Wakefield Street and either side of Taranaki Street north of Wakefield Street are proposed to have a verandah control but not an active frontage. Mr Rae considers that given that access to the convention centre and Te Papa and waterfront are via these streets he expects it is desirable for these street edges to be active also. He notes that many of the existing buildings already achieve this and he considers it should be required to ensure the quality of these spaces for pedestrians. Dr Zamani agrees with Mr Rae in his supplementary evidence (Paragraph 37).
- 230 I agree with the suggested amendments from Mr Rae and his rationale for these changes. I note that active frontage is actually enabled in the PDP in the block between Courtenay Place and Wakefield Street along Taranaki Street. At the time of PDP notification, the reason for the rest of Taranaki Street not being subject to active frontage is because these areas are predominantly residential in nature or office space, and not retail in nature.

¹¹ [One Network Framework Detailed Design - D02:2022, 17 November 2022 Version 1.0](#)

- 231 Mr Rae has raised some concerns regarding the application of verandah coverage and active frontages within streets in the CCZ extent within Thorndon. I point Mr Rae to Appendix to provide more context to the changes undertaken in this area. In the ODP (see Table 4 of my Part 1 CCZ S42A report to compare ODP and PDP coverage), I note that there is not the same extent of verandah and display windows (ODP active frontage) as the rest of the Central Area, for example the CBD.
- 232 I agree that the active frontage and verandah control can be clipped back off from the St Paul's Cathedral on Molesworth Street as this was not the intent. I consider that the reason for the verandah coverage not applying to the part of the frontage south of Pipitea Street is a technical oversight and appears to be a carry over from the ODP verandah coverage. I consider it would be beneficial to extend to cover this section for continuous verandah coverage for pedestrians.
- 233 I note the verandah coverage and active frontage coverage is not just dependent on current development or state but can also consider future redevelopment. Mr Rae queries why verandah coverage applies to a frontage where town houses exist with no verandahs. This is because verandah coverage and active frontage displays were extended within Thorndon as part of the review for the PDP. As per my assessment in Appendix 2 (as mentioned in paragraph 226 of this supplementary evidence), Murphy, Mulgrave and Molesworth Street are well-used streets with high pedestrian counts, as confirmed in the Place and Movement Framework¹².
- 234 I acknowledge Mr Wallace's support on behalf of Stride Investment Management Ltd and Investore Property Ltd for the amendments that Ms Hayes and I made in our respective S42A reports to the active frontage standards in the CCZ, MCZ, LCZ and NCZ. In particular, the addition of the wording 'with an identified active frontage control', to clarify that the standard only applies to street boundaries within an

¹² [One Network Framework Detailed Design - D02:2022, 17 November 2022 Version 1.0](#)

identified active frontage, as well as exclusions for pedestrian and vehicle access and the consideration of enhancements to the streetscape as assessment criteria.

235 I note that Mr Jeffries and Mr Wallace, on behalf of Stride Management Investment Ltd and Investore Property Ltd, and also Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, seek a change to the active frontage standard so that it only applies to a threshold of 90% of the street frontage to which it applies. Dr Zamani in his supplementary evidence (paragraph 47) agrees to this. Dr Zamani notes that it strikes a balance between maintaining high-quality street interfaces and allowing for some flexibility to accommodate special circumstances and specific requirements of each development. Dr Zamani also considers that this approach ensures that the overall urban environment benefits from active and engaging street frontages while considering the unique needs of different projects.

236 I consider that this change to the active frontage control to applying it to 90% of the full width of the site that borders the street(s) with an identified active frontage, is appropriate to allow for flexibility in design. A change to 90% in my opinion, should not erode the purpose of the standard to provide activated street edges but allows for necessary design flexibility in implementing this standard. I refer to my change in Appendix 1 in the table above.

237 With regards to Ms Westoby's discussion on active frontages I note that the CCZ, MCZ, LCZ and NCZs' S42A reports from myself and Ms Hayes included an exemption for petrol stations to the active frontage controls. I note that Dr Zamani in paragraph 27 of his supplementary evidence refutes Ms Westoby's position that applying active frontage and non-residential activity frontage controls to existing service station sites, for activities such as accessory buildings, alterations, maintenance or upgrades, replacement buildings, or additions to existing buildings, lacks environmental, economic, social, or cultural benefits.

