

Wellington City Proposed District Plan

Hearing Stream 7 – Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones

Section 42A of the Resource Management Act 1991

Document Information

REPORT FOR:

Independent Hearings Commissioners:

Robert Schofield (Chair)

Jane Black

Lindsay Daysh

Miria Pomare

SUBJECT:

**Wellington City Proposed District Plan –
Part 3 – Area Specific Matters – Open
Space, Natural Open Space, Sports and
Active, and Wellington Town Belt zones**

PREPARED BY:

Jamie Sirl

REPORT DATED:

20 February 2024

DATE OF HEARING:

19 March 2024

Executive Summary

- i. This report considers submissions received by Wellington City Council in relation to the relevant objectives, policies, rules, definitions, appendices and maps of the Wellington City Proposed District Plan as they apply to the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones (collectively referred to as Open Space and Recreation zones).
- ii. There were 293 submission points and 68 further submissions received on the Open Space and Recreation zones. The submissions received were diverse and sought a range of outcomes. This report assesses and makes recommendations in response to the issues and submission points raised.
- iii. The following are considered to be the key issues in contention:
 - a. Site specific concerns with the application of open space zones, particularly to privately owned land; and
 - b. That the notified zoning and provisions relating to the area of the seawall between Lyall Bay and Moa Point (the Seawall) do not adequately provide for the on-going maintenance of the Seawall and its function in protecting regionally significant infrastructure.
- iv. This report addresses each of these key issues, as well as any other relevant issues raised in the submissions.
- v. The report includes recommendations to address matters raised in submissions. This includes whether the provisions in the Proposed District Plan relating to the Open Space and Recreation Zones should be retained as notified, amended, or deleted in full.
- vi. Appendix A of this report sets out the recommended changes to the Open Space and Recreation zones chapters in full. These recommendations take into account all of the relevant matters raised in submissions and relevant statutory and non-statutory documents.
- vii. Appendix B of this report details officers' recommendations on submissions and whether they should be accepted, accepted in part or rejected. The associated reasoning is set out in the body of this report.
- viii. For the reasons set out in the Section 32AA evaluations included in section 3.8 of this report, the proposed objectives and associated provisions, along with any recommended amendments, are considered to be the most appropriate means to:
 - a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and
 - b. Achieve the relevant objectives of the Proposed District Plan, in respect to the proposed provisions.

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Interpretation

Table 1: Abbreviations

Abbreviation	Means
the Act / the RMA	Resource Management Act 1991
the Enabling Act	Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021
the Council/WCC	Wellington City Council
the Operative Plan/ODP	Operative Wellington City District Plan
the Proposed Plan/PDP	Proposed Wellington City District Plan
GWRC	Greater Wellington Regional Council
NPS	National Policy Statement
NPS-UD	National Policy Statement on Urban Development 2020
NZCPS	New Zealand Coastal Policy Statement 2010
NRP	Wellington Natural Resources Plan 2023
RPS	Wellington Regional Policy Statement 2013
Spatial Plan	Spatial Plan for Wellington City 2021
S32	Section 32 of the Resource Management Act 1991
S32AA	Section 32AA of the Resource Management Act 1991

Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Forest and Bird	Royal Forest and Bird Protection Society of New Zealand Inc
GWRC	Greater Wellington Regional Council
KiwiRail	KiwiRail Holdings Limited
WCC	Wellington City Council
WIAL	Wellington International Airport Ltd

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1.0 Introduction

1.1 Purpose

1. This report is prepared under section 42A of the Resource Management Act 1991 (the **RMA**) to:
 - a. Assist the Hearings Panel in their role as Independent Commissioners in making their decisions on the submissions and further submissions on the Wellington City Proposed District Plan (the **PDP**); and
 - b. Provide submitters with information on how their submissions have been evaluated and the recommendations made by officers, prior to the hearing.
2. This report considers submissions received by the Council in relation to the relevant objectives, policies, rules, definitions and maps as they apply to the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones (collectively referred to as Open Space and Recreation zones).
3. This report discusses general issues, considers the original and further submissions received following notification of the PDP, assesses, and makes recommendations as to whether or not those submissions should be accepted, accepted in part or rejected, and concludes with recommendations to retain or change the PDP provisions or maps based on the assessment and evaluation contained in the report.
4. This report is intended to be read in conjunction with the Section 42A Assessment Report: Part A – Overview, which sets out the statutory context, background information and administrative matters pertaining to the District Plan review and the PDP.
5. The Hearings Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.

1.2 Author and Qualifications

6. My full name is James (Jamie) Grant Sirl. I am a Senior Planning Advisor in the District Plan Team at Wellington City Council (the **Council**).
7. My role in preparing this report is that of an expert in planning.
8. I hold the qualifications of Master of Planning Practice and Bachelor of Arts majoring in Geography from the University of Auckland. I am an Intermediate Member of the New Zealand Planning Institute.
9. I have approximately 12 years' experience in planning and resource management roles in Local Government.
10. I have experience with the preparation of council-led, and consideration of developer-led, district plan changes for greenfield growth areas and the preparation of council-led district plan changes relating to the protection of indigenous biodiversity and historic heritage values at Hamilton City Council. I have also previously held positions of Parks Planner, and Senior Parks

Planner at Hamilton City Council over a 5-year period which involved input into the assessment of resource consent applications, input into the preparation Council's Long-term Plan, strategic open space land acquisition, development of open space provision policy and levels of service, parks bylaw review under the Local Government Act 2002 and Reserves Act 1977, and the review of reserve management plans.

11. I was the s42A reporting officer for the Natural Hazards and Coastal Hazards topic in Hearing Stream 5, and I am also the s42A reporting officer for the Coastal Environment, Natural Character and Public Access topics for Hearing Stream 8.

1.3 Code of Conduct

12. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court which came into effect on 1 January 2023. I have complied with the Code of Conduct when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
13. Other than when I state that I am relying on the evidence or advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
14. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

1.4 Supporting Evidence

15. The expert evidence, literature, legal cases or other material which I have used or relied upon in support of the opinions expressed in this report is as follows:
 - a. Golf (2012) Limited v Thames-Coromandel District Council¹

1.5 Key resource management issues in contention

16. 293 submission points and 68 further submission points were received on the provisions relating to the Open Space and Recreation zones.
17. Having read the submissions and further submissions, I consider that the following matters are the key issues in contention:
 - a. Site specific concerns with the application of open space zones, particularly to privately owned land; and
 - b. That the notified zoning and provisions relating to the area of the seawall between Lyall Bay and Moa Point (the Seawall) do not adequately provide for the on-going maintenance of the Seawall and its function in protecting regionally significant infrastructure.

¹ Golf (2012) Limited v Thames-Coromandel District Council [2019] NZEnvC 112

1.6 Procedural Matters

18. At the time of writing this report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on the Open Space and Recreation zones.
19. There are no other procedural matters to note.

2.0 Background and Statutory Considerations

2.1 Resource Management Act 1991

20. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:
 - Section 74 Matters to be considered by territorial authority; and
 - Section 75 Contents of district plans.

21. As set out in the Section 32 Evaluation Report Part 1 – Context to Evaluation and Strategic Objectives, there are a number of higher order planning documents and strategic plans that provide direction and guidance regarding the preparation and content of the PDP. These documents and a comprehensive assessment of all relevant consultation and statutory considerations prior to public notification of the PDP are discussed in detail within the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones Section 32 Evaluation Report.

22. Since public notification of the PDP and publishing of the related section 32 evaluation reports on 18th July 2022, the following relevant statutory considerations have either changed/been introduced:

- a. National Policy Statement for Indigenous Biodiversity (NPS-IB)

The main purpose of this NPS is to provide direction for local government on how to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance under the RMA.

The PDP contains provisions to manage indigenous vegetation primarily in the Natural Environment Values – Ecosystems and Indigenous Biodiversity Chapter and SCHED8 - Significant Natural Areas.

In my opinion, the NPS-IB Policy 8 is particularly relevant to the consideration of submissions on the NOSZ which is largely vegetated with a mix of indigenous and exotic vegetation.

- b. Regional Policy Statement for the Wellington Region – Plan Change 1

A substantial plan change to the RPS was notified on 19 August 2022 (RPS- Change 1). The purpose of the change is to implement and support the NPS-UD 2020 and NPS-FM

2020. Hearings on RPS-Change 1 are proceeding in parallel with the PDP hearings and are scheduled to be completed in February 2024.

A submission was received from the GWRC seeking amendments to the PDP, in part to achieve alignment with this notified Plan Change. In Hearing Stream 1 the Reporting Officer confirmed that Plan Change 1 (PC1) to the WRPS must be had regard to, but that given the stage that PC1 is at in the legislative process (with substantial parts the subject of competing submissions), it may be difficult to give much weight to PC1. However, it is appropriate that consideration is given to PC1 where relevant.

c. Natural Resources Plan and Plan Change 1

The Natural Resources Plan (NRP) is operative and came into effect on 28 July 2023. Plan Change 1 to the Natural Resources Plan for the Wellington Region was notified on 30 October 2023. Plan Change 1 proposes amendments related to earthworks, stormwater and wastewater discharges, and rural land use to achieve water quality and ecological health objectives. In my opinion, these proposed changes are not directly relevant to the open spaces and recreations zones matters addressed in this report.

2.2 Schedule 1 and the Intensification Streamlined Planning Process (ISPP)

23. As detailed in the section 42A Overview Report prepared and considered by the Panel in Hearing Stream 1, the Council has chosen to use two plan review processes:
- a. The ISPP under Part 6 of Schedule 1 of the RMA for the intensification planning instrument (IPI). There are no appeal rights on ISPP provisions.
 - b. For all other PDP provisions and content, the standard Part 1 of Schedule 1 process of the RMA is used. Part 1 Schedule 1 provisions can be appealed.
24. The Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones chapters have been notified using the standard RMA Part One, Schedule 1 process (P1 Sch1).

2.3 Section 32AA

25. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that

corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

26. The section 32AA evaluation, as required by s32AA(1)(d)(ii), for changes proposed as a result of consideration of submissions is included in section 3.8 of this report.
27. The Section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor, and consequential changes that improve the effectiveness of provisions without changing the policy approach have not been re-evaluated, as have any amendments that do not materially alter the policy approach in the PDP.

2.4 Trade Competition

28. Trade competition is not considered relevant to the provisions of the PDP relating to this topic.
29. There are no known trade competition issues raised within the submissions.

3.0 Consideration of Submissions and Further Submissions

3.1 Overview

30. Submitters collectively made 361 submission points (including further submissions) in relation to the Open Space and Recreation zones.

Report Structure

31. Submissions on this topic raised a number of submission points that have been categorised in accordance with the general structure of PDP chapters as follows:
- Definitions
 - General Submissions – Open Space
 - Open Space Zone (general, objectives, policies, rules and standards)
 - Natural Open Space Zone (general, objectives, policies, rules and standards)
 - Sports and Active Zone (general, objectives, policies, rules and standards)
 - Wellington Town Belt Zone (general, objectives, policies, rules and standards)
32. I have considered further submissions as part of my consideration of the original submissions to which they relate, noting however that this has excluded commentary on any matters outside the scope of the originating submissions.
33. In accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on both an issues and provisions-based approach, as opposed to a submission-by-submission approach. I have organised the evaluation in accordance with the layout of chapters of the PDP as notified.
34. Recommended amendments are contained in the following appendices:
- a. Appendix A – Recommended Amendments to the provisions contained in the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones’ chapters
 - b. Appendix B – Recommended Responses to Submissions and Further Submissions on the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones.
35. The following evaluation should be read in conjunction with the relevant summaries of submissions and further submissions, along with the full submissions.
36. Where a submission(s) seeks to retain a specific plan provision as notified, I have not provided a detailed evaluation or recommendation in the body of this report, but an associated recommendation is provided in the summary of submission table in Appendix B.
37. Where a further evaluation of the relief sought in a submission(s) has been undertaken the evaluation and recommendations are set out in the body of this report. A marked-up version of

the Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt zones' chapters with recommended amendments in response to submissions is included as Appendix A.

