

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

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** Hearing submissions and further submissions on the  
Proposed Wellington City District Plan – Hearing  
Stream 4

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

**Date: 19 June 2023**

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## INTRODUCTION

1 My name is Lisa Hayes. I am employed as Principal Advisor in the District Planning Team at Wellington City Council (the Council).

2 I have prepared this statement of supplementary planning evidence in response to expert evidence submitted in relation to the section 42A report relating to the Commercial and Mixed Use (CMUZ) provisions of the Proposed Wellington City District Plan (the Plan / PDP). Specifically, this statement of evidence relates to the Overview and General Matters section and Parts 2 to 6 of the Section 42A Report (dated 26 May 2023), including the associated appendices, which can be found here: [Plans, policies and bylaws - Hearing stream 4 - Wellington City Council](#).

3 This statement does not relate to matters that were addressed in Part 1 – City Centre Zone (CCZ), with Te Ngākau Civic Square and Appendix 9, of the Section 42A Report. These responses are addressed by Ms Stevens in her statement of supplementary planning evidence. Ms Stevens will also address matters relating to the Overview and General Matters section, which we co-authored.

4 Matters that apply across the range of CMUZ chapters, including evidence relating to specific objectives, policies, rules and standards within the CCZ chapter that would then consequentially flow down to the remaining CMUZ chapters, have been addressed by Ms Stevens. I agree with Ms Stevens' recommendations in relation to these matters and we do not consider that further analysis is required.

5 Therefore, in this supplementary evidence I will focus on matters in evidence not covered by Ms Stevens. Specifically, I will respond to the following submitters:

**Halfway House Heritage Gardeners ID 203**

- a. Jacqui Knight for Halfway House Heritage Gardeners.
- b. Russell Brodie for Halfway House Heritage Gardeners.

**KiwiRail Holdings Limited ID 408 & FS72**

- a. Catherine Lynda Heppelthwaite for KiwiRail Holdings Limited.
- b. Mike Brown for KiwiRail Holdings Limited.

**Onslow Residents' Community Association** ID 283 & FS80 and **Julie Ward** ID 103

- a. Stuart Niven for Onslow Residents' Community Association

**Woolworths New Zealand** ID 359

- a. Yiqiang Shao for Woolworths New Zealand
- b. Kay Knight for Woolworth New Zealand

**Rongotai Investments Limited** ID 269 & FS92

- b. Cameron de Leiger for Rongotai Investments Limited

**Kāinga Ora Homes and Communities** ID 391 & FS81

- a. Brendon Liggett for Kāinga Ora Homes and Communities.
- b. Matt Heale for Kāinga Ora Homes and Communities.
- c. Mike Cullen for Kāinga Ora Homes and Communities.
- d. Nick Rae for Kāinga Ora Homes and Communities, along with Attachments A, B & C.

**Stride Investment Management Limited** ID 470 & FS107 and **Investore Property Limited** ID 405

- a. Cameron Wallace for Stride and Investore.
- b. Joe Jefferies for Stride and Investore.
- c. Jarrod Thompson for Stride and Investore.
- d. Mark Georgeson for Stride and Investore.
- e. Timothy Heath for Stride and Investore.

**Prime Property Group** ID 256 & FS93

- a. Ian Leary for Prime Property Group.

**Bus Barn Limited** ID 320 & FS95

- a. Cameron de Leiger for Bus Barns Limited.

6 I have read the expert evidence above. My supplementary statement does not provide detail on every point where there is disagreement with my recommendations in my section 42A report. In addition, I have not addressed points where the submitter has agreed with the recommendations in my section 42A report. Where submitter evidence speaks to matters already addressed in my section 42A report, I rely on my section 42A report recommendations and reasoning, referring to these and providing some additional assessment where necessary.

#### **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

7 Paragraphs 17-22 of the Overview and General Matters section of the Section 42A Report relating to the Commercial and Mixed Use Zones sets out my qualifications and experience as an expert in planning.

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

#### **SCOPE OF EVIDENCE**

9 My statement of evidence addresses:

- a. The expert evidence of the submitters listed above; and
- b. Additional matters including identified errors in my section 42A report and consequential amendments required as a result of Ms Stevens' recommendations.

#### **RESPONSES TO EXPERT EVIDENCE**

##### **Halfway House Heritage Gardeners ID 203**

10 Ms Knight and Mr Brodie raise concerns with respect to the effects of 15 metre high development within the Mixed Use Zone land to the west of the Halfway House Heritage Gardens. I refer to HS4-P5-MUZ-Rec66 where I recommend a new height in relation to boundary provision with respect to the shared boundary as follows:

MUZ-S3 (Height in relation to boundary)

Assessment ~~criteria~~ ~~x~~ ~~criteria~~ where the standard is infringed:

....

<u>Boundary adjoining any site containing a scheduled heritage building</u>	<u>60° measured from a height of 5m vertically above ground level</u>
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- 11 The purpose of this provision is to ensure that buildings on the Mixed Use Zone land are lower than 15 metres at the shared boundary and provide for sunlight/daylight access to the adjacent site as requested by these submitters. In my view, this bespoke height in relation to boundary control will help to manage effects which could be produced on the setting of heritage buildings and structures, if new buildings were to otherwise result in dominance, shading or a reduction in the appreciation of heritage values. In the event that a heritage building is located in the MUZ with a lower height in relation to boundary control of 11m, that more restrictive control would take precedence, over the related heritage control.