238 Dr Zamani argues that this upholds the status quo, which has negative effects on the urban surroundings, hampers development, and diminishes public amenities. Dr Zamani considers that these arguments fail to consider the future of our cities and overlook the importance of transitioning towards a more sustainable lifestyle.

CCZ-S9 Minimum residential units size

239 I note that no substantial evidence nor associated S32AA report has been supplied to support the relief sought to amend residential unit sizes.

240 I note that Mr Lewandowski and Mr Stewart are opposed to the imposition of a minimum residential unit size in the CCZ in totality, seeks a reduction of GFA limit from 35m² for Studios down to 30m². Mr Jeffries, on behalf of Stride Investment Management Ltd, seeks a reduction in minimum unit size to 25m² for a studio and 30m² for studio and 1-bedroom units.

241 In the absence of compelling evidence to the contrary I have not changed the position, and supporting reasoning, outlined in paragraphs 656 to 668 of my S42A Part 1 CCZ report that the minimum residential unit size (CCZ-S9 and associated standards in other Centres Zones) is retained as notified with no changes to minimum GFA requirements.

242 Regardless it is reassuring to note from Mr Stewart's evidence the observation that unit GFA has evolved over the years, with early studio apartment designs in Wellington being closer to 20m² than the current norm of approximately 30m², supported by regulation to provide a higher quality studio product. However, I refer back to paragraphs 559 and 660 of my S42A report which highlights that the proposed studio GFA minimum requirement in CCZ-S9 aligns well with best practice and consistent with other contemporary New Zealand District Plans, noting both the Auckland Unitary Plan and New South Wales Government's Apartment Design Guide, stipulate a 35m² GFA for studios.

243 I note that Mr Jeffries has not provided any compelling reasoning or S32AA assessments for why changes to why substantial changes to minimum unit size is appropriate.

244 Dr Zamani in his supplementary evidence in paragraph 13 notes that reducing the size of units could lead to further reductions through the resource consent process, resulting in the provision of very small and unappealing apartments, such as 24sqm units. Dr Zamani furthers that such cramped living spaces are not conducive to human well-being, especially when used as permanent residences. Therefore, Dr Zamani considers that the current proposed sizes, although not ideal, strike a practical and appropriate balance.

CCZ-S10 Outdoor Living Space

245 I acknowledge that Mr Lewandowski and Mr Stewart are opposed to there being an Outdoor Living Space standard (CCZ-S10) within the CCZ.

246 I have not changed my view and continue to recommend per paras 672 to 679 of my S42A Part 1 CCZ report that outdoor living space requirement (CCZ-S10 and associated standards in other Centres Zones) remains as per identified in HS4-P1-CCZ-Rec116 subject to one minor and inconsequential change being a suggested removal of the word ‘per unit’ which was a technical omission and was not intended to be left in the standard:

CCZ-S10	Residential – outdoor living space	
...		
Living space type	Minimum area	Minimum dimension
...		
b. Communal		
i. For every <u>5-15</u> units	1064m² <u>per unit</u>	8m

247 I acknowledge Mr Stewart’s concerns relating to the costs of providing outdoor living space. However, I consider that the standard provides sufficient flexibility for development design to arrange how outdoor

living space should be provided whether it be through a combination of private and communal, only private or all communal.

- 248 It is important to reinforce it is not a requirement for it to be all private outdoor living space nor is it expected to just be through provision of balconies. Instead alternatives like communal courtyards, roof terraces etc. can be provided for which help to enable compliance with this standard.
- 249 I appreciate Mr Stewart's concerns regarding consenting pathway if this standard was not complied with. The resource consent assessment would be guided by the relevant assessment criteria. For example, if a development consisted entirely of 10 studio apartments all of which had access to communal open space, but that space was below the 64m² requirement it is foreseeable that the resource consent assessment for open space would consider the expected number of occupants that would utilise the smaller communal open space, noting that the communal open space standard does not vary by residential unit size.
- 250 Accordingly, a smaller but functional communal open space may be acceptable for a development of this type. On the other hand if that same development had 5 units that have private open space but the remainder have none, assessment criteria 3 becomes especially relevant and consideration can be given to the proximity of open spaces nearby as a mitigation to a lack of onsite provision. Where there is no nearby public open space, greater reliance may be placed on the necessity of open space being provided for within the development.
- 251 With regards to Juliet balconies, as I note in para 677 of my S42A Part 1 CCZ report, I do not consider that Juliet balconies provide the outcomes and amenities that balconies or sunrooms can provide. As such, I do not support a reference to Juliet balconies in the standard as sought by another submitter [44.18]. Whilst Juliet balconies are useful to provide sufficient air flow into apartments, they lack the benefit of having additional or separate outdoor living space where occupants can step into and receive the benefits of daylight access etc.