38. This report only addresses definitions that are specific to this topic. Definitions that relate to more than one topic have been addressed in Hearing Stream 1 and in the associated section 42A report.
39. No submissions were received on the following provisions:
 - OSZ: R3; R13; R14; S1; S2; S3; S4.
 - NOSZ: R1; R2; R3; R4; R5; R6; R7; R8; R9; R10; S4; S5.
 - SARZ: O1; O3; P2; P4; P5; P6; P7; R3; R7; R8; R9; R10; R11; R12; R14; S1; S2; S3; S4; S5.
 - WTBZ: P1; R1; R2; R3; R4; R8; R10; S1; S2; S3.

3.2 Definitions

The following section of the report includes consideration and recommendations relating to definitions in the PDP particularly relevant to the Open Space and Recreation zones.

Matters raised by submitters

40. Tapu-te-Ranga Trust [297.6] seeks the retention of the definition for 'customary activity' as notified.
41. Murray Martin [14.1] is concerned that the current definition of 'informal recreation activities' could result in vehicle access to Owhiro Bay Parade road/track being treated as a Discretionary Activity and could result in Council having exclusive access to this road/track. The submitter seeks that the definition is amended as follows:

INFORMAL RECREATION ACTIVITIES

means a pastime, leisure, sport or exercise activity that occurs on an ad-hoc basis or irregularly and contributes to a person's enjoyment and/or relaxation. It excludes:

- a. regular organised sport and recreation; and
- b. the use of motorised vehicles, except on unformed legal roads.

42. New Zealand Motor Caravan Association [314.6] seek that the definition of 'Recreation Activity' be amended to include campgrounds, which would result in campgrounds being a permitted activity in the open space zones.
43. Director-General of Conservation [385.13] seeks the retention of the definition of 'Conservation Activities' as notified.

44. New Zealand Agricultural Aviation Association [40.3] supports the definition of “Conservation Activities”, but seeks that this is expanded to include 'biosecurity' and 'agricultural aircraft activities' as follows:

CONSERVATION ACTIVITIES

means the use of land for activities undertaken for the purposes of maintaining, protecting and/or enhancing the natural and/or ecological values of a natural resource. It may include activities which assist to enhance the public’s appreciation and recreational enjoyment of the resource, including:

- (a) species protection, biosecurity, and conservation management work, including restoration and revegetation;
- (b) pest and weed control including the use of aircraft; and
- (c) educational activities.

45. Forest and Bird [345.7] considers the definition of “Conservation Activities” should be clear that activities to enhance appreciation and recreational enjoyment are only appropriate where they are consistent with the primary purpose, and seek the following amendment:

CONSERVATION ACTIVITIES

Means the use of land for activities undertaken for the purposes of maintaining, protecting and/or enhancing the natural and/or ecological values of a natural resource. It may include activities which assist to enhance the public’s appreciation and recreational enjoyment of the resource, where that is consistent with maintaining, protecting or enhancing the natural and/or ecological values. Activities may include ~~including~~:

- a. species protection and conservation management work, including restoration and revegetation;
- b. pest and weed control; and
- c. educational activities

Assessment

46. I agree in part with Murray Martin [14.1] to the extent that the definition of 'informal recreation activities' should be amended to permit the recreational use of motorised vehicles on sections of unformed legal road and tracks that have an underlying open space and recreation zoning as these activities are more appropriately managed under the WCC Traffic and Parking Bylaw 2021² and Reserve Management Plans where relevant.
47. Consideration of this issue has highlighted that the Owhiro Bay track (Figure 1.) extends beyond the unformed legal road, with parts of the Owhiro Bay track located in the landward property parcel that is zoned NOSZ (and owned by Council) (Figure 2.).

² [Wellington City Council Traffic and Parking Bylaw 2021.](#)



Figure 1. Owhiro Bay Parade / track

48. I note that the large majority of the length of the Owhiro Bay track is not located on land parcels zoned Natural Open Space. However, under the District Plan and in accordance with the National Planning Standards 2019, legal road takes on the zoning of the adjoining land parcel, to the centreline.

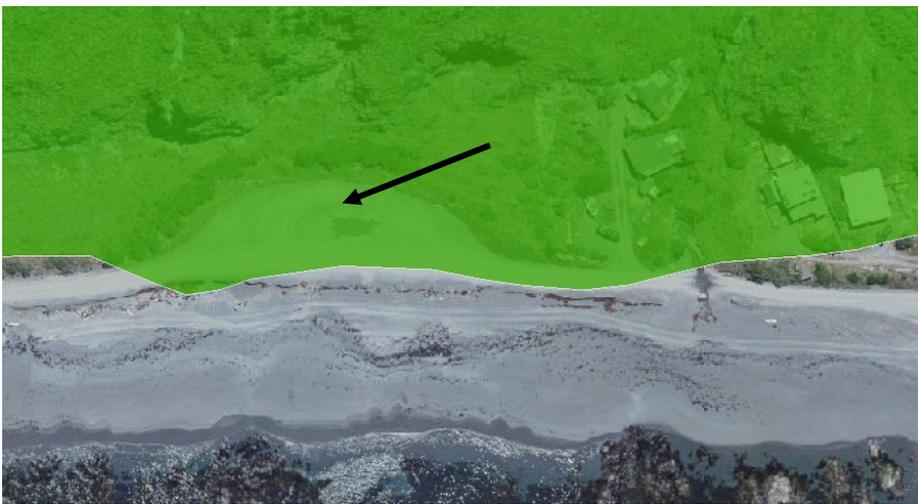


Figure 2. Owhiro Bay track example – not unformed road but within Natural Open Space Zone

49. Under the PDP, the motor vehicle exclusion within the definition of ‘informal recreation activities’ results in NOSZ-R11 applying to any activity not specifically provided for by NOSZ-R1 to NOSZ-R10. This would include motor vehicle use of any type not anticipated by NOSZ-R1 to NOSZ-R10. Putting aside the potential argument for motor vehicle use of the Owhiro Bay track being permitted under existing use rights, the use of motor vehicles such as 4x4 motor vehicles or motorbikes would require a resource consent as a discretionary activity. I also note that the Noise chapter does not apply to vehicles being driven on a road (within the meaning of section 2(1) of the Transport Act 1998), with Transport Act definition of ‘road’ including beaches, and places with public access.
50. However, I also note that in addition to being used in the NOSZ, OSZ, SARZ and WTBZ, the definition of Informal Recreation Activities is used in the General Rural Zone, and Development Areas provisions. I have considered amendments to the provision within the wider context of the Plan and note that there are no other submissions on this definition.
51. In my opinion it would be more efficient and effective to simply rely on the WCC Traffic and Parking Bylaw 2021 and Reserve Management Plans, where relevant, to manage the informal recreational use of motor vehicle in open space and recreation zones. I also consider that the consequential enablement of the informal recreational use of motor vehicles in the General Rural Zone, and Development Areas is appropriate as I consider it an activity that does not need

to be managed through a zone or areas specific approach, with the Noise chapter provisions adequately managing potential adverse effects.

52. I disagree with the New Zealand Motor Caravan Association [314.6] that the definition of Recreation Activity be amended to include campgrounds as I consider that campgrounds as an activity are similar in nature to residential activities which are not anticipated to commonly occur in open space zones. Where a new campground is proposed, I consider that a discretionary activity status is appropriate to allow Council to consider all potential adverse effects from a proposal.
53. I disagree with New Zealand Agricultural Aviation Association [40.3] that the definition of Conservation Activities should be expanded to include 'biosecurity' and 'agricultural aircraft activities'. I consider that the definition already provides for biosecurity by including pest and weed control and note that the PDP definition for pest includes “pest or unwanted organism as defined in the Biosecurity Act 1993”. The definition of Conservation Activities also expressly applies to the use of land for conservation activities and does not extend to the use of airspace (noting that the citywide noise provisions in the PDP apply to noise emitted from aircraft with certain exclusions). On the basis the noise would be the relevant potential adverse effect from the use of aircraft for the application of pest control, in my view the citywide noise provisions is the most effective and efficient approach to managing this matter. I note that the Noise chapter as notified applies to aircraft being operated under 1,000 feet (305m) over built up areas, or under 500 feet (152m) over rural areas. I am therefore of the opinion that there is no need to detail the specific pest control method (agricultural aircraft activities) in the definition.
54. I agree with Forest and Bird [345.7] that activities to enhance appreciation and recreational enjoyment are only appropriate where they are consistent with the primary purpose of conservation activities and consider that the amendments sought by the submitter improve the clarity and certainty of the definition.

Summary of recommendations

55. HS7-OSR-Rec1: That a definition of Conservation Activities be amended as set out below and as detailed in Appendix A.

CONSERVATION ACTIVITIES

Means the use of land for activities undertaken for the purposes of maintaining, protecting and/or enhancing the natural and/or ecological values of a natural resource. It may include activities which assist to enhance the public’s appreciation and recreational enjoyment of the resource, where that is consistent with maintaining, protecting or enhancing the natural and/or ecological values. Activities may include: ~~including:~~

- a. species protection and conservation management work, including restoration and revegetation;
- b. pest and weed control; and
- c. educational activities

56. HS7-OSR-Rec2: That a definition of Informal Recreation Activities be amended as set out below and as detailed in Appendix A.

INFORMAL RECREATION ACTIVITIES

means a pastime, leisure, sport or exercise activity that occurs on an ad-hoc basis or irregularly and contributes to a person's enjoyment and/or relaxation. It excludes:

- ~~a. regular organised sport and recreation;~~ and
- ~~b. the use of motorised vehicles.~~

57. HS7-OSR-Rec3: That submission points relating to Open Space and Recreation zones definitions are accepted/rejected as detailed in Appendix B.

3.3 General Submissions – Open Space and Recreation zones

The following section of the report includes consideration and recommendations in relation to more general matters relevant to the Open Space and Recreation zones.

Matters raised by submitters

58. New Zealand Motor Caravan Association [314.14, 314.13 and 314.15] seeks that the OSZ, NOSZ and SARZ chapters be amended to allow for more permissive rules related to campgrounds.
59. Amos Mann [172.9] seeks that the Plan supports the creation of a sustainable and resilient local food and biodiversity network system.
60. Jill Wilson [218.1, 218.2] seeks that green spaces in the City Centre should be designed for families and the people living in the area rather than lunchtime workers, and that the Green Network Plan is included as a statutory component of the District Plan.
61. WIAL [406.10, opposed by Guardians of the Bays Inc [FS44.187] and supported by Board of Airline Representatives of New Zealand Inc [FS139.10]] considers that the seawall between Lyall Bay and Moa Point is important infrastructure but as it is not captured within the definition of "Infrastructure" and therefore any maintenance, upgrading, repair, replacement or development of the seawall does not engage the infrastructure provisions of the PDP but rather the NOSZ. They consider that the planning framework, insofar as it relates to the seawall between Lyall Bay and Moa Point, should be updated to enable the ongoing maintenance, repair, upgrading and renewal of the existing seawall where it protects regionally significant infrastructure.
62. Catharine Underwood [481.13, opposed by Wellington Helicopters [FS5.1]] seeks a no commercial plane/helicopter fly zone between Mt Kaukau and Te Ahumairangi and over the Zealandia valley.
63. New Zealand Agricultural Aviation Association [40.9, 40.10] seeks that the intermittent use of aircraft for agricultural aviation activities is included in the PDP as permitted activity in the OSZ and NOSZ.