**KiwiRail Holdings Limited ID 408 & FS72**

- 12 Ms Heppelthwaite advises that the rail corridor is a “significant physical resource” and seeks that this is a qualifying matter in accordance with section 771(e) and section 770(e) of the RMA. Additionally, she seeks that the term ‘rail corridor’ is replaced throughout the PDP with ‘rail designation’ on the basis that the ‘corridor’ is not mapped or defined in the PDP, whereas the rail designation has a clearly mapped boundary.

- 13 My comments in relation to these matters is as follows:

- i. I do not disagree that the rail network is a significant resource and provides substantial benefit. My views on it being a qualifying matter are the same as those offered by Mr McCutcheon and Mr Patterson with respect to Hearings Streams 1 and 2 respectively, and that it does not function as a qualifying matter within the operation of the PDP provisions.
- ii. I disagree that the use of the term ‘rail corridor’ should be replaced with ‘rail designation’, noting that this term is also not used or defined in the PDP. The designation is referred to as ‘KRH-KiwiRail Holdings Limited’ and ‘Wellington Railway Lines’; therefore, if this change is to proceed the correct title of the designation should be used. In my view, a more appropriate approach would be to add a definition of ‘rail corridor’ within the Definitions chapter. If the IHP is of

the view that I definition would be useful, then I recommend they invite Ms Heppelthwaite to suggest some wording for the definition.

- 14 Mr Brown has provided evidence setting out the rationale for the 5 metre set-back from the rail corridor that has been requested by Kiwirail and why the 1.5 metre set-backs recommended in the section 42A reports relating to the CCZ, MCZ, LCZ, MUZ and GIZ are insufficient. Notably, he has identified that the structures (such as scaffolding) and machinery (for example, cherry pickers, diggers, small cranes) required to undertake construction and maintenance of taller buildings, as enabled across the CMUZ, will be larger than those required in residential zones. He also identifies that there will be potential safety issues for both people working within the CMUZ site (such as electrocution) and railway operators and passengers (for example from construction material falling on the tracks) that justify an additional setback.
- 15 I acknowledge the evidence provided by Mr Brown, in particular his concerns with respect to safety. My comments in relation to these matters is as follows:
- i. The 1.5 metre set-back recommendations across the suite of CMUZ reflect the recommendations of Mr Patterson with respect to the residential zones.
  - ii. I accept that there will be construction and maintenance requirements on CMUZ sites that differ from those on MRZ land; however, buildings of up to 22 metres are enabled within the HRZ and Mr Patterson has recommended a 1.5 metre set-back in this zone. The structures and equipment for building construction and maintenance in the HRZ would be similar to those required for buildings in the CMUZ and GIZ and Mr Patterson was confident that a 1.5 metre set-back will be sufficient to meet these needs. Likewise, I consider that a 1.5 metre set-back is appropriate across the CMUZ and GIZ.
  - iii. My understanding is that works adjacent to the rail corridor would require a safety plan, with a developer to liaise with KiwiRail to ensure the safety issues raised by the submitter are addressed. Worksafe requirements would also apply. In my view this matter correctly sits outside of the District Plan.
  - iv. A larger set-back will reduce the development potential of private landowners. I note that the submitter has not provided a cost analysis with respect to the loss of private development rights that will result if a larger set-back is required or any indication of whether this would be compensated. I note that in their

evidence Stride and Investore have stated that they are opposed to a 1.5 metre setback as this imposes a cost on them (in terms of lost development potential).

- v. For the above reasons, I consider that the 1.5 metre set-back as recommended for the CCZ, MCZ, LCZ, MUZ and GIZ is retained, with clarification added that the setback applies to the boundary between the private site and the designated land.

**Onslow Residents' Community Association ID 283 & FS80 and Julie Ward ID 103**

- 16 Mr Niven, representing the Onslow Residents' Community Association, seeks that the Khandallah Centre is rezoned from LCZ to NCZ and that the height within the centre is reduced to 12 metres.
- 17 With respect to Mr Niven's evidence, I agree that the nature of the Khandallah Centre does not lend itself to a 22 metre height. This is addressed at paragraphs 49 to 59 of Part 3 (Local Centre Zone) of the section 42A report and HS4-P3-LCZ-Rec86, where I recommend that the maximum height limit for the Khandallah Centre is reduced to 18 metres. When balancing the NPS-UD requirements in relation to intensification with the matters raised by the submitters seeking rezoning of the Khandallah Centre, I consider that 18 metres is appropriate and have not changed my recommendations in relation to both retaining the Local Centre Zoning of the centre and the reduction in height.
- 18 Further to the above, I note that buildings within the CMUZ are not 'permitted' if they meet the height standard at the relevant S1 (as implied by Mr Niven). All buildings that exceed a footprint of 100m<sup>2</sup> or that are visible from public spaces require resource and will be assessed in relation to their design. Further to this, the height standard is just one of a range of standards that applies – and does not have any greater weight than the other standards. This means that the maximum height attributed to a centre may not be achievable, as other standards may impose limits meaning the maximum height cannot be realised (an example of this would be the height in relation to boundary standard or minimum sunlight access to public spaces standard in the CCZ).