- 252 Mr Stewart furthers that the *'city centre environment provides a range of amenities and public spaces in an easily accessible way that may not be available as directly in residential areas – whether public parks, the waterfront, Oriental Bay and Mt Victoria. These easily accessible public amenities provide a public backyard for inner city residents and are a key benefit on inner city living.'* I agree in part with Mr Stewart in that city centre residents (and Wellington residents, visitors and workers more broadly) are fortunate to have access to fantastic outdoor environments being the waterfront, Oriental Bay, the town belt etc. in their 'backyard'.
- 253 However, it is abundantly clear from the Green Network Plan¹³, that there is a deficiency in open public space in the City Centre, particularly in Te Aro. This is a significant problem both currently for existing residents, workers and visitors, but also in the future given the anticipated growth in the City Centre anticipated in the next 30 years.
- 254 Whilst there are requirements on Council to fund new public spaces through methods like development contributions and setting aside reserve land etc., more mechanisms are needed to increase public and private open space provision in the area. CCZ-S10 and the C.O.C. are two methods through which the CCZ supports this, and which aligns with the Green Network Plan. As such I disagree, with the suggestion that we can rely on existing public spaces, the waterfront, the town belt etc because there is an identified lack of spaces in the immediate vicinity.
- 255 Occupants of the CCZ, whilst not being able to expect the same amenity as before or in more suburban areas, deserve to have greater access to public or private outdoor living spaces that are accessible to where they live. This makes living in the CCZ more desirable but most importantly enhances the liveability of the area, and the physical and mental wellbeing of occupants. This in turn supports the desirability of occupants to choose to live in developments that provide private open space (whether private or communal provision in developments).

¹³ Wellington City Council, [Wellington Central City Green Network Plan](#), Draft 27.10.2021

256 I refer to Dr Zamani’s supplementary evidence in paragraph 14 where he notes that developments can incorporate a combination of private balconies and communal open spaces. Dr Zamani furthers that balconies and open spaces serve not only recreational purposes but also functional uses such as wet spaces or areas for activities that are impractical within the confines of a small apartment.

CCZ-S11 Building Separation, CCZ-S12 Building depth and CCZ-S13 Outlook

257 I acknowledge Ms Key’s support for the NCZ-S11, MCZ-S11 and NCZ-S11 and seeks subsequent changes to CCZ-S12. Ms Key and Mr Wallace, on behalf of Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, identifies a technical omission I have made in CCZ-S12 in my S42 Part 1 changes, in that I did not recommend a change to CCZ-S12 to not that the standard only applies to residential activities, as identified in Ms Hayes recommended changes to other CMUZ depth standards.

258 Ms Key also recommends that further clarity could be provided in the CMUZ depth standards’ titles to include reference to residential activities, which I also agree with. As such I recommend the following changes:

CCZ-S12	Maximum building depth <u>for residential activities</u>
1. Any new building or additions to existing building <u>used for residential activities</u> must not result in the continuous depth of any external side wall being greater than 25m, as shown in Diagram 19 below. ...	Assessment criteria where the standard is infringed: <ol style="list-style-type: none"> 1. The extent to which the design mitigates the effect of a long featureless building façade; and 2. Dominance and privacy effects on adjoining sites.

259 I note that Mr Lewandowski does not support CCZ-S12 and considers that mitigation of a long building façade, dominance and privacy effects, can be adequately addressed through the design guide instead. Whilst I note that the design guides support these design outcomes through guidelines, I disagree that a standard is not necessary for the reasons canvassed in paras 694-699 of my Part 1 S42A report.