Open space provision

64. Alan Fairless [242.8] seeks that the District Plan increase the extent of new green space.
65. Jane Szentivanyi and Ben Briggs [369.6] seeks that the extent of Open Space Zones be increased.
66. Jim & Christine Seymour [262.2] consider there is a lack of play areas for young children and sporting facilities for older children and seeks additional green spaces.
67. Ben Barrett [479.3] seeks that the Council will increase the percentage of green spaces in line with planned population density.
68. Craig Palmer [492.1] seeks that more inner city parks and green spaces are created in the City Centre.
69. James Coyle [307.24] considers that while the town belt is an asset it is not accessible to all and is relied on too much for providing green areas and numbers may be skewed as a result.
70. James Coyle [307.25] considers that that more parks and public spaces should be planned to do density well, similar to Carrara Park. The submitter also seeks minimum walking distances to parks and public spaces based on density [307.26].
71. Carolyn Stephens [344.12] and Elizabeth Nagel [368.17] consider that the plan should be amended to provide for the addition and extension of new green space to balance increased residential densities and seeks that the extent of green spaces be increased.
72. Inner City Wellington [352.5] considers that the plan may not be able to directly influence and improve green spaces.
73. Marilyn Powell [281.1] seeks that WCC purchase the green space area at 107 Hill Street and convert it to a public recreation area.
74. Jane Szentivanyi and Ben Briggs [369.16; 369.17] seeks the retention and increase of the extent of the Open Space zones.
75. Lorraine and Richard Smith [230.21] seek that alienated areas of the Wellington Town Belt are returned to enhance green space in light of the Housing Accord intensification plan.
76. Mt Victoria Residents' Association [342.28] seeks that the OSZ chapter explicitly state the amount of public and green spaces provided, and also that provision be made for children's access to green public spaces [342.29]. Friends of the Wellington Town Belt [FS109.4] supports the Mt Victoria Residents' Association submission [342] in its entirety.

Open space quality

77. Ben Barrett [479.4] seeks that the Council improve the quality of green spaces to ensure they are quiet, have seating to capture sunshine hours, are away from roads, connect people to nature/plants/water, and include playgrounds for all ages.

Open space protection

78. Mt Victoria Residents' Association [342.30, supported by Roseneath Residents' Association [FS49.10]; Matthew Wells, Adelina Reis and Sarah Rennie [FS50.9]] seeks that special amenity

protection be provided to Mt Victoria bush and lookout - Town Belt, Canal Reserve, and St Gerards.

79. Cheryl Robilliard [409.1] seeks the same relief requested by the Newtown Residents' Association [434] with respect to sunlight protection to parks and reserves.
80. Victoria University of Wellington Students' Association [123.61] considers that maintaining natural open spaces is an excellent initiative to improve community, wellbeing, and connection with nature which can have mental health benefits and mobilise climate or environmental action. They seek the retention of natural open spaces.

Rezoning / site specific

81. James Coyle [307.27] seeks that a Special Purpose Zone is applied to Carrara Park to protect the park's sunlight access in winter months.
82. Ross Judge [438.1, 438.2] seeks that 282 m² area of 39 Chapman Street be rezoned from OSZ to HRZ, as the property is in the process of being purchased by the submitter from the WCC and has already been surveyed prior to the sale. The submitter advises that the site is intended for housing development in conjunction with the subdivision at the back of 15 Chesterton Street.
83. WCC [266.46, opposed by Panorama Property Limited [FS11.40]] considers 39 Chapman Street, Johnsonville should be re-zoned from OSZ to MRZ to reflect the current residential use of the land.
84. Panorama Property Limited [10.1] seeks that the land at 1 Upland Road is zoned MUZ not OSZ on the basis that the existing commercial use of the buildings at 1 Upland Road would be inconsistent with the purpose and policies of the OSZ provided in the OSZ introduction, OSZ-O1, and OSZ-P3. They consider that the existing buildings are not used in a way that is ancillary to the Botanic Gardens.
85. WCC [266.45, opposed by Panorama Property Limited [FS11.39]] considers that the second access to St Gerards Monastery, Oriental Bay should be re-zoned from OSZ to MRZ on the basis this would be a more appropriate reflection of the zoning of this site in the Operative District Plan.
86. Horokiwi Quarries Ltd [271.7] seeks an amendment to rezone part of Pt Sec 16 Harbour District from Open Space Zone to Special Purpose Quarry Zone as this would provide for the full utilisation of the quarry site and provide a more efficient consenting regime. They advise that Pt Sec 16 Harbour District is owned by Horokiwi Quarries Ltd, is included within the existing use certificate, part of the site features the existing sediment pond, public access within the site is restricted, and the site has no passive or active recreational assets or activities. They also advise that the land is not subject to a reserves management plan and other than its historical zoning, there appears no basis or justification for an Open Space Zoning in the PDP.
87. Coronation Real Estate Ltd [62.1 and 62.5] advises that significant investment in the development of the site has occurred and is currently subject to existing resource consents, a pending resource consent and an existing building consent relating to development on the residentially zoned (northern) part of the site, and consequently seeks that the entirety of the site at 9 Comber Place is rezoned to MRZ.

88. WCC [266.47, opposed by Panorama Property Limited [FS11.41]] considers that part of 9 Comber Place, Johnsonville to the east of the Ridgelines and Hilltops Overlay should be re-zoned from NOSZ to MRZ to correct a mapping error. They advise that the relief sought would better reflect the zoning of the ODP.
89. Boston Real Estate Limited [220.1 and 220.3] seeks that the NOSZ applied to part of 62 Kaiwharawhara Road is rezoned to MRZ on the basis that:
- The current operative plan has split the site into two separate zones, a business area zone and a residential zone;
 - The NOSZ is intended to recognise high natural, ecological and historic heritage values;
 - The surrounding properties are maintaining similar zones from the ODP to the PDP;
 - It is held in private ownership. This means that the public will have no access along this area or be able to use it; and
 - This site is extremely steep, and no development has occurred yet due to the difficult site conditions.
90. WIAL [406.499 and 406.498, supported by Board of Airline Representatives of New Zealand Inc [FS139.153]] opposes the NOSZ for the area of the Seawall between Lyall Bay and Moa Point and seeks that this area be rezoned to an alternative land use zone which more accurately reflects the existing environment, including the significant hard engineering structures which currently protect Moa Point Road, the wastewater treatment network and Wellington International Airport from the effects of coastal erosion. Alternatively, they seek a bespoke planning framework be inserted into the NOSZ chapter that recognises the role and function of the seawall between Lyall Bay and Moa Point and provides for its ongoing maintenance, repair and upgrade.
91. WIAL [406.23, opposed by Guardians of the Bays Inc [FS440186]] seek that the area containing the seawall between Lyall Bay and Moa Point be rezoned from NOSZ to Airport Zone.
92. Kilmarston Developments Limited and Kilmarston Properties Limited [290.3, opposed by Janine Hearn [FS31.1], Adam Groenewege [FS46.3], Jo McKenzie[FS64.2], and Forest and Bird [FS85.15]] considers zoning of parts of 16 Patna Street Ngaio, and 76 Silverstream as NOSZ is too restrictive and would limit the building of a reservoir within the area, and seeks that an area be carved out where reservoirs would be located, subsequently zoned for residential use.
93. Kilmarston Developments Limited and Kilmarston Properties Limited [290.5, opposed by Adam Groenewege [FS46.4], Jo McKenzie[FS64.4], Forest and Bird [FS85.13], Andy Foster, FS86.43], and Tracey Henderson [FS102.1], and 290.9, opposed by Adam Groenewege [FS46.14], Jo McKenzie[FS64.14], and Forest and Bird [FS85.19]] considers that the proposed NOSZ on the balance of the Submitters land acceptable, subject to agreement being reached between WCC and the submitter on the appropriate tenure of the land.
94. Emily Nash [FS65.1], Carol Anderson [FS67.1], and Serah Allison [FS115.1] oppose the Kilmarston Developments Limited and Kilmarston Properties Limited submission [290] in its entirety. Orienteering Wellington [FS32.1], Hadleigh Petherick [FS56.1], and Spencer Wade Petherick

[FS58.1] supports the Kilmarston Developments Limited and Kilmarston Properties Limited submission [290] in its entirety.

95. Taranaki Whānui ki te Upoko o te Ika [389.17, opposed by Laurence Harger & Ingrid Kölle [FS2.17 and FS2.27], Geoff Todd [FS21.3], Enterprise Miramar Peninsula Inc [FS26.5], WIAL [FS36.249], Mary Varnham and Paul O'Regan [FS40.17 and FS40.27], Buy Back the Bay [FS79.17], Lance Lones [FS81.3], Wellington's Character Charitable Trust [FS82.116], Wellington Civic Trust [FS83.43], Andy Foster [FS86.11] and Historic Places Wellington Inc [FS111.97]] seeks that the proposed zoning over Part Lot 1 DP 4741, Section 4 SO 477035, PT LOT 1 DP 4741 - WELLINGTON PRISON, Section 1 SO 477035, Part Section 20 Watts Peninsula DIST is amended from NOSZ to MRZ with a 'Te Motu Kairangi Precinct' with associated objectives, policies, rules and standards to recognise the cultural and environmental overlays over the site whilst enabling Taranaki Whānui to exercise their customary responsibilities as kaitiaki, and to undertake development that supports their cultural, social and economic wellbeing.
96. Taranaki Whānui ki te Upoko o te Ika [389.18, opposed by Geoff Todd [FS21.4], Enterprise Miramar Peninsula Inc [FS26.6], WIAL [FS36.250], Buy Back the Bay [FS79.18], Lance Lones [FS81.4], Wellington's Character Charitable Trust [FS82.117], Wellington Civic Trust [FS83.44], Andy Foster [FS86.12] and Historic Places Wellington Inc [FS111.98]; and 389.111, opposed by Enterprise Miramar Peninsula Inc [FS26.15], Buy Back the Bay [FS79.35], Lance Lones [FS81.20], and Andy Foster [FS86.21]] seeks that the proposed zoning over Part Lot 1 DP 4741, Section 4 SO 477035, PT LOT 1 DP 4741 - WELLINGTON PRISON, Section 1 SO 477035, Part Section 20 Watts Peninsula DIST is amended from Natural Open Space Zone to Special Purpose Zone – Māori Purpose Zone that would include objectives, policies, rules and standards to recognise the cultural and environmental overlays over the site whilst enabling Taranaki Whānui to exercise their customary responsibilities as kaitiaki, and to undertake development that supports their cultural, social and economic wellbeing.
97. Taranaki Whānui ki te Upoko o te Ika [389.19, opposed by Laurence Harger & Ingrid Kölle [FS2.28], Geoff Todd [FS21.5], Enterprise Miramar Peninsula Inc [FS26.7], WIAL [FS36.251], Mary Varnham and Paul O'Regan [FS40.28], Buy Back the Bay [FS79.19], Lance Lones [FS81.5], Wellington's Character Charitable Trust [FS82.118], Wellington Civic Trust [FS83.45], Andy Foster [FS86.13] and Historic Places Wellington Inc [FS111.99]] seek that the proposed zoning over Part Lot 1 DP 4741, Section 4 SO 477035, PT LOT 1 DP 4741 - WELLINGTON PRISON, Section 1 SO 477035, Part Section 20 Watts Peninsula DIST is amended from Natural Open Space Zone to any other suitable zone that will enable Taranaki Whānui to exercise their customary responsibilities as kaitiaki, and to undertake development that supports their cultural, social, and economic wellbeing.
98. Taranaki Whānui ki te Upoko o te Ika [389.20, opposed by Geoff Todd [FS21.6], Enterprise Miramar Peninsula Inc [FS26.8], WIAL [FS36.252], Buy Back the Bay [FS79.20], Lance Lones [FS81.6], Wellington's Character Charitable Trust [FS82.119], and Historic Places Wellington Inc [FS111.100] seek that in addition to any amendment from rezoning over Part Lot 1 DP 4741, Section 4 SO 477035, PT LOT 1 DP 4741 - WELLINGTON PRISON, Section 1 SO 477035, Part Section 20 Watts Peninsula DIST is amended from Natural Open Space Zone, that any other such amendments that are most appropriate to address this submission.