## **Woolworths New Zealand ID 359**

19 Ms Stevens has provided commentary on the Woolworths New Zealand evidence in her supplementary statement of evidence. Here I address the following points from Kay Knight in relation to the Mixed Use Zone (MUZ):

- i. Ms Knight seeks an amendment to MUZ-P3 to remove the word 'only allow' and leave as 'allow'. I disagree with this amendment as I consider that the listed matters are necessary to ensure that the MUZ is developed in a sustainable way and is reflective of both the residential and commercial environment expected within the MUZ.
- ii. Ms Knight also seeks an amendment to MUZ-S6 to increase the maximum gross floor area of buildings for supermarkets to 1,500m<sup>2</sup>. While I acknowledge that MUZ-R12 permits the activity of a supermarket up to 1,500m<sup>2</sup>, I do not agree with the proposed amendment to increase the permitted building footprint. As addressed throughout my section 42A report, I consider that it is necessary to retain the 500m<sup>2</sup> maximum to enable an assessment of the effects of the building on the environment through a resource consent process, particularly in relation to design.

## **Rongotai Investments Limited ID 269 & FS92**

20 Cameron de Leiger, for Rongotai Investments Limited seeks that the height limits in the Rongotai South Mixed Use zone are increased to 20m, both in respect of the Permitted activity rule MUZ-R16.1 and MUZ-R16.2, which is the Restricted Discretionary activity rule that applies when the standards at MUZ-R16.1 are not met.

21 I firstly note that the maximum building height standard cannot be the same for both a Permitted and Restricted Discretionary activity rule.

22 I also note that the MUZ provisions in the notified PDP are more enabling than those of other district plans given that they do provide a level of permitted development, whereas most other plans require a Restricted Discretionary resource consent for any new building in the zone.

23 Mr de Leiger has commented that I have incorrectly commented that the height limits provide a transition to the residential land, where no residential land adjoins the Rongotai South sites.

24 I note that these heights have been carried down from the ODP. Significant consideration as to the suitability of the building heights was given when these were introduced under Plan Change 73 to the ODP. Commentary on the ODP heights is provided within the explanation to policy 34.2.4.7 as follows (emphasis added):

*“A range of permitted and restricted discretionary building heights have been identified for the Rongotai South Area, as shown in Appendix 4. The range of heights reflect the need to enable future development in the area to provide for social and economic wellbeing, but also seek to manage adverse effects associated with large buildings adjacent to the Residential Area, reverse sensitivity **and the shading of public spaces in the area.**”*

*Buildings up to 16 metres in height are permitted on several properties towards the southern end of the Rongotai South Business 1 Area zone and fronting onto Lyall Parade (refer to Appendix 4 of Chapter 34). Council wants to encourage high quality development in this location that will improve the existing building edge and take advantage of the area’s views and coastal location...”*

25 In addition, Appendix 4 of Chapter 34 explains that the height limits imposed in the different areas as follows:

*“The 12 m permitted height on Lot 7-9 DO 21630, Lot 11-15 DP 21630 and Lot 1 DP 83928 inclusive is an urban design control **applied to manage sunlight access (and reduce shading) into public spaces on Kingsford Smith Street.** Note that proposals to increase building heights will be considered against all relevant matters outlined in Rule 34.3.9. Standard 34.6.1.1.1A seeks to manage concerns regarding reverse sensitivity effects (particularly noise effects) that may occur if residential activities establish on sites adjoining the existing building improvement centre”.*

26 Interestingly, the ODP does not include any height in relation to boundary controls to manage shading effects on the open space strip to the west and north of the sites. Buildings can be built right up to the boundary to their maximum height under the ODP.

27 Given building bulk can be placed in this way, it is in my view is unlikely to manage shading effects to the same degree where the PDP which, on the other hand, does include height in relation to boundary controls to open space.

28 I also note that the introduction of the MDRS has changed the maximum height for residential development to 11 metres in this residential area, from the ODP limit of 8 metres. Contrastingly, no increased height has been provided in the PDP in the Rongotai South Mixed Use Zone. Given the ODP controls for this area were developed relative lower scale and form of development enabled at the time, it seems sensible to me that the scale of development in the MUZ is similarly increased.

- 29 I appreciate the detailed analysis Mr de Leiger has undertaken to show the existing situation and the potential development within a 20 metre height limit.
- 30 I am receptive to increasing the *Restricted Discretionary (MUZ-R16.2)* height limit to 20 metre within all four areas of the Rongotai South MUZ (A, B, C and D). I am not supportive of increasing the *permitted height standard* as the larger that buildings are (and accordingly the more prominent they are from public spaces), the more important it is that the Council retains discretion to consider design, to ensure that buildings are designed in a way that achieves a high standard of built form and amenity as directed by MUZ-P6.
- 31 In my view the Airport's Obstacle Limitation Surfaces designation is not a decisive factor in determining whether increased heights are appropriate in the zone. The designation functions in such a way that the requiring authority can reject or approve intrusions into its limitation surfaces, even if a resource consent has been granted to that effect as sufficiently manages any effects on the operation of the airport.

**Kāinga Ora Homes and Communities ID 391 & FS81**

- 32 Kāinga Ora has provided evidence from the following experts:
- a. Brendon Liggett
  - b. Matt Heale
  - c. Mike Cullen
  - d. Nick Rae

Brendon Liggett

- 33 In response to Mr Liggett's evidence at para 4.2 that the NPS-UD sets out minimum levels of density and building height, and district plans can go further – I agree. At the same time however, other than in the City Centre Zones, the NPS-UD does not require unfettered building heights and densities, rather provides for councils to find a balance of intensification that contributes to achieving well-functioning urban environments through the implementation of objective 1. Policy 3 of the NPS-UD is not the overriding directive of the national policy statement.
- 34 I consider that the recommendations that I have made find this balance and support the creation of a well-functioning urban environment, at the same time as enabling

sufficient capacity to meet demand and recognising the unique values of specific centres. The zonings proposed in the PDP have been informed by significant background work including the Outer Suburbs Evaluation Report, which led to the recommended height limits for centres based on the relative level of commercial and community services available and other factors such as access to public open space<sup>1</sup>. As such a robust and considered methodology has been applied to the determination of building heights in the PDP. I have not seen a comparable analysis from the submitter. As I read it, the evidence presented in support of increasing heights in centres zones has been made purely from an urban design perspective.