- 260 I also note that Fabric Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd, and Precinct Properties New Zealand Ltd, Stride Investment Management Ltd, Investore Property Ltd and Kāinga Ora oppose the maximum building depth, minimum building separation and outlook space CMUZ standards. Mr Heale considers that the effects associated with these matters are addressed more broadly in the building rules for each CMUZ zone, via reference in matters of discretion to policies relating to adverse effects such as shading, privacy, bulk, dominance, outlook, site context and streetscape.
- 261 In response to Mr Heale, I do not consider it sufficient to ‘broadly’ address these matters in policies only, they need to be supported by a specific standard to address the specific issues being addressed. These standards give effect to what is captured in the policies (as Mr Heale has identified) and through the matters of discretion. I consider that built form standards are imperative to achieving the outcomes that the policies speak around things like enabling privacy, mitigating dominance effects etc.
- 262 I note that Mr Jeffries, on behalf of Argosy Property No 1 Ltd, Fabric Property Ltd, Oyster Management Ltd and Precinct Properties New Zealand Ltd, considers that *‘CCZ-S8, CCZ-S13, and CCZ-R20 together ensure quality design outcomes including encouraging buildings to be placed at the front of sites, and discouraging facing adjoining properties’*. As such Mr Jeffries does not see what additional benefits CCZ-S12 achieves.
- 263 I consider that the CMUZ internal site setback, maximum depth and outlooks standards work effectively together to strike a balance between enabling development and efficient optimisation of sites whilst ensuring quality design outcomes and a level of on-site and off-site amenity as far as practicable within these environments.
- 264 Mr Rae and Mr Wallace raise similar concerns regarding the minimum building separation distances, maximum building depth and outlook standards. I refer to Dr Zamani’s supplementary evidence for further response on these matters.

- 265 I note that Mr Rae considers that the proposed maximum building depth standard will not achieve its intent of preventing long buildings into the site facing neighbours, or providing privacy for residential activities. Mr Rae notes that this is particularly because it only relates to residential buildings. In response, I refer to Dr Zamani's supplementary evidence in paragraph 44 in which he considers that Mr Rae's argument lacks justification.
- 266 Dr Zamani considers that this standard effectively prevents the development of elongated buildings along the side boundaries, contributes to the relief in urban form, and offers residents enhanced privacy, communal amenities, as well as improved access to daylight and sunlight.
- 267 Mr Rae considers the outlook space requirement in MCZ is too small and will not provide adequate outlook for residents from their main living spaces. Mr Rae recommends that the separation standard be deleted and that the assessment of any proposed building should be relied on to provide appropriate outcomes. I do not agree and seek that the minimum building separation distance standard be retained, alongside the outlook standard.
- 268 I refer to Dr Zamani's supplementary evidence paragraphs 42 and 43, where he notes that due to the shapes and topography of certain Wellington sites, it may not always be feasible to achieve a greater outlook requirement metric. He furthers that the 8m separation distance can contribute to a more favourable urban form, especially when applied on a neighbourhood scale to form perimeter blocks. In contrast, he notes that the outlook space does not significantly impact the general urban form of a neighbourhood.
- 269 As Dr Zamani notes the 8 minimum building separation distance complies with the Medium Density Residential Standards 4m depth and 4m width requirements for outlook space (per unit) for principal living units.

270 Mr Wallace on behalf of Stride Investment Management Ltd and Investore Property Ltd details that the *'ground floor having to comply with the building separation control would undermine the ability to deliver a podium / tower type building configuration and lead to an inefficient use of developable land'*. No evidence or further assessment is provided for why Mr Wallace considers this to be the case. I do not see why if two buildings are proposed that they both cannot achieve a podium/tower type building configuration. I would note that whilst there may be some impact upon potential yield, this standard is focused on on-site and adjoining amenity, privacy and dominance effects which are important to consider under Objective one and Policy one of the NPS-UD.

Retirement Village activities and building construction:

The Retirement Villages Association of New Zealand ID 350 & FS126 and Ryman Healthcare Limited and ID 346 & FS128

(Nicola Williams on behalf of the Retirement Villages Association of New Zealand Incorporated and Ryman Healthcare Limited)

271 In her evidence, Ms Williams discusses amendments she recommends to the CMUZ and responds to the Section 42A recommendations on specific planning matters.

272 Ms Williams' evidence discusses that the submissions by Retirement Villages Association of New Zealand Incorporated (RVA) and Ryman Healthcare Limited (Ryman) seek to ensure that the PDP recognises and responds to the needs of an ageing population and adopts provisions that are fit for purpose for the functional and operational characteristics of retirement villages and their residents' housing care needs.