99. Taranaki Whānui ki te Upoko o te Ika [389.12, opposed by Laurence Harger & Ingrid Kölle [FS2.5, 2.15, 2.26], Geoff Todd [FS21.2], Enterprise Miramar Peninsula Inc [FS26.4], WIAL [FS36.247], Mary Varnham and Paul O'Regan [FS40.4, 40.14, 40.25], Buy Back the Bay [FS79.2], Andy Foster [FS86.9].
100. Taranaki Whānui ki te Upoko o te Ika [389.13, opposed by Laurence Harger & Ingrid Kölle [FS2.4, 2.14, 2.25], Geoff Todd [FS21.1], Enterprise Miramar Peninsula Inc [FS26.4], WIAL [FS36.248], Mary Varnham and Paul O'Regan [FS40.5, 40.15, 40.26], Buy Back the Bay [FS79.3], Lance Lones [FS81.2], Wellington Civic Trust [FS83.42], Andy Foster [FS86.10] and Sarah Crawford [FS118.1]
101. Enterprise Miramar Peninsula Inc [FS26.1] opposes the submission of Taranaki Whānui ki te Upoko o te Ika [389] in its entirety.

Assessment

102. I disagree with the New Zealand Motor Caravan Association [314.14, 314.13 and 314.15] that the OSZ, NOSZ and SARZ chapters should be amended to permit campgrounds as I consider that new campgrounds are not generally anticipated within the open space zones, certainly not as permitted activities, and can have adverse effects similar in nature to residential activities or visitor accommodation, which could impact on adjoining sites, and should be considered through a resource consenting process.
103. In response to Amos Mann [172.9] who seeks that the Plan supports the creation of a sustainable and resilient local food and biodiversity network system, I note that community gardens are permitted in the OSZ, NOSZ and SARZ. In my opinion this approach appropriately and adequately enables sustainable local food production with respect to Open Space and Recreation zones. I also consider that the protection provided to the open space network through the Open Space and Recreation zone provisions supports biodiversity in the city.
104. In response to Jill Wilson [218.1, 218.2] detailed redesign of public open spaces is not a matter managed by the district plan and is appropriately managed by Reserve Management Plans, Council plans such as the Green Network Plan and detailed design processes involving public consultation. The targets of the Green Network Plan are primarily achieved outside of the RMA process (for example tree planting in public space, or new parks) or by way of incorporation in the CCZ provisions as outlined by the Reporting Officer in Hearing Stream 4³. I consider there is no need for Green Network Plan to be specifically referenced within the District Plan.
105. In response to Catharine Underwood [481.13] and New Zealand Agricultural Aviation Association [40.9, 40.10] a district plan does not manage airspace or air travel with the exception of managing the adverse effects of landing and take-off. Aircraft landing and noise is addressed in the Noise chapter, and for that reason I do not consider that any amendments to the Open Spaces and Recreation zones are necessary or appropriate.

Seawall between Lyall Bay and Moa Point

106. WIAL have made a variety of submissions related to the area of the Seawall between Lyall Bay and Moa Point (the Seawall) with respect to the zone of the underlying land and the relevant

³ Section 42A Report - Commercial and Mixed Use Zones Part 1 - City Centre Zone, paragraph 153.

provisions within the NOSZ. The following assessment considers this matter more broadly, with a more detailed discussion provided where needed in relation to submissions on specific provisions in later sections of this report.

107. Firstly, I agree with WIAL's [406.10] interpretation that seawalls are not within the PDP definition of infrastructure and are treated as structures managed by the underlying zone, and any relevant overlay. Under the PDP, the Seawall is located in the NOSZ.
108. For context, I note that the zoning of the area of the Seawall appears to extend unusually far into the coastal marine area (Figure 3.). The result of this is potential duplication with consent requirements under the NRP. I understand that this a result of the zoning being applied to land parcels, whereas the seaward boundary of the Coastal Environment Overlay is based on Mean High Water Springs.

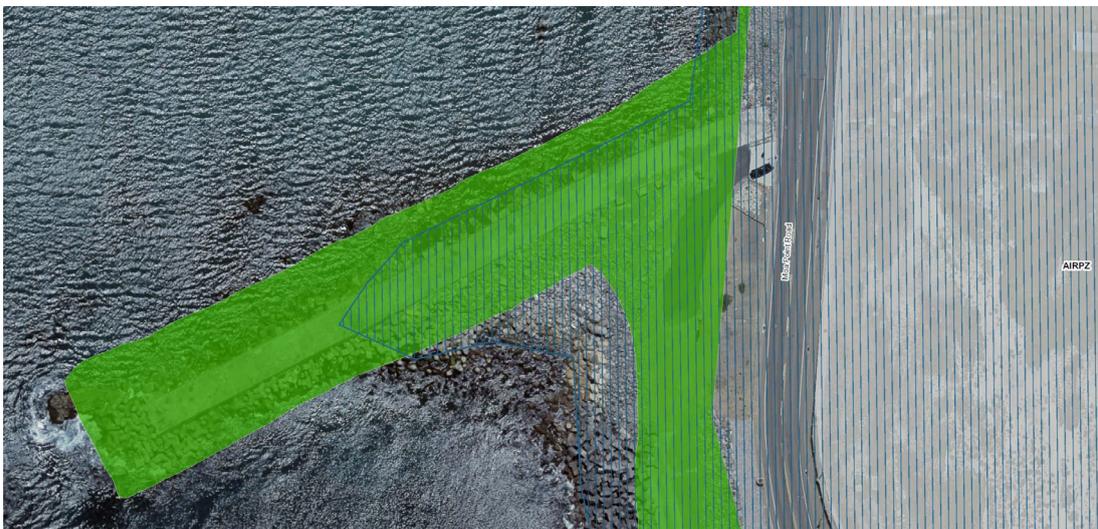


Figure 3. Section of the Seawall located between Lyall Bay and Moa Point (NOSZ - green, Coastal Environment Overlay Blue lines).

109. With respect to zoning, I disagree with WIAL [406.23, 406.498 and 406.499] as I consider that NOSZ land is the most appropriate zone for this site. In forming this view, I considered the Airport Zone as an alternative zone for this area in a similar way to the approach applied to the Port. However, I discounted this alternative for the simple reason that the Seawall area is not part of the Airport. Although I agree that this area has been highly modified, the area retains natural characteristics and is classified as Local Purpose Esplanade Reserve under the Reserves Act 1977 and its management direction under the South Coast Management Plan 2002 is more aligned with a NOSZ.
110. Moving to consideration of the provision for the Seawall's ongoing maintenance, repair and upgrade, in the context of its function. NOSZ-R13 provides for the maintenance and repair of seawalls (as a structure) as a permitted activity, which is reinforced through an advisory note that clarifies that 'for the avoidance of doubt buildings and structures include seawalls'. Due to the lack of a similar note accompanying NOSZ-R14, which provides for the construction, alteration of and addition to buildings and structures, it is unclear whether NOSZ-R14 is intended to include seawalls. However, it would be logical to assume so, and in my view NOSZ-R14 should apply to seawalls. Consequently, I recommend the addition of a note, similar to that which accompanies NOSZ-R13, to clarify that seawalls are provided for in NOSZ-R14.

111. Regardless, any addition or alteration to the Seawall is unlikely to comply with the relevant standards. NOSZ-S2 limits individual structures to a maximum gross floor area of 30m² and NOSZ-S3 sets a maximum building coverage of 5% per site. The result is that any increase in footprint of the Seawall will require resource consent as a discretionary activity under NOSZ-R14.2.a. In a general sense, I agree with the submitter that the current provisions are unnecessarily restrictive in providing for the ongoing maintenance, repair and upgrade of the Seawall. Whilst I disagree that a completely bespoke objective, policy and rule framework for the Seawall (or seawalls in general) is necessary, I agree that amendments are needed to more effectively and efficiently manage potential adverse effects relating to upkeep of the Seawall and I detail these with respect to the assessment of the specific provisions in this report.
112. I also note that in many coastal areas where the NOSZ applies, the Coastal Environment chapter will manage potential adverse effects with respect to structures in the coastal margin (in particular CE-P7 and CE-R14). CE-R14 provides for additions and alterations to existing buildings and structures within the coastal environment and within coastal or riparian margins where compliance is achieved with the rules and standards for buildings and structures in the underlying zones. Additions and alterations that do not comply with the rules and standards for buildings and structures in the underlying zone (in this case NOSZ) elevates to a restricted discretionary activity. Broadly, I consider that minor additions and alterations to the Seawall that do not exceed an additional 1 m height would be more appropriately controlled through a permitted standard, elevating to a discretionary activity status (consistent with other additions and alteration to structures in NOSZ) where not able to be achieved. I outline this further in paragraphs 260 to 262 of this report.
113. I also note that landowner approval would be required from Council for any works within the land that the Seawall is located on in addition to resource consent.

Open space provision

114. In response to Alan Fairless [242.8], Jim & Christine Seymour [262.2], Jane Szentivanyi and Ben Briggs [369.6, 369.16, and 369.17], Ben Barrett [479.3], Craig Palmer [492.1], James Coyle [307.24, 307.25, 307.26], Carolyn Stephens [344.12], Elizabeth Nagel [368.17], Lorraine and Richard Smith [230.21], Inner City Wellington [352.5], Mt Victoria Residents' Association [342.28 and 342.29] and Ben Barrett [479.4], I note the following:
- a. Council's Level of Service with respect to open space provision and park assets is outlined in the Open Space and Recreation Strategy - Te Whai Oranga Pōneke (2023) – and its supporting Open Space Provision Targets document;
 - b. Although the District Plan can signal the need for open space or green space to increase as the city grows, and financial contributions are a mechanism available to Council through the District Plan to require a monetary or land contribution to mitigate the effects of a development, the preferred approach of Council is to use development contributions under the Local Government Act 2002 to require contributions to provide additional open space in response to growth; and
 - c. Management, development and access to specific reserves are managed by Reserve Management Plans prepared in accordance with the Reserves Act 1977 and the

Wellington Town Belt Act 2016.

115. In response to Marilyn Powell [281.1] land acquisition is outside the scope of the district plan review process. However, I note that the parcel of land referred to by the submitter is owned by the Crown.