35 Mr Patterson has made similar points at length in his Right of Reply for Hearing Stream 2<sup>2</sup>. Rather than repeat those again, I suggest that the IHP turn its mind to the same arguments, but in the context of the Commercial and Mixed Use Zones.

36 On the matter of a Town Centre Zone, I have addressed this in the Overview and General Matters section of my section 42A report at 8.5 onwards. I have nothing more to add to my assessment in light of the evidence from the submitter (especially Mr Heale). I remain of the view that a Town Centre Zone is not critical to support the outcomes for the CMUZ as sought by Kāinga Ora, and that variations to the building heights of the particular LCZ is the most efficient and effective approach, at least in terms of District Plan usability.

37 My concerns primarily relate to duplication of the District Plan's content and increased complexity by essentially replicating the LCZ chapter with minor tweaks to policy wording and increased heights that could otherwise be accommodated within the notified structure. I accept the submitter's detailed 'journey to work' and economic evidence on the matter and do not attempt to disprove it, and note that I would accept the inclusion of a Town Centre Zone should the IHP be of the view to accept it after reaching the conclusion that the benefits of including the additional zone outweigh the costs of increased District Plan complexity.

38 These comments also apply in respect of Mr Heale's evidence.

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<sup>1</sup> [Plans, policies and bylaws - What's in the Proposed District Plan? - Wellington City Council](#)

<sup>2</sup> [Right of reply responses Mr Josh Patterson \(wellington.govt.nz\)](#)

Matt Heale

- 39 Mr Heale notes in his evidence that the Wellington region has not achieved consistency in preparing the individual planning documents. I agree with Mr Patterson in this report, where he has commented that while this is the case some regional inconsistency is to be expected given both the different nature of Wellington City and the very limited legislative timeframes that have been available to formulate, consult on, notify, implement, and make decisions on the plan changes.
- 40 Mr Heale also argues for a new TCZ on the basis of national consistency (among other reasons). I note that the National Planning Standards Zone Framework does not require this consistency. As discussed at paragraphs 36 to 37 above, I stand by my recommendation that a TCZ is not necessary in the Wellington context, but accept that the IHP may take a different view.
- 41 I do not support, as is sought by Mr Heale on behalf of Kāinga Ora, further extensions to the extent of the CMUZ boundaries. I note that while the notified PDP does not expand the boundaries of the majority of the city's centres, a full review of their spatial extent was undertaken in relation to Plan Change 73. I note that many of our large centres, including Johnsonville, Newtown, Tawa and Kilbirnie are underperforming and have significant unrealised development potential within their existing spatial extent. In my view it is preferable that the development is focused inside the existing centre boundaries until this development potential is realised, rather than allowing centres to creep out into their adjacent residential areas and/or merge into one another.
- 42 Further to this, in my view expanding the CMUZ boundaries would be counterproductive to seeking the efficient use of land in centres and maximizing development capacity within existing centres. I am not an economist, but I would consider, for example, achieving redevelopment of the Johnsonville mall would not be supported by further expanding the extent of the Metropolitan centre zone.
- 43 Mr Heale recommends that smaller limits for integrated retail activities should be introduced in the MCZ, LCZ and NCZ corresponding to the type of centre within the hierarchy. I note that he incorrectly identifies that I have recommended 30,000 m<sup>2</sup> in the MCZ, whereas in fact I recommend the limit is removed.

- 44 Kāinga Ora has provided additional assessment of the size of neighbourhood centres zones showing that all but a couple are below the size limit for integrated retail activities. I agree that if all integrated retail activities are developed as single storey this will be the case.
- 45 I do not consider it very likely at all that neighborhood centres (or even local centres) will see a proliferation of integrated retail activities even in absence of a specific control given the small and fragmented land holdings within such centres.
- 46 While I maintain that a GFA limit is not required in the MCZ, as supported by the supplementary evidence prepared by Dr Lees, I am comfortable with reductions to the size limits for integrated retail activities even further, informed by further analysis on the average centre size.

#### Mike Cullen

- 47 Mr Cullen identifies that once land within a centre is lost to residential development it will remain residential and never revert back to commercial use, and asserts that this is a reason for CMUZ in Wellington to be extended spatially.
- 48 Residential activity is critically important to achieving vibrant centres, and it should be enabled alongside other uses that contribute to engaging and interesting centres. I accept that Mr Cullen's proposition may be true, but only if residential activity proliferates at ground floor level. This has the effect of removing viable commercial space, as commercial activities in centres tend to struggle above ground floor as detailed in [the Sense Partners Report](#). Where Mr Heale argues that the Council is preventing commercial development but constraining the CMUZ boundaries, my view is that there is sufficient space within the existing centres. Furthermore, in my view this point reinforces the Council approach with respect to restricting residential development at ground level across the suite of CMUZ.
- 49 I contend that the most appropriate planning response is to prevent, through District Plan policy, ground floor residential being enabled or consented without a thorough assessment how it will maintain the vibrancy of the centre, rather than increasing the extent of any particular CMUZ in the event that residential activity may dominate at some point in the future.