273 I agree with Ms Williams that retirement villages are important and necessary, however I generally disagree with the requests for a specific planning framework for retirement villages. I stand by the recommendations within the Section 42A reports. I will briefly outline my reasons for opposition below.

Proposed new policies

274 I acknowledge that Ms Williams seeks further changes to the proposed policy for retirement villages, as drafted in the s42A reports. However, I consider that the policies as drafted in the CCZ, MCZ, LCZ and NCZ s42A reports adequately enable retirement villages and it is important that consistency is achieved between these policies and that recommended in the High Density Residential Zone. I note that Ms Williams has provided an amended version of this policy, which was provided in supplementary evidence from Dr Phillip Mitchell following questions from the Panel during Hearing Stream 2. I stand by the recommendations provided in the s42a Reports.

275 Regarding the additional policies proposed by the RVA and Ryman for the COMZ and MUZ, I stand by my recommendation in the Overview and General Matters s42A¹⁴, paragraph 223, that the approach should be different for the COMZ and MUZ given the differing zone purposes, environments and anticipated activities across these zones. This would create a risk for incompatible activities in these zones, such as light industrial and retirement villages. Given that the areas are limited in extent and there is sufficient provision for retirement villages in other CMUZ areas, I do not recommend a new policy relating to retirement villages.

Alternative rules for retirement villages

276 Ms Williams discusses how the proposed drafting of the standard is unclear and the link between residential rules and retirement villages are unclear. I seek clarity from Ms Williams as to which standard is being referred to here and would appreciate more information in this regard.

277 Regarding the general link the between retirement villages and residential, I refer to Mr McCutcheon's supplementary planning

¹⁴ [Section 42A Overview and General Matters for Commercial and Mixed Use Zones](#)

evidence from Hearing Stream 1¹⁵ at paragraph 73, where he recommends that in the definitions, retirement villages should sit within that category as a specific form of residential activity.

278 In terms of the matters of discretion, I refer to my assessment in the Part 1 City Centre Zone s42A report (paragraph 431) and have not changed my position.

279 As above with the additional policies, Ms Williams also disagrees with the s42A recommendations for rules for retirement villages in the COMZ and MUZ. I consider it appropriate that due to the policy framework in the zones and purpose of these zones, retirement villages are treated as discretionary activities, as per the recommendations in my s42A reports.

Development standards

280 I note Ms Williams does not agree with recommendations that excluding retirement villages from building depths and building separation standards will cause on-site amenity issues. I have not changed my position and do not recommend that retirement villages are excluded from these standards. I acknowledge that retirement villages may favour a different design, however I consider it appropriate that this would be assessed through a resource consent process and the merits of such a design could be assessed at that time.

City Outcomes Contribution

281 I acknowledge Ms Williams' concerns regarding assessments relating to the potential or actual effects rather than contributions. As discussed earlier, I would note that applications are still assessed on their merits and even more so through the points system in terms of the benefits they are proposing to provide back to the city or occupants of the proposed development through being able to achieve this height trade-

¹⁵ [Statement of Supplementary Planning Evidence of Adam McCutcheon on behalf of Wellington City Council](#)

off. As such, I do not recommend that retirement villages are exempt from the C.O.C. mechanism.

Kiwirail Holdings Ltd ID 408

282 For consistency and avoidance of repetition, I refer to paras 12-15 of Ms Hayes Supplementary Planning Evidence that responds to the evidence of KiwiRail. I agree with Ms Hayes' recommendations in relation to these matters and do not consider that further analysis is required.

Wind:

Kāinga Ora ID 391 & FS 89 - Matt Heale

283 I acknowledge Mr Heale's general support for my recommended changes in my Wind S42A report for increased wind qualitative and quantitative assessments height triggers.

Retirement Villages Association of New Zealand Incorporated ID 350 & FS126 and Ryman Healthcare Limited ID 346 & FS128 - Nicola Marie Williams

284 Alongside Mr Locke and Dr Donn in their supplementary evidence, I disagree with Ms Williams submission that the objectives and policies of the wind chapter be limited to a sole focus on safety. I agree with Mr Locke and Dr Donn that the amenity and comfort of public space in relation to wind effects are important parts of the rule frameworks. It is important that as a City we not only seek to ensure pedestrian safety, but also comfort in identified public spaces.

285 I consider that if this is not provided for in the District Plan rule framework, then these spaces will become even more uncomfortable due to increased adverse wind effects, and will cease to be used by pedestrians. This would be a very poor outcome for the CCZ and WFZ.