Open space protection

116. I disagree with the Mt Victoria Residents' Association [342.30] that special amenity protection for Mt Victoria bush and lookout - Town Belt, Canal Reserve, and St Gerards is necessary in addition to the protection provided by the open space zoning as I consider the zone PDP provisions (subject to recommendations in this report) adequately manage effects on open space. I note that the Wellington Town Belt is also protected by the Wellington Town Belt Act 2018 and reserve land is protected under the Reserves Act 1977 and associated reserve management plans prepared by council.
117. In response to Cheryl Robilliard [409.1] sunlight protection to parks and reserves is most appropriately addressed in the provisions of adjoining zones. I note that this matter was considered in the residential and centres zones hearings.
118. I agree with the Victoria University of Wellington Students' Association [123.61] that maintaining natural open spaces benefits community, wellbeing, and connection with nature which can have mental health benefits and mobilise climate or environmental action. However, I do not consider that any amendments to the District Plan are required to acknowledge this.

Site specific rezoning

119. Before addressing the specific submission points that seek a change in zone, to assist the Panel I have briefly outlined the approach I have taken in assessing these requests to ensure a consistent approach has been applied.
120. Although not clear in the s32 Evaluation Report for Open Space and Recreation zones, the general approach of the PDP has been to 'rollover' the ODP open space zoning by applying the National Planning Standards zone equivalent. However, I note that although this is generally the case this has not been strictly applied.
121. I also note that although the majority of open space and recreation zoned land is publicly owned, there are a number of situations where privately owned land has an open space or recreation zone applied to part of a site.
122. Submitters have raised the appropriateness of applying an open space zone to privately owned land, and in considering rezoning requests I considered that this is an appropriate starting point. In my opinion, the Environment Court's decision on the Golf (2012) Limited v Thames-Coromandel District Council⁴ case provides helpful guidance in this respect. In simple terms, the Court found that it was not unlawful or necessarily inappropriate to apply an open space zone

⁴ Golf (2012) Limited v Thames-Coromandel District Council [2019] NZEnvC 112

to privately owned land, but directed that certain matters were relevant in determining whether an open space zone was appropriate.

123. The following relevant considerations were identified:

- a. the planning history (of the area and site including historic structure planning, land use zoning, approved resource consents) is a relevant consideration. As context, in the Golf (2012) case the historic decisions relating to the preservation of the natural character of the natural environment and the protection of it from unnecessary subdivision and development were a relevant consideration. Noting however that the Court did not *consider that previous plan provisions should guide or be a baseline for the assessment of the proposed provisions*, but simply provide an option for assessment of the appropriate zoning to achieve the purpose of the Act and give effect to the RPS, and achieve objectives of the Plan; and
- b. the tenure of ownership is a relevant consideration with respect to the development rights and ability to engage in planning processes that have the potential to impact those rights.

124. To summarise, the approach I have taken when considering rezoning requests and whether an open space zone is appropriate for privately-owned land, I have undertaken a considered, step-by-step assessment of the planning history including the ODP zone and approved resource consents as relevant to inform my advice to the Panel. I have not simply adopted a position that applying an open space zone to privately-owned land is inappropriate, or that zoning should simply reflect the current ODP zoning or proposed use.

Carrara Park

125. Sunlight access is managed by rules that apply to adjoining zones and I note that this matter was addressed in the residential and centres zones hearings. Consequently, I do not support the rezoning of Carrara Park as sought by James Coyle [307.27].

39 Chapman Street / 15 Chesterton Street, Johnsonville

126. 39 Chapman Street referred to by submitters (Ross Judge [438.1, 438.2]; WCC [266.46]) as Lot 114 DP 41189 and is owned by WCC. The submitters similarly seek that part of Lot 114 DP 41189 (Figure 4.) is rezoned from OSZ to residential. I note that the ODP zoning of Lot 114 DP 41189 is Outer Residential. Council resolved at its meeting on 31 March 2022 that part of this site was surplus and to dispose of the land to the owner of 15 Chesterton Street to amalgamate for inclusion in a proposed redevelopment of 15 Chesterton Street. In considering the rezoning in the context of the PDP objectives, and the Council decision that this small area is surplus to the open space network in this area, I agree with the relief sought by submitters to the extent that this land should be rezoned to align with the zoning of 15 Chesterton Street. I note that the subdivision of Lot 114 DP 41189 has occurred resulting in the creation of Lot 1 DP 58131 (283m²) which is to be amalgamated with Lot 17 DP 1722.



Figure 4. 15 Chesterton Street with approximate area of 39 Chapman Street proposed to be rezoned (blue)

1 Upland Road, Kelburn

127. I disagree with Panorama Property Limited [10.1] who seek that 1 Upland Road is rezoned MUZ not OSZ. I note that 1 Upland Road is zoned Outer Residential in the ODP, with the adjoining council land zoned Open Space B. The land, 1 Upland Road (Lot 1 DP 55960), is owned by Wellington City Council, is classified as Local Purpose Reserve (Public Gardens) under the Reserves Act 1977, and is managed in accordance with the Botanic Gardens of Wellington Management Plan 2014⁵. In my opinion, the status and management of the land is inconsistent with the submitter's position that the existing activity is not associated with the Botanic Gardens. I note the submitter's concern that the activity within the existing building is not consistent with the objectives and policies of the OSZ. However, as the current use of the building commenced prior to the PDP becoming operative, the activity can continue to operate and is not required to comply with the PDP OSZ provisions.

St Gerards Monastery, Oriental Bay

128. In reviewing the relief sought by WCC [266.45] I sought clarification from the submitter as it appeared from the aerial imagery that there was also a potential misalignment with the zoning of one of the pedestrian accesses with respect to the location of an existing building. The Parks Sport and Recreation unit of the Council clarified that Council seeks that the entirety of Lots 1-2 DP 561963 are zoned MRZ, and that the zoning of the south-western pedestrian access (Lot 3 DP 561963) is zoned OSZ to align the zoning with new property boundary that resulted from a land swap and approved subdivision (Council ref: SR491245) that concluded in 2022. I agree that the zoning should be updated to reflect the current property boundaries as shown in Figure 5.

⁵ [Botanic Gardens of Wellington Management Plan 2014](#), Appendix 1, p.111

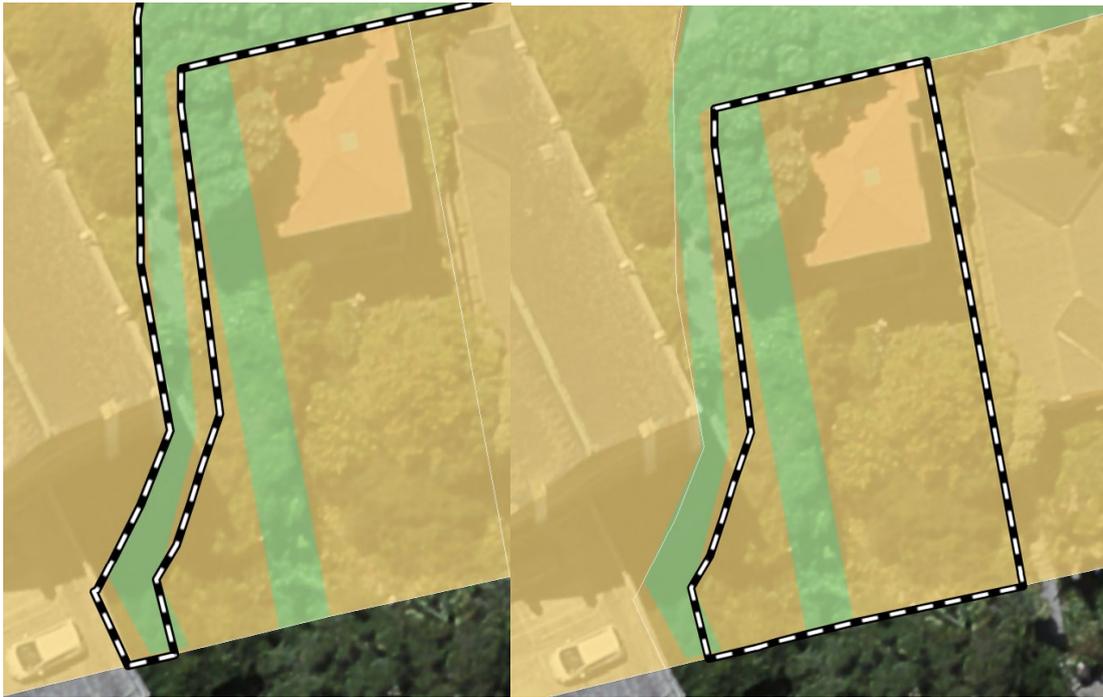


Figure 5. St Gerards Monastery – new reserve access boundary (left) and resulting parcel of land to be residential (right).

Horokiwi Quarry

129. In considering the relief sought by Horokiwi Quarries Ltd [271.7] to rezone part of Pt Sec 16 Harbour District from NOSZ to Special Purpose Quarry Zone to reflect the existing use certificate, and existing quarry operations on the site, I note that this matter has been comprehensively addressed in Hearing Stream 6 with respect to the Special Purpose Quarry Zone. For that reason, I do not consider it necessary to provide any further comment with respect to zoning of the Horokiwi Quarry site other than to confirm that I concur with the recommendations of the Reporting Officer as outlined in paragraphs 52-78 of the Quarry Zone s42A Report⁶.

9 Comber Place, Johnsonville

130. In response to Coronation Real Estate Ltd [62.1 and 62.5] and WCC [266.47] I note that the ODP applies a split zone of Outer Residential and Open Space B to 9 Comber Place (as shown in Figure 6.). A resource consent has been approved for development (Council ref: SR 293235; and SR 515059) and earthworks have commenced on site. I also note that the split zoning in the ODP appears to follow the Hilltops and Ridgelines Overlay (shown as brown outlined and dotted area) of the ODP which has been carried through to the PDP (Figure 7.).

⁶ [Quarry Zone s42A Report](#)



Figure 6. 9 Comber Place - WCC ODP zoning



Figure 7. 9 Comber Place – WCC PDP zoning and Hilltops and Ridgelines Overlay (arrows identify small portions of the site referred to in this report)

131. Due to the historic zoning and the consented and commenced development of part of the site, I do not consider it appropriate that the entire site is zoned NOSZ as notified in the PDP noting that WCC [266.47] confirmed this was an error.
132. I agree that the northern part of the site at 9 Comber Place zoned Outer Residential in the ODP (Figure 6.) should be rezoned to MRZ including the residual parts of northern section of the site where the Ridgelines and Hilltops Overlay applies (small triangles illustrated by Figure 7). The approved resource consent plans (Council ref: SR515059) confirm low level of landform modification of these two small areas, likely due to the presence of the Ridgelines and Hilltops Overlay in the ODP which remains in the PDP. I do not consider it necessary to retain these small portions of the site as NOSZ and given the Ridgelines and Hilltops Overlay was not applied to residentially zoned in land in the PDP, also recommend a consequential amendment to remove the Ridgelines and Hilltops Overlay from these two small areas. The remainder of site, specifically that on approved Lot 13 should (refer Figure 8.), in my opinion, retain a NOSZ.