50 At paragraphs 38 to 39 above I set out additional reasons why I recommend that the zone boundaries be retained as notified, except for those I have identified in my section 42A report. I also note that the HRZ and MRZ provisions do anticipate that mixed use activities will extend beyond the CMUZ boundaries, and non-residential activities are expected to be deemed appropriate at the periphery of centres. Thus there will be a transition from commercial to residential land use without the need to reduce the extent of the residential zones or expand any centre.

#### Nick Rae

51 Mr Rae has recommended refinements to Kāinga Ora's significant set of mapping amendments for upzoning residential areas and the expansion of the CMUZ. He has also recommended amendments to active frontage and verandah control standards across many parts of the CMUZ. For the reasons detailed above, I consider that the zone boundaries are generally appropriate; however, I am open to extending the active and non-residential frontages as requested by Mr Rae. I note that there are submissions in opposition to these provisions, which should also be taken into consideration in determining whether the proposed increases are appropriate.

52 I acknowledge Mr Rae's analysis of the different centres within his assessment and note the following:

- i. I agree that there are some instances where community facilities located at the periphery of a centre would more appropriately be located within the centre (para 4.20). Due to time constraints, I have not undertaken a full analysis of where this is appropriate instead my section 42A report relies on the notified zone boundaries and background work that informs these, including the section 32 analysis in relation to Plan Change 73 to the ODP<sup>3</sup>.
- ii. I agree that the recommended 27 metre height is the same as the Kilbirnie MCZ (para 6.6). In this respect, I consider it would be inappropriate for the LCZ to be attributed more height than the MCZ, although recognise the submitter also seeks increased height in Kilbirnie. I have set out in Part 2 (Metropolitan Centre Zone) of the section 42A report why I consider 27 metres to be appropriate in Kilbirnie. If Mr

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<sup>3</sup> [Proposed District Plan Change 73 - Suburban Centres Review: Section 32 Report \(wellington.govt.nz\)](#)

Rae is concerned that I recommend the same height be available to Newtown and Tawa, I recommend lowering the heights in these centres.

- iii. I have recommended that the Tawa LCZ extend to Elena Place, with the Our Lady of Fatima Church to be rezoned within the LCZ (expanded), and not retained as HRZ (para 6.13).
- iv. I disagree that the eastern side of Main Road, Tawa should be rezoned from HRZ to LCZ (para 6.14-6.17) and stand by my reasons at paragraph 107.ii in relation to retaining the HRZ zoning.
- v. I disagree with Mr Rae that more land in Johnsonville should be zoned (MCZ) to provide for a greater mix of activities (para 6.36). In my view the focus should be on enabling development of the existing MCZ, which the PDP does, rather than expanding the centre. I note that development that exceeds the limits within the MCZ or is outside of its boundaries is still feasible, subject to obtaining resource consent.
- vi. Mr Rae has provided several pages of rationale for extending the extent of the Johnsonville and Kilbirnie MCZ. The IHP will consider the analysis provided by Mr Rae and may be inclined to amend the zone boundaries. I am open to more discussion on this information in the hearing, but at this stage reiterate that do not consider any expansion to be necessary as in my view the MCZ and adjacent HRZ provide suitable development capacity for both Kilbirnie and Johnsonville. I note that where the expansions relate to privately owned residential land and the landowners have not been involved in discussions about rezoning, issues of natural justice apply. A variation to the PDP may be required if any such zone extensions are proposed.
- vii. Mr Rae has provided commentary in relation to the expansion of other CMUZ, including Karori and Miramar. For the reasons in my section 42A report (Part 3 – Local Centre Zone), I recommend that these zones are retained as notified.
- viii. I have commented on the requested 55 metre height for Johnsonville at paragraphs 57 to 58 below, in relation to the evidence from Stride and Investore.

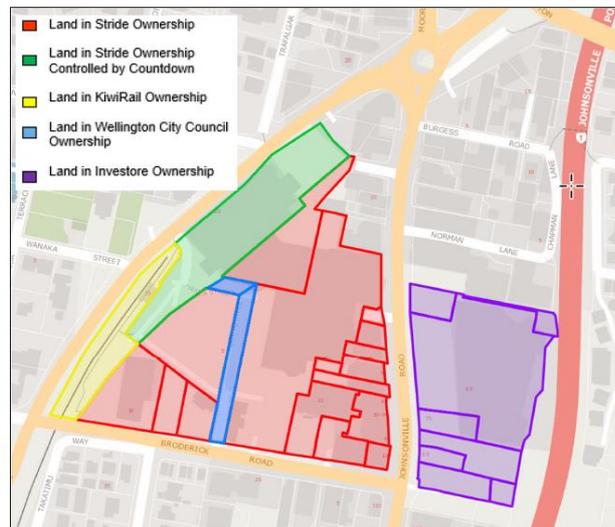
53 Analysis of Mr Rae's concerns with respect to specific CMUZ standards is provided within Ms Stevens' statement of supplementary evidence. I recommend consequential changes to the MCZ, LCZ, NCZ, MUZ and COMZ provisions to reflect Ms Steven's recommendations.

54 Stride and Investore have provided evidence from the following experts:

- a. Cameron Wallace
- b. Joe Jefferies
- c. Jarrod Thompson
- d. Mark Georgeson
- e. Timothy Heath

55 The experts representing Stride and Investore request a range of amendments, primarily in relation to the Johnsonville Metropolitan Centre Zone (MCZ). Figure 1 of Mr Thompson’s evidence, provided below, shows these submitters’ land within the zone:

**Figure 1 – Stride and Investore ownership of land in Johnsonville Metropolitan Centre**



56 The submitters seek that the height specified at MCZ-S1 is increased to 50 metres in the location shown in the image at paragraph 259 of Part 2 (Metropolitan Centre Zone) of my section 42A report. I have recommended that the height of 35 metres is retained as notified (refer to paragraphs 267-270 and HS4-P2-MCZ-Rec64).