286 Comfort and amenity need to be considered when discretionary applications for resource consent are made, and; discretion should be applied to developments that do not comply with the cumulative effect

wind standard. The cumulative effect wind standard in the Operational and Proposed District Plan controls must continue to provide for comfort level winds as well as unsafe wind conditions.

287 In my view, Dr Donn and Mr Locke make a very important point that strong wind conditions generally impact the elderly disproportionately, as they are more easily unbalanced by wind gusts. No changes are therefore proposed in response to Ms William's expert evidence.

Te Herenga Waka Victoria University of Wellington ID 106 - Peter Cooper

288 I agree with Mr Coop's identification that the PDP seeks to extend the coverage of the wind objectives, policies and rules to include the Kelburn Campus. I note that the Wind Chapter extends beyond Kelburn campus to Massey University's Mt Cook campus and Wellington Regional Hospital through application of the Wind Chapter provisions to the Tertiary Education Zone (TEDZ) and Hospital Zone (HOSZ).

289 However, it is important to note that under assessment criteria 9.24.2.4 of Chapter 9 of the ODP for Institutional Precincts, Council could consider 'the effect of the structure on the wind environment of the street'. Mr Coop notes that in Victoria University of Wellington's (VUW) submission they sought that the wind provisions did not apply to Kelburn Campus.

290 I note that VUW did not support the application of the provisions to the Tertiary Education Zone on the grounds that '*there are no known widespread and/or significant existing adverse wind effects in these locations that justify these additional controls*'. I note that no further reasoning was provided beyond this statement, nor was any technical advice provided by a wind expert on VUW's behalf to support this sentiment. This would have been useful if it had been provided.

291 Mr Coop identifies the extent of construction that has occurred at VUW's Kelburn Campus over the last 20 years. He notes that '*these new buildings have not been subject to Council control of the wind effects and as a result to my knowledge there have been no unacceptable adverse*

wind effects associated with any of these completed new buildings'. As Mr Coop notes, these applications have not been subject to the control of wind effects, and thus without any associated wind assessments or wind tunnel tests done for these buildings, I query how Mr Coop can be confident that no unacceptable adverse wind effects are associated with these new buildings.

292 I note that Dr Donn in his statement of evidence on pages 21 – 22 notes that VUW's objection to the wind provisions applying to the effects of buildings in TEDZ to adjacent public streets is unreasonable. Dr Donn speaks to wind effects within both Universities' campuses in his evidence.

293 Dr Donn details regarding VUW that based on his own personal experience *'the tall buildings owned by the university have had historic wind safety issues on site for at least 5 decades. The Kelburn campus, for example, sits on a ridge exposed to winds from all directions. The effects of the Kirk and Easterfield buildings, for example have been reduced over time as the University has constructed wind shelter measures such as the "Hub". The huge wind sheltering entry to the Easterfield building was created on campus to minimise the potential safety issues arising from the transition from indoors through this high wind zone when exiting from the building'*.

294 I acknowledge Mr Coop's commentary that VUW is committed to enhancing the existing environment of the Campus, providing a more attractive and safe Campus to walk through, and achieving a high standard of design, including consideration of wind effects.

295 I also acknowledge Mr Coop's commentary that the campus is occupied by a number of longstanding tall buildings. Mr Coop notes that these were designed and constructed decades ago when wind effects were not considered in the design of these buildings. He advises that to improve the environment of the Campus, VUW has taken steps to improve the entrances to these buildings to enhance pedestrian shelter from wind and rain and to assist with wayfinding.

296 I also acknowledge Mr Coop's commentary that VUW requires the consideration of the wind effects in the design of new building proposals on the Campus. Mr Coop identifies two examples where VUW commissioned a qualitative wind assessment by WSP Ltd to help optimise building design. Mr Coop consequently notes that based on this he can understand and support these circumstances on why VUW consider the Wind Chapter should not apply to the Kelburn Campus.

297 I consider the acknowledgement that tall buildings are having adverse effects on the campus and Dr Donn's evidence about existing wind effects on the campus, that this would warrant consideration of whether to apply the Wind provisions to the whole zone rather than just where development within the zone is adjacent to a public street as notified in the PDP. However, I acknowledge that this consideration would be outside the scope of submissions and thus has not been explored. This may be a consideration for any future plan change to the Wind Chapters.