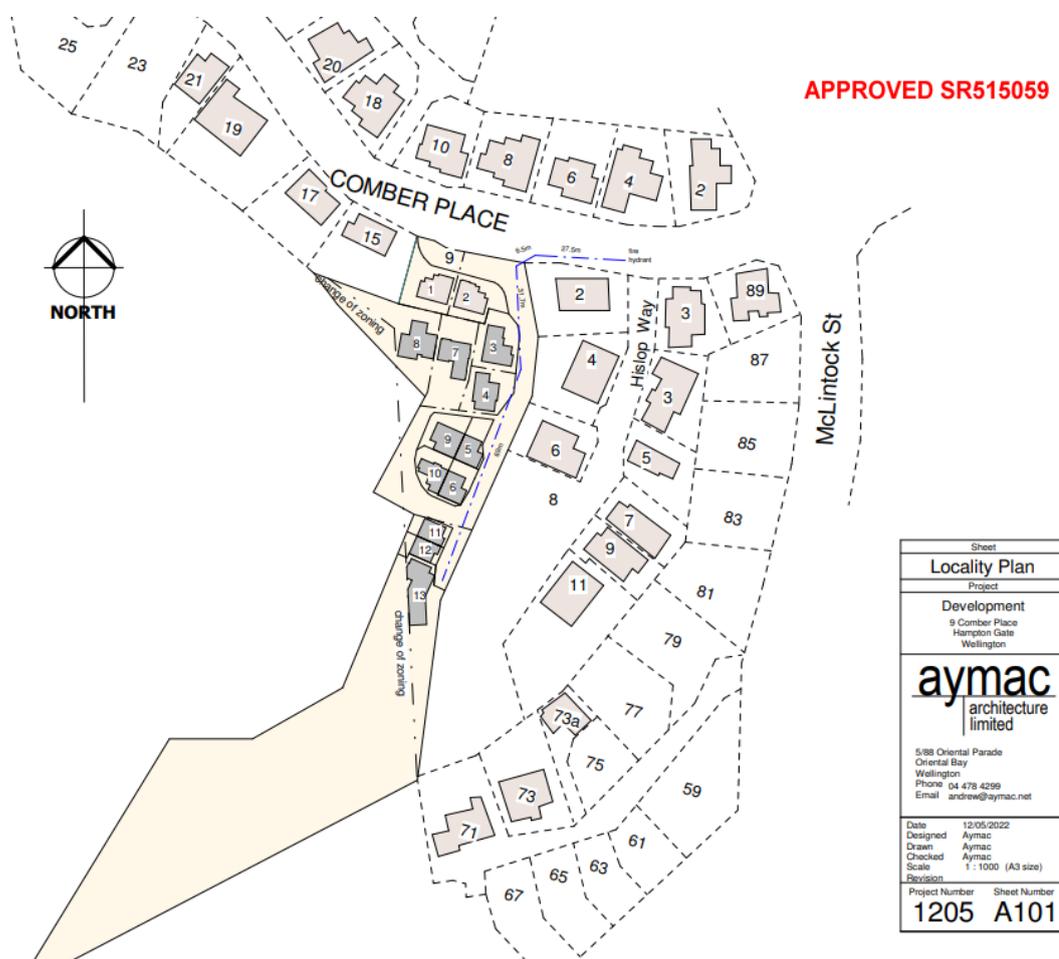


Figure 8. 9 Comber Place – approved subdivision plans.

62 Kaiwharawhara Road, Kaiwharawhara

133. I agree with Boston Real Estate Limited [220.1 and 220.3] who seek that the NOSZ applied to part of 62 Kaiwharawhara Road is rezoned to MRZ.
134. The ODP applies an Outer Residential zone to the part of the site that is zoned NOSZ in the PDP (Figure 9.).

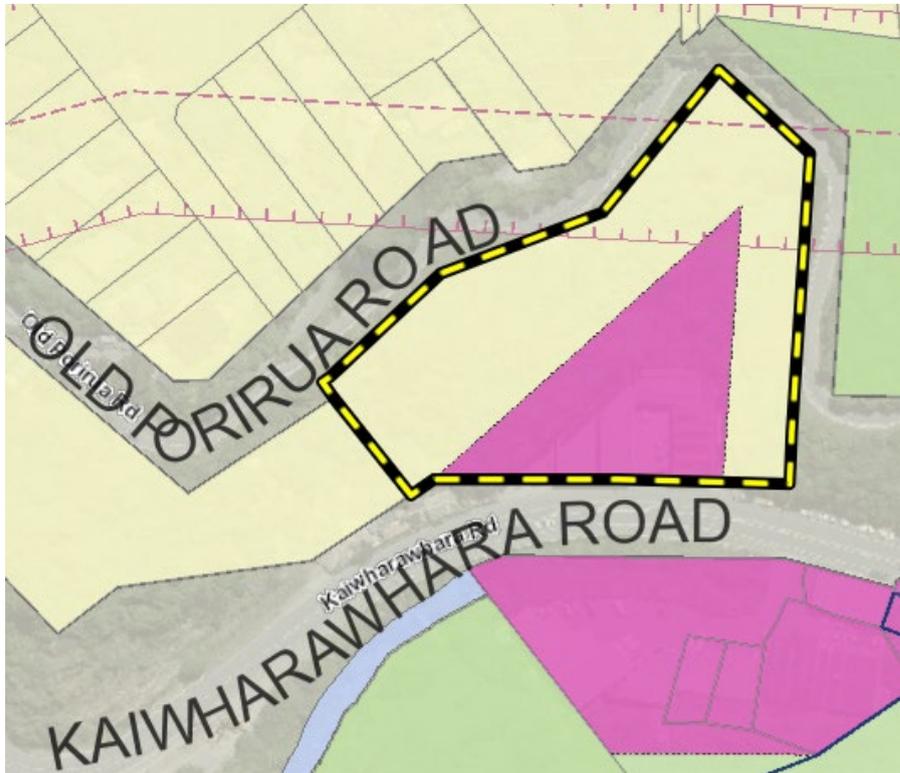


Figure 9. 62 Kaiwharawhara Road – WCC ODP zoning (MUZ - magenta, Outer Residential – pale yellow).

135. Although unable to be confirmed, it appears that the PDP has applied a NOSZ to part of the site due to the presence of significant ecological value (part of the site has a Significant Natural Area Overlay applied in the PDP) as shown in Figures 10 and 11. However, I note that the SNA overlay also extends to parts of the site zoned MUZ in the PDP.
136. I note this approach to zoning has not occurred on the adjoining site to the west which is zoned MRZ and has similar ecological values present⁷ (but with a SNA overlay not applied at notification of the PDP). I have also reviewed other sites where a SNA overlay applies and for the sites reviewed, the underlying zone is consistent with the rest of the site where a SNA overlay is not present.

⁷ [Wildlands Report - Audit of Potentially Significant Natural Areas for Wellington City 2019](#) - Trelissick Park and Old Porirua Road forest remnants SNA Site Number: WC079, page 28.



Figure 10. 62 Kaiwharawhara Road - WCC PDP zoning (MUZ - magenta, NOSZ – green and MRZ – pale orange).



Figure 11. 62 Kaiwharawhara Road – WCC PDP zoning (MUZ - magenta, NOSZ – green and MRZ – pale orange) and SNA overlay – purple.

137. Although I am of the opinion that the characteristics of this particular part of the site reflect the NOSZ more so than the MRZ, I consider that as a matter of plan consistency it would be inappropriate to apply a NOSZ to parts of this site particularly given this has not occurred on other sites. I consider that the SNA overlay and associated plan provisions adequately protect

the significant ecological values present on the site. It follows that I consider that the part of the site zoned NOSZ in the PDP should be rezoned to MRZ.

16 Patna Street, 76 Silverstream Road and 109A Awarua Street.

138. I disagree with Kilmarston Developments Limited and Kilmarston Properties Limited [290.3 and 290.5, 290.9] that rezoning part of the submitters property from NOSZ to MRZ is necessary or appropriate to accommodate a potential future reservoir, and I consider that the NOSZ is appropriate to achieve the objectives of the Plan, and give effect to the RPS, and NPSIB in particular. I note that much of the NOSZ area of this site has a SNA overlay applied.
139. With respect to ODP zoning (Figure 12.), the site is split between Outer Residential, Rural and Open Space B. The PDP zoning reflects the closest equivalent of the National Planning Standards 2019 zones (Figure 13.).
140. I note that the land use resource consent that the submitter has referenced has lapsed, with the subdivision resource consent on hold at the request of the consent holder, since 2017. With the land use consent lapsed it is not possible to certify the conditions of consent under s224(c) and as such new resource consent(s) will be required.



Figure 12. Patna / Silverstream – WCC ODP zoning

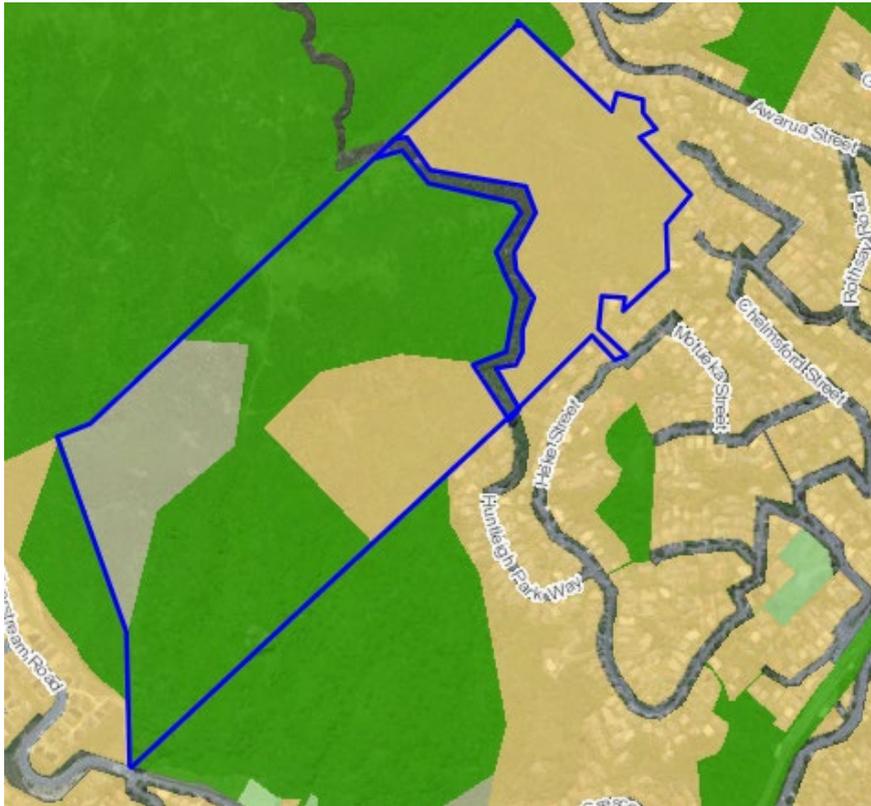


Figure 13. Patna / Silverstream – WCC PDP zoning.

141. In response to the submitters concerns that the NOSZ inadequately provides for infrastructure to be located in the zone, I am of the opinion that the Infrastructure chapter provisions appropriately provide for the consideration of adverse effects related to new infrastructure such as a reservoir. I note that this approach is consistent with the National Planning Standards 2019.
142. I have investigated the history of this site and obtained an internal memorandum (memo) prepared by a WCC planner in 2017⁸ (Appendix C). The memo helpfully outlines the historic planning context of the site and highlights the consistent intent to adequately protect the natural character and values of this area, whilst providing for residential development, albeit in a very controlled manner. I consider the history of the site as outlined in the memo and the submission on the PDP illustrates that the current landowner has historically understood and accepted that part of the site has an open space zoning, with the submitters concerns as outlined in their submission more related to future ownership of the open space zoned parts of the site.
143. Broadly, I consider that the historic planning context supports a NOSZ on the site as notified, and I disagree with the submitters position that the lack of agreement from the landowner for the identification of parts of the site as NOSZ is relevant in determining the appropriate zoning of the site.

⁸ Wellington City Council. Internal Memorandum on Huntleigh Park/Kilmarston Development – Ngaio. 2017.