57 With respect to the 50 metre height requested I note that I agree that tall buildings, particularly when clustered, can make positive contributions to the identity and vitality of a centre and may be appropriate for Johnsonville. The Metropolitan Centre Zone is indeed an area where a transition to an intensive built form that efficiently utilizes land is supported.

58 Within my section 42A report I note that 35 metres is a considerable increase from the 12 metre height limit in the ODP. I note that there this applies to Zone 1 of the Johnsonville ODP, with an additional 50% (6 metres) available as a Restricted Discretionary activity. Within Zone 2 the permitted height is 18 metres, with 33% (6 metres) available as a Restricted Discretionary activity. In any event, 35 metres is an increase on the level of development available under the ODP, and in my view is an appropriate height as it demonstrates that the MCZ sit lower than the CCZ in the centres hierarchy. I acknowledge that Ms Stevens has recommended that the height limits in the CCZ be removed from the PDP, which provides scope to increase the height limits elsewhere in the city, particularly in Johnsonville. I envisage that buildings up to 50 metres in height may be appropriate, but continue to recommend that the 35 metre limit at MCZ-S1 be retained so that the Council can apply the City Outcomes Contribution mechanism to buildings over this limit. The purpose of the City Outcomes Contribution, which I acknowledge the submitters are opposed to, is to incentivise developers to 'give back' to the community through design – so rather than stifling height, the Council is hoping to encourage taller buildings where these have a community benefit.

59 Additional concerns raised by Stride and Investore relate to objectives, policies, rules and standards, which are shared and common across all CMUZ chapters. These have been addressed at a high level in Ms Steven's supplementary statement of evidence. At this stage, I generally maintain my position on the standards as detailed in my section 42A report. However, I recommend that any amendments to these standards recommended by Ms Stevens that are applicable to the MCZ are carried down to the equivalent provisions. Further to this, I have discussed a number of standards below. I will give further consideration as to whether changes are necessary as the hearing progresses.

60 Commentary of the evidence provided by the specific experts is provided below.

#### Cameron Wallace

61 Mr Wallace, for the submitters, contends that developers will build only to the 35 metres to avoid having to provide a 'city outcomes contribution' (as discussed in the Overview Report and Ms Stevens' supplementary statement of evidence). As discussed

at paragraph xx above, I agree that higher buildings are appropriate in Johnsonville; however, I disagree that the City Outcomes Contribution disincentives taller buildings. The development of high quality buildings and associated spaces that achieve the City Outcomes Contribution will add value to a building and benefit a developer. It also adds benefit to the local community, resulting in places where people want to work, live and recreate (ie well-functioning urban environments). I note that where the City Outcomes Contributions is achieved, buildings over 35 metres will be assessed on a non-notified basis. This also benefits a developer in terms of costs and certainty.

62 Mr Wallace contends that low (35 metre) and wide buildings would represent a worse outcome than tall (50 metre) and thin buildings. In my experience developers will maximise their available development potential of a site, and there is no guarantee that increasing MCZ-S1 to 50 metres would not result in tall and wide buildings, which would have even greater visual/bulk effects than those Mr Wallace considers would be inappropriate for a 35 metre building. In addition, there is no substantive minimum building height limit in the MCZ, meaning that even if increased to 50 metres, developers could well still develop lower buildings if they so prefer.

63 Analysis of Mr Wallace's concerns with respect to specific CMUZ standards is provided within Ms Stevens' statement of supplementary evidence.

Joe Jefferies

64 Mr Jefferies considers that the City Outcomes Contribution will disincentivise development. I disagree, for the reasons set out above.

65 Mr Jefferies is concerned that MCZ-P3 (Managed activities) retains the word 'vibrancy' and seeks that this is deleted (in addition to my recommendation to delete 'viability'). His rationale is that the policy will unduly require consideration of effects on other centres. I disagree with this request, on the basis that it is a necessary consideration in implementing the centres hierarchy and ensuring that development in one centre does not undermine the function and role of others within the hierarchy. Without such considerations, the centres hierarchy would effectively be only a hierarchy in name, and not in function.

66 Ms Stevens has addressed car-parking and demolition. I adopt her assessment in relation to these matters and, as such, do not recommend any changes to MCZ-R15 and MCZ-R19.

67 With respect to building heights, Mr Jefferies infers that the Council is 'capping' development potential on the basis that there is sufficient development capacity across the city. I disagree that heights are being capped or that the Council is not encouraging development potential. What I have said in my section 42A report is that the additional height is not necessary to meet the forecast demand for Wellington City. As noted above, the Restricted Discretionary activity status and non-notification provisions within MCZ-R20 are indicative that height above 35 metres is appropriate in the zone and is likely to obtain a non-notified consent where it can be demonstrated that a benefit to the city/community is provided.