298 I acknowledge the technical error in my report which as Mr Coop points out incorrectly details that Rutherford House and Wigan Street are examples of development within the TEDZ. I instead meant to say they are examples of development by VUW which were considered to have potential adverse wind effects. He is correct to state that these examples are irrelevant to the Kelburn Campus, however, I think they are still useful when considering VUW development.

299 I agree with the sentiments in Mr Coop's evidence sections 6.3-6.5 and agree that further clarity could be made in WIND-R1.3. I have reviewed Mr Coop's changes and whilst I agree at a high level with the direction of the changes and the change from 'where development is adjacent to a public street' to 'from a legal road', I have points of disagreement as follows:

- Mr Coop provides no rationale or justification for where his suggestion of 20m comes from, nor any s32AA assessment in general for his proposed changes. As such I consider the rule should be focused on 'where development is adjacent to a legal road'.

- The wording of Mr Coop's rule does not have the same language and structure as the other Wind Chapter rules, which I disagree with from a consistency perspective.
- Mr Coop has used the term 'building development' rather than 'buildings and structures' which not only does not align with other rules but also does not align with the rule title of WIND-R1 being 'Construction, alteration and additions to buildings and structures'. I do not support 'building development' and seek that reference to 'buildings and structures' is retained as the provisions apply to both buildings and structures.
- Mr Coop is seeking to limit any additions to existing buildings just to existing buildings above 15m which I do consider to be the intent of the rule, nor consistent with how additions are considered across all Wind chapter rules. They should apply to any existing buildings.
- I consider that Mr Coop's reference in his introduction to 'which involve large Campus areas' is not necessary and is in my opinion unrelated to the consideration of wind generated by buildings at VUW. Having a large site should not mean that VUW (or Massey or Wellington Regional Hospital or any site that wind provisions apply to) are exempt from wind considerations.
- Mr Coop's policy is not consistent with the language and content of the other policies. I consider if there is to be a policy on wind application to HOSZ and TEDZ (beyond just relying on WIND-P2 which I consider is still appropriate to provide for the wind considerations in TEDZ and HOSZ) then it should be akin to WIND-P2 Managing Adverse effects. As identified in WIND-S1 and WIND-S2 it's not just safety to consider for wind for these zones, it's also cumulative effects (WIND-S2) as per the notified PDP application.

300 After reviewing Mr Coop's expert evidence I have proposed changes to the Wind Chapter introduction, WIND policies and WIND-P1.3 in Appendix 1 which I think:

- a. Gives some consideration to the relief sought by Mr Coop and VUW, most notably referring to legal road.
- b. Provide more consistency to the structure, drafting and language of other notified PDP Wind chapter policies and rules, and reflect all Wind standards that apply TEDZ as per the notified PDP.
- c. More accurately captures the intent of the Wind Chapter application to TEDZ, including consideration for buildings and structure, and give effect to WIND-O1 and the strategic direction of the PDP.

301 I also refer to Dr Donn and Mr Locke's response to Mr Coop's evidence in pages 3 and 4 of their supplementary evidence¹⁶. They question, as have I, Mr Coop's maximum distance suggestion of 20m and the rationale for this, and provide an alternative suggestion.

302 I have noticed some minor errors in the Wind Chapter introduction with regards to referencing which zones the Wind Chapter applies, which I have fixed for the purposes of clarity as follows:

...

The provisions within this chapter apply to public spaces in a number of zones across the City including the City Centre [Zone](#), ~~and different~~ ~~some~~ Centres Zones, ~~and the~~ [High Density Residential Zone](#), [Waterfront Zone](#), [Port Zone](#), [Stadium Zone](#), [Hospital Zone](#) and the [Tertiary Education Zone](#). ~~For the Tertiary Education Zone and Hospital Zone, the wind provisions are limited to managing the wind effects of developments on adjacent legal roads.~~ The provisions do not apply to private spaces such as adjacent properties or backyards.

...

¹⁶ [Supplementary evidence of Dr Michael Donn and Mr Nick Locke](#), Hearing Stream 4

Date: 19 June 2023

Name: Anna Stevens

Position: Team Leader, District Planning

Wellington City Council

Appendix 1: Tracked Changes to City Centre Zone Chapter and Wind Chapter

Appendix 2: Draft Active Frontage Review for Draft District Plan