Te Motu Kairangi / Miramar Peninsula

144. I disagree with Taranaki Whānui ki te Upoko o te Ika [389.12, 389.13, 389.17, 389.18, 389.111, 389.19, 389.20) that the parcels identified by the submitter (Mount Crawford Prison site and the ‘Watts Peninsula’ sites being 75.85 hectares of former Defence Land – illustrated in Figure 14 prepared by Council using the lot references provided by the submitter) should be rezoned from open spaces zone to a residential zone/precinct to enable large-scale permitted development of this area.
145. Although there may well be significant benefits that would arise from the long-term development aspirations of the submitter, an adequate evidence base supporting a change of this scale and significance has not been provided and in my opinion the outcomes sought would be best promoted via a standalone plan change process that involves a comprehensive and robust consideration of potential adverse effects. I consider that a separate plan change process would ensure any party with an interest could participate in the process with a clear understanding of the proposal. I also consider that the relief sought by the submitter is relevant to issue of how the Plan provides for papakāinga, which Council staff will be considering in partnership with iwi.
146. I am also of the understanding that the submitter is not the landowner, and as such any rezoning to reflect the aspirations of the submitter could be considered premature and inappropriate at this point in time.

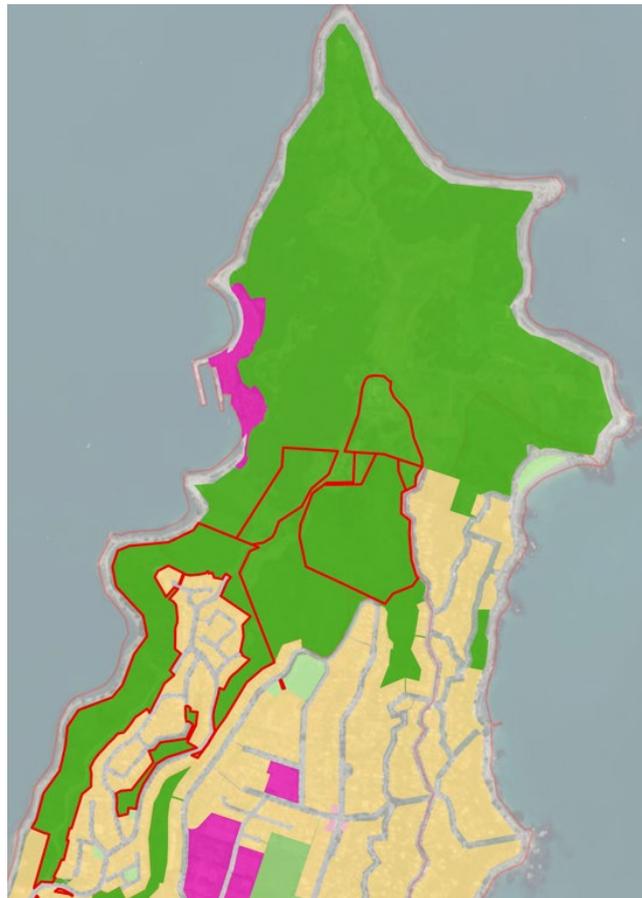


Figure 14. Parcels of land identified by Taranaki Whānui ki te Upoko o te Ika [Submitter 389] Note: Map prepared by s42A reporting officer and not supplied by submitter.

Summary of recommendations

147. HS7-OSR-Rec4: That the former part of 39 Chapman Street (Lot 1 DP 58131, 283m²) is rezoned from OSZ to HRZ to match the zoning of 15 Chesterton Street (Lot 17 DP 1722).
148. HS7-OSR-Rec5: That the entirety of Lots 1-2 DP 561963 be zoned MRZ, and that the zoning of the south-western pedestrian access (Lot 3 DP 561963) is zoned OSZ.
149. HS7-OSR-Rec6: That that the zoning of 9 Comber Place is rezoned to MRZ, with the Hilltops and Ridgelines Overlay revised, as follows:



150. HS7-OSR-Rec7: That the part of 62 Kaiwharawhara Road, Kaiwharawhara that is zoned NOSZ in the PDP is rezoned to MRZ.
151. HS7-OSR-Rec8: That submission points relating to general submissions on Open Space and Recreation zones are accepted/rejected as detailed in Appendix B.

3.4 Open Space Zone

General submissions

Matters raised by submitters

152. Waka Kotahi [370.407] seeks to add the following note to the Open Space Zone chapter:

All activities in this chapter must comply with the trip generation thresholds in the transport chapter.

153. Te Rūnanga o Toa Rangatira [488.83] seeks that the OSZ chapter objectives and policies be

amended to recognise mana whenua values and aspirations as well as the kaitiakitanga role that Mana Whenua has over the whenua.

154. GWRC [351.285] seeks to ensure the OSZ provisions have regard to the qualities and characteristics of well-functioning urban environments as articulated in Objective 22 of Proposed RPS Change 1, by including necessary objectives, policies, permitted standards and rules that provide for these qualities and characteristics. They also support the provision for customary practices in this zone [351.284].

Assessment

155. In response to Waka Kotahi [370.407] I consider that the proposed note is unnecessary as the existing “Other relevant District Plan provisions” note already included that follows the introduction to the chapter adequately informs plan users that resource consent may be required by rules in other chapters of the plan. This approach is consistent throughout the PDP.
156. In response to Te Rūnanga o Toa Rangatira [488.83] I note that the submitter has not provided any detailed amendments to reflect their relief sought. However, I agree in principle with the relief sought, and I consider that OSZ-O3 could be amended to also include recognition of mana whenua values and aspirations. In my view, OSZ-P6 provides adequate policy direction to achieve OSZ-O3 as it directs the management of parks and open spaces through partnership, which for the most part will be achieved through non-RMA methods, such as through the development of Reserve Management Plans.
157. In response to GWRC [351.285] I consider that the OSZ provisions appropriately reflect the qualities and characteristics of well-functioning urban environments as articulated in Objective 22 of Proposed RPS Change 1. I note the submitter has not sought specific relief in the form of new or amended provisions.

Summary of recommendations

158. HS7-OSR-Rec9: That OSZ-O3 is amended as set out below and detailed in Appendix A.

OSZ-O3 Mana whenua

Taranaki Whānui and Ngāti Toa Rangatira are acknowledged as the mana whenua of Te Whanganui ā Tara (Wellington). Their values and aspirations, cultural associations with, and role in exercising kaitiakitanga over Wellington’s parks and reserves are recognised and facilitated.

159. HS7-OSR-Rec10: That submission points relating to general submissions are accepted/rejected as detailed in Appendix B.

Objectives

Matters raised by submitters

OSZ-O1

160. WCC Environmental Reference Group [377.491] considers it appropriate to amend OSZ-O1 to include wording to improve water quality and enhance habitat recognising that many of these areas include 'green' and 'blue' corridors of importance to Wellington.

OSZ-O2

161. Waka Kotahi [370.408] seeks that OSZ-O2 is retained as notified.
162. WCC Environmental Reference Group [377.492] seeks amendments to replace adverse effects are 'managed effectively' with 'avoided, remedied or mitigated'. They consider that this would provide a clearer signal as to the importance of environmental protection of these areas as part of providing for their character and amenity.

OSZ-O3

163. WCC Environmental Reference Group [377.493] and Te Rūnanga o Toa Rangatira [488.84] seek that OSZ-O3 is retained as notified.
164. Taranaki Whānui ki te Upoko o te Ika [389.108, opposed by Te Rūnanga o Toa Rangatira [FS138.56]] seeks that OSZ-O3 is amended to include "Taranaki Whānui hold ahi kā and primary mana whenua status in Wellington City".

Assessment

OSZ-O1

165. I agree in part with WCC Environmental Reference Group [377.491] to the extent that the open space network plays a role in maintaining biodiversity and includes waterways. However, I disagree that these two functions are of a scale in the OSZ that differs to other zones that warrants recognition in this objective. I note that other similar zones (rural) do not reference stormwater quality and ecological values, with these matters appropriately addressed in other parts of the Plan (Ecosystems and Indigenous Biodiversity and Three Waters chapters.) I also consider that the reference to existing character and amenity values in OSZ-O1 broadly encompasses these matters should they be present on a specific site.

OSZ-O2

166. I disagree with WCC Environmental Reference Group [377.492] as I consider that an objective that seeks that adverse effects are 'managed effectively' is an appropriately clear outcome for an objective.

OSZ-O3

167. In response to Taranaki Whānui ki te Upoko o te Ika [389.108] this matter was addressed in

Hearing Stream 1⁹, and I concur that it would be inappropriate for the plan to specify a level of mana whenua status different to that identified through Treaty of Waitangi settlement legislation. In this case Taranaki Whānui ki te Upoko o te Ika and Ngāti Toa Rangatira both have mana whenua status.

Summary of recommendations

168. HS7-OSR-Rec11: That OSZ-O1 and OSZ-O2 are retained as notified.
169. HS7-OSR-Rec12: That OSZ-O3 is amended as set out in paragraph 158 of this report and as detailed in Appendix A.
170. HS7-OSR-Rec13: That submission points relating to OSZ objectives are accepted/rejected as detailed in Appendix B.

Policies

Matters raised by submitters

OSZ-P1

171. WCC Environmental Reference Group [377.494] seeks that OSZ-P1 is retained as notified.
172. Waka Kotahi [370.409] considers some of the activities permitted in this chapter have the potential to generate significant traffic and have a significant impact on the safe and efficient operation of the transport network – particularly those that are of a larger scale or directly access the state highway network. They request that the wording of OSZ-P1 is amended to include consideration of wider effects on the transport network as follows:

OSZ-P1 (Enabled activities)

Enable a wide range of recreational activities, and a limited range of other activities that are compatible with the predominant purpose, character and amenity of the Open Space Zone, while ensuring that their scale and intensity is appropriate and adverse effects on the wider environment, including the transport network, are managed.

OSZ-P2

173. WCC Environmental Reference Group [377.495] seeks that OSZ-P2 is retained as notified.

OSZ-P3

174. WCC Environmental Reference Group [377.496] seeks that OSZ-P3 is retained as notified.

⁹ [Wellington City Proposed District Plan, Hearing Stream 1 – Part 1, plan wide matters and strategic direction. Section 42A of the Resource Management Act 1991.](#) para [485].

175. Waka Kotahi [370.410] considers some of the activities permitted in this chapter have the potential to generate significant traffic and have a significant impact on the safe and efficient operation of the transport network – particularly those that are of a larger scale or directly access the state highway network. They request that the wording of OSZ-P3 is amended to include consideration of wider effects on the transport network as follows:

OSZ-P3 (Potentially compatible activities)

...

1. The activity maximises the use of existing buildings; ~~and~~
2. Any reverse sensitivity effects can be appropriately managed.; and
3. Effects on the wider environment, including the transport network, are managed.

OSZ-P4

176. WCC Environmental Reference Group [377.497, opposed by Panorama Property Limited [FS11.42]] seeks that OSZ-P4 is retained as notified.

OSZ-P5

177. WCC Environmental Reference Group [377.498, opposed by Panorama Property Limited [FS11.43]] seeks that OSZ-P5 is retained as notified.

OSZ-P6

178. WCC Environmental Reference Group [377.499] and Te Rūnanga o Toa Rangatira [488.85] seek that OSZ-P6 is retained as notified.
179. Taranaki Whānui ki te Upoko o te Ika [389.109, opposed by Te Rūnanga o Toa Rangatira [FS138.57]] seeks to amend OSZ-P6 (Mana whenua) to include "Taranaki Whānui hold ahi kā and primary mana whenua status in Wellington City".