#### Jarrod Thompson

68 Mr Thompson focusses on the idea that developers want certainty and will design to the rules/standards for a simpler consent pathway, and contends that the result will be 35 metre high buildings. In my view the PDP provisions do provide developers with certainty, just not at the heights that they want. Regardless, any new building will be assessed by the Council in terms of its design with opportunities for the developer to engage with the Council to achieve good design outcomes. With respect to Johnsonville Mall, the land owner has been granted three resource consents for redevelopment of the Johnsonville mall and has failed to give effect to any of them (and they have now lapsed). If anything, the granting of these consents demonstrates that the District Plan provisions (even those of the ODP) are not a barrier to a viable redevelopment of the mall, which instead primarily rests with the owners hesitancy and lack of action to regenerate its land holdings.

#### Mark Georgeson

69 Mr Georgeson seeks that MCZ-P9.2 is deleted or relocated to the Transport chapter. This requires consideration of the effects of construction traffic and provides discretion for decision makers to impose Construction Traffic Plan (CTP) conditions. While Mr Georgeson is correct that for large scale developments these are usually prepared and supplied, under the ODP this is generally on a good-faith basis, in that there is no

discretion within the rule to require the CTP. As such, the inclusion of this matter seeks to plug a gap in the ODP provisions, which I consider to be important given new buildings will generally be assessed as Restricted Discretionary activities under the PDP. I note that the Council's Programme Director – Subsurface Asset Register requested this provision upon identifying that substantial development is anticipated in Wellington and it provides a mechanism to ensure the ongoing function of the road network. I disagree that this provision would be best placed in the transport chapter both as it relates to mitigation of construction effects, and because it would introduce complexity to the consenting process – by introducing a new chapter to be addressed where buildings otherwise do not breach any Transport chapter rules.

#### Timothy Heath

70 Dr Lees has addressed Mr Heath's evidence in his supplementary statement of evidence, noting he generally agrees with the conclusions reached. On the matter of the gross floor area limit for integrated retail in the zone, Mr Heath and Dr Lees have different views. Ultimately, I do not consider that Johnsonville will ever pose a risk to the vibrancy of the City Centre. If anything, I would expect that Johnsonville would serve to gain from Tawa and Porirua catchments, rather than the wider Wellington City area.

71 I would not be opposed to a 30,000m<sup>2</sup> GFA limit being introduced for Integrated retail activities as sought in the primary submission by Stride, which would act as a rule trigger for economic assessment, but do not consider this entirely necessary.

#### **Prime Property Group ID 256 & FS93**

72 Mr Leary has provided evidence stating his past involvement with the Curtis Street (COMZ) site, which is substantial. I thank him for providing detailed information on the history of the site, which has somewhat of an awkward zoning approach in both the ODP and PDP.

73 I note that Mr Leary's discussion on flood hazards present on the site is not addressed through this hearing.

74 With respect to the height limit applying to the COMZ site, I agree that 12 metres aligns with the current planning framework, including the MDRS (which permits higher

development of adjacent residential land) and the NPS-UD. While I caution the IHP to consider the Environment Court decision, particularly as it is recent, I am comfortable with a 12 metre height limit at COMZ-S1, given the new context of the MDRS and NPS-UD.

75 Mr Leary also seeks that the residential activity is permitted at ground floor level within the COMZ and has provided indicative plans showing a future development for the site. I note that these show residential buildings with garages at ground level. I note that the purpose of the COMZ is to provide for a mixture of commercial and residential activities. I consider it is appropriate to retain the requirement for a Restricted Discretionary resource consent where the residential activity is located at ground level. Where it can be demonstrated that this is an appropriate outcome as the proposal it *“will not have an adverse effect on the use of the zone for commercial activities”* (COMZ-P3), these would not be deemed incompatible and would obtain resource consent. The argument put forth by Mr Leary with respect to commercial viability would be a way to demonstrate this, and could be included with the resource consent application.

76 For the above reasons, my recommendations on the submitter’s requested changes are as follows:

- a. COMZ-R2 – no change.
- b. COMZ-R10 – no change.
- c. COMZ-S1 – amend, enabling a maximum height of 12 metres.
- d. COMZ-S3 – no change.

**Bus Barn Limited ID 320 & FS95**

77 Mr de Leiger seeks a 40 metre building height for MCZ-S1 Height Control Area 2. He contends that this will render development of these sites more economically viable and will provide additional housing, in line with the requirements of the NPS-UD.

78 The notified height limit for the Kilbirnie MCZ is 27 metres, greater than that of the ODP which is set at 18 metres. I consider that this height is consistent with Policy 3b of the NPS-UD which requires a height of at least 6 storeys (22 metres). While 40 metres is of course greater than 27 metres, there is no imperative within the NPS-UD for such a height to be enabled.

- 79 The 27 metre height of the notified PDP has been informed by substantial background work, such as the Outer Suburbs Evaluation Report, which led to the recommendation for a 27 metre limit based on the relative level of commercial and community services available.
- 80 With respect to building height I refer to paragraphs 57 to 58 above (in relation to the Johnsonville MCZ). Likewise, development over the 27 metre height limit is not considered unsuitable within the Kilbirnie MCZ; however, it needs to be recognised that significantly tall buildings within a context do create effects - in terms of both visually within their context (and the wider cityscape) and with respect to the levels of amenity available to adjacent sites. Where the maximum height limit is exceeded, the developer is required to provide a City Outcomes Contribution. This proposed is intended to provide for additional buildings heights where there are trade-off benefits to the relevant centre and its occupants. These could be tangible benefits, such as public open space, or less obvious benefits such as seismically resilient buildings and accessible apartments, that while not obvious improve quality of life. I consider it is appropriate that this mechanism is brought into play when buildings over 27 metres in Kilbirnie are proposed and recommend that the height limit is retained as notified.
- 81 I note that Mr McCutcheon for Hearing Stream 1 has recommended the IHP consider introducing a walking catchment of 6 storey development within a 10 minute walk of the Kilbirnie Centre. If the Panel is not of the view to agree with Mr McCutcheon, I would contend that a 40 metre height limit would be even more discernably out of context with the surrounding enabled scale of development.
- 82 While additional height will provide for housing, as traversed within my section 42A report and elsewhere in this statement of supplementary evidence, the PDP provides more than sufficient development capacity within the region to meet expected demand for housing and therefore exceeds the requirement under NPS-UD.
- 83 Mr de Leiger has requested clarification as to whether the ground floor height at MCZ-S3 is above ground level or an RL of 4 metres. Unless specified in the District Plan,

heights are measured at the existing ground level – being the ground level at the time that a resource consent application is lodged.

## ADDITIONAL MATTERS

84 I have identified a number of minor amendments and drafting errors in the recommendations relating to the CMUZ chapters and have highlighted some points that require clarification. These are detailed in the table below.

<p><b>HS4-P2-MCZ-Rec56</b></p>	<p>This recommendation states that MCZ-R19 (Demolition or removal of buildings and structures) should amended to reflect the minor amendment to the equivalent rule in the Waterfront Zone. The equivalent amendment will be as follows:</p> <p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <p>a. The <u>demolition</u> or removal of a <u>building</u>:</p> <ul style="list-style-type: none"> <li>i. Is required to avoid an imminent threat to life and/or property; or</li> <li>ii. Enables the creation of <u>public space</u> or <u>private outdoor living space associated with the use of a building</u>; or</li> <li>iii. Is required for the purposes of constructing a new <u>building</u> or <u>structure</u>, or adding to or altering an existing <u>building</u> or <u>structure</u>, that has an approved resource consent, or resource consent is being sought concurrently under <u>MCZ-R20.2</u>, or for the Kilbirnie Bus Barns Development Area, <u>DEV-R1.2</u>; or</li> </ul> <p>b. The <u>building</u> or <u>structure</u> for <u>demolition</u> or removal is not on a <u>site</u> that has an <u>active frontage</u> or non-residential activity frontage; or</p> <p>c. The <u>demolition</u> or removal involves a <u>structure</u>, excluding any <u>building</u>.</p> <p><b>Note:</b> The change also applies to the equivalent demolition rules across the remaining CMUZ chapters.</p>
<p><b>HS4-P2-Dev1-Rec1</b></p>	<p>In relation to DEV-R1.2.3, the word ‘threshold’ has been added. For consistency with the MCZ, LCZ and NCZ, this should remain as ‘maximum height requirement’.</p> <p>This change will apply to the amended City Outcomes Contribution rule framework as recommended by Ms Stevens, also in relation to the MCZ, Dev1, LCZ and NCZ.</p>
<p><b>HS4-P4-NCZ-Rec10</b></p>	<p>This recommendation refers to MCZ-O2 rather than the NCZ-O1 and should be amended as follows:</p> <p>HS4-P4-NCZ-Rec10: That submission points relating to <u>NCZ-O1</u> <u>MCZ-O2</u> are accepted/rejected as detailed in Appendix B.</p>
<p><b>HS4-P4-NCZ-Rec18</b></p>	<p>This recommendation refers to the MCZ rather than the NCZ and should be amended as follows:</p> <p>HS4-P4-NCZ-Rec18: That submission points relating to <u>NCZ-P1</u> <u>MCZ-P1</u> are accepted/rejected as detailed in Appendix B.</p>

	<b>Note:</b> Any further incorrect centre references within the recommendations relating to the MCZ, LCZ, NCZ, MUZ and COMZ should likewise be amended.
<b>HS4-P4-NCZ-Rec35</b>	This recommendation is missing a cross-reference to the applicable recommendations in the Overview and General Matters section of the section 42A report, and needs amending as shown below:  That NCZ-P10 (City Outcomes Contribution) is confirmed with amendments consistent with those set out in the Overview and General Matters section of this report <a href="#">(HS4-Overview-Rec22 to HS4-Overview-Rec30)</a> and detailed in Appendix A.
<b>HS4-P6-COMZ-Rec43</b>	This recommendation is incomplete and should be amended as shown below:  That submission points relating to COMZ-S4 are accepted/rejected as <a href="#">detailed at Appendix B</a> .
<b>City Outcomes Contributions – reference to guideline 107</b>	As clarification, while I have recommended accepting the Woolworths submission points across the suite of CMUZ that seek the correction of the reference to guideline 107 of the CMUDG within the rule framework, these recommendations will no longer be relevant if the City Outcomes Contribution is amended as recommended by Ms Stevens (ie removed from the Design Guides entirely).

85 In addition to the matters listed in the table above, I acknowledge the recommendations in Ms Stevens' supplementary statement of evidence. I recommend that the changes to the objectives, policies, rules and standards as recommended by Ms Stevens should be incorporated into MCZ, LCZ, NCZ, MUZ and COMZ where relevant. This includes the requirement to publicly notify applications for over-height buildings in the MCZ, LCZ and NCZ where the City Outcomes Contribution is not achieved.

**Lisa Hayes**

**Principal Planning Advisor**

**Wellington City Council**

**Refer to Appendix 1: Tracked Changes to Metropolitan Centre Zone, Local Centre Zone, Neighbourhood Centre Zone, Mixed Use Zone, Commercial Zone and Development Area 1 Chapters.**

Note: **Yellow highlighted** changes are changes made after review of expert evidence.