Assessment

180. Although I agree with Waka Kotahi [370.409, 370.410] that some of the activities permitted in the OSZ have the potential to generate traffic of a scale that could result in adverse effects on the transport network, I consider that this is most appropriately left to the transport chapter to manage. I note that other chapters of the Plan do not seek to manage traffic effects within the chapter provisions and rely on the transport chapter. Consequently, I disagree with the amendments Waka Kotahi seek to OSZ-P1 and OSZ-P3.
181. I disagree with Taranaki Whānui ki te Upoko o te Ika [389.109] for the reasons set out in paragraph 167 of this report.

Summary of recommendations

182. HS7-OSR-Rec14: That the OSZ chapter policies are retained as notified.
183. HS7-OSR-Rec15: That submission points relating to OSZ chapter policies are accepted/rejected as detailed in Appendix B.

Rules

Matters raised by submitters

OSZ-R1

184. WCC Environmental Reference Group [377.500] seeks that OSZ-R1 is retained as notified.
185. Waka Kotahi [370.411] considers that these permitted activities have the potential to have significant impact on the safe and efficient operation of the transport network, particularly those of a larger scale, or directly accessing the state highway network and opposed the permitted activity of these activities. Alternatively, if the permitted activity status is retained for these activities they seek reference to trip generation tables, which have thresholds for activities and traffic management plan requirements.

OSZ-R2

186. WCC Environmental Reference Group [377.501] seeks that OSZ-R2 is retained as notified.
187. Waka Kotahi [370.412] considers that these permitted activities have the potential to have significant impact on the safe and efficient operation of the transport network, particularly those of a larger scale, or directly accessing the state highway network and opposed the permitted activity of these activities. Alternatively, if the permitted activity status is retained for these activities they seek reference to trip generation tables, which have thresholds for activities and traffic management plan requirements.

OSZ-R4 and OSZ-R5

188. WCC Environmental Reference Group [377.502 and 377.503] seeks that these rules are retained as notified.

OSZ-R6

189. WCC Environmental Reference Group [377.504] seeks that OSZ-R6 is retained as notified.
190. Waka Kotahi [370.413] considers that these permitted activities have the potential to have significant impact on the safe and efficient operation of the transport network, particularly those of a larger scale, or directly accessing the state highway network and opposed the permitted activity of these activities. Alternatively, if the permitted activity status is retained for these activities they seek reference to trip generation tables, which have thresholds for activities and traffic management plan requirements.

OSZ-R7, OSZ-R8 and OSZ-R9

191. WCC Environmental Reference Group [377.505, 377.506 and 377.507] seeks that these rules are retained as notified.

OSZ-R10

192. WCC Environmental Reference Group [377.508, opposed by Panorama Property Limited [FS11.44]] seeks that OSZ-R10 is retained as notified.
193. Waka Kotahi [370.414] considers that these permitted activities have the potential to have significant impact on the safe and efficient operation of the transport network, particularly those of a larger scale, or directly accessing the state highway network and opposed the

permitted activity of these activities. Alternatively, if the permitted activity status is retained for these activities they seek reference to trip generation tables, which have thresholds for activities and traffic management plan requirements.

OSZ-R11

194. WCC Environmental Reference Group [377.509], Waka Kotahi [370.415] and MOE [400.150] seek that OSZ-R10 is retained as notified.

OSZ-R12

195. GWRC [351.289] supports the permitted activity status for the demolition of buildings provided that building waste is properly disposed of to give effect to Policy 34 of the operative RPS. They seek that OSZ-R12 is amended to include a rule requirement that permitted activity status is subject to building and demolition waste being disposed of at an approved facility.

Proposed new OSZ standard

196. KiwiRail [408.132] considers that building setbacks are essential to address significant safety hazards associated with the operational rail corridor due to parts of the KiwiRail network adjoining the OSZ which does not currently include requirements for boundary setbacks for buildings and structures. They seek a boundary setback of 5m from the rail corridor for all buildings and structures and an associated matter of discretion, as set out below, and that the rail corridor be recognised as a qualifying matter in relevant non-residential zones in accordance with section 77(1)(o) of the RMA. Consistent with the amendment requested for the assessment criteria in the residential zones, KiwiRail considers that a matter of discretion directing consideration of impacts on the safety and efficiency of the rail corridor is appropriate in situations where the 5m setback standard is not complied with in all zones adjacent to the railway corridor.

OSZ-SX:

Boundary setbacks

Buildings or structures must not be located within a 5m setback from a rail corridor boundary.

Matters of discretion:

(X) The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

Assessment

197. In response to Waka Kotahi [370.411, 370.412, 370.413 and 370.414] the transport chapter manages the effects of high vehicle trip-generating use and development. Consequently, I see no justification to duplicate the transport chapter provisions in the open space zones. I also do not consider it necessary to specifically signpost the potential applicability of the trip generation tables (TR-S1).
198. I disagree with GWRC [351.289] that the Plan should control disposal of building waste and consider there are other ways to achieve this, for example the Solid Waste Management and

Minimisation Bylaw 2020 deals with construction waste and all persons undertaking demolition are required to comply with this.

199. In response to KiwiRail [408.132], I note that this matter was well-traversed in PDP Hearing Stream 2, and the reporting officer's recommendation that a building setback of 1.5 m from the boundary adjoining a rail corridor is appropriate. I concur with the view of the reporting officer and consider that a 1.5 m building setback would be appropriate and adequate with respect to the OSZ.

Summary of recommendations

200. HS7-OSR-Rec16: That the OSZ chapter rules are retained as notified.
201. HS7-OSR-Rec17: That a new standard is included in the OSZ chapter as follows:

OSZ-S5 Boundary setbacks

Buildings or structures (excluding fences) must be setback a minimum of 1.5m from a rail corridor boundary.

Assessment criteria where the standard is infringed:

1. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

202. HS7-OSR-Rec18: That submission points relating to OSZ chapter rules are accepted/rejected as detailed in Appendix B.

3.5 Natural Open Space Zone

General submissions

Matters raised by submitters

203. Kilmarston Developments Limited and Kilmarston Properties Limited [290.70, opposed by Forrest and Bird [FS85.36]; and 290.71, opposed by Forrest and Bird [FS85.37] and supported by Andy Foster [FS86.61]] seeks that provisions are included for infrastructure to be permitted within the Natural Open Space Zone (NOSZ) to provide for a reservoir.

Assessment

204. I disagree with Kilmarston Developments Limited and Kilmarston Properties Limited [290.70] As for similar reasons to those set out in paragraphs 138 to 143 of this report. I consider that, consistent with the National Planning Standards 2019, infrastructure related provisions are most appropriately located within the Infrastructure chapter. I also note that the Council is a Requiring Authority and has the option of Designating land for the purpose of a future reservoir.

Summary of recommendations

205. HS7-OSR-Rec19: That submission points relating to general submissions on the NOSZ chapter are rejected as detailed in Appendix B.

Objectives

Matters raised by submitters

NOSZ-O1

206. Kilmarston Developments Limited and Kilmarston Properties Limited [290.63, opposed by Adam Groenewegen [FS46.5], and Jo McKenzie [FS64.5], Forest and Bird[FS85.31] and supported by Andy Foster [FS86.54]; and [290.64, opposed by Adam Groenewegen [FS46.6], and Jo McKenzie [FS64.6], Forest and Bird [FS85.32] and supported by Andy Foster [FS86.55]] considers that provisions limit the ability for the submitter to install a reservoir to service the site and the wider Ngaio area. The submitter notes that their subdivision consent includes the location of a reservoir within the proposed NOSZ. It is inferred that the submitter seeks amendments to NOSZ-O1 that provide for infrastructure in NOSZ.
207. WCC Environmental Reference Group [377.482] considers it appropriate to amend OSZ-O1 to include wording to improve water quality and enhance habitat recognising that many of these areas include 'green' and 'blue' corridors of importance to Wellington.
208. WIAL [406.506 and 406.507] seeks that NOSZ-O1 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.
209. WIAL [406.500] seek that if the relief sought with respect to their preferred option of rezoning of the land where the Lyall Bay and Moa Point Seawall is located (outlined in paragraph 90 and discussed in paragraphs 106 to 113 of this report) is not supported, that a new objective is inserted into the NOSZ chapter as follows:

NOSZ-O5 Protecting Regionally Significant Infrastructure

Recognise that the Natural Open Space Zone, between Lyall Bay and Moa Point, contains a significant hard engineering structures designed to protect regionally significant infrastructure from coastal erosion, and provide for the ongoing maintenance, repair and upgrade of such structures.

NOSZ-O2

210. WCC Environmental Reference Group [377.483] seeks amendments to NOSZ-O2 to include wording to seek that adverse effects are not 'managed effectively' but rather, avoided, remedied or mitigated as this provides a clearer signal as to the importance of environmental protection of these areas as part of providing for their character and amenity. They seek the following amendment:

NOSZ-O2 Managing effects

Adverse effects of activities undertaken in the Natural Open Space Zone at the zone interface and surrounding area are avoided, remedied or mitigated.

211. Kilmarston Developments Limited and Kilmarston Properties Limited [290.65, opposed by Adam Groenewegen [FS46.13], and Jo McKenzie [FS64.13]] considers the NOSZ on the balance of the

Submitters land is acceptable, subject to agreement being reached by WCC with Submitter on the appropriate tenure of the land.

212. WIAL [406.509, 406.510 and 406.511] seeks that NOSZ-O2 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-O3

213. Taranaki Whānui ki te Upoko o te Ika [389.106] seeks that NOSZ-O3 is retained as notified.

Assessment

NOSZ-O1

214. I disagree with Kilmarston Developments Limited and Kilmarston Properties Limited [290.63, 290.64] for similar reasons to those outlined in paragraphs 138 to 143 of this report that the NOSZ should be amended to explicitly provide for infrastructure as I consider infrastructure is appropriately and adequately addressed in the Infrastructure Chapter.
215. In response to WCC Environmental Reference Group [377.482] I broadly agree to the extent that the open space network plays an important role in maintaining biodiversity, and includes waterways. However, I consider that biodiversity values are adequately provided for by NOSZ-O1.2 that recognises the High natural, ecological, landscape and historic heritage values within the zone.
216. Although I agree with WIAL [406.506 and 406.507] that overall, the PDP should provide for the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point, I do not agree that an amendment to NOSZ-O1 is an appropriate or necessary approach to achieve this. I also disagree with WIAL [406.500] that it is appropriate or necessary to introduce a new objective into the NOSZ chapter to achieve this as in my opinion there are more efficient and effective options available to address this matter as discussed in paragraphs 260 to 262 of this report.
217. It is important to note that with respect to seawalls, the zone provisions play an important role in determining the activity status for upgrades to all existing seawalls. The provisions relating to seawalls / structures in the Coastal Environment Overlay (outside of the high coastal natural character areas and coastal and riparian margins) permit activities that are permitted in the underlying zone. I also note that the Coastal Environment chapter includes CE-09 (notified PDP numbering) that provides for measures to protect property from coastal hazards. In Hearing Stream 5, the reporting planner recommended amendments to CE-P26 (notified PDP numbering) and a new policy to expressly provide for repair and maintenance of existing hard engineering hazard mitigation structures to more appropriately provide for the maintenance and repair of existing hazard mitigation structures.

NOSZ-O2

218. I disagree with WCC Environmental Reference Group [377.483] as I consider that an objective that seeks that adverse effects are 'managed effectively' is an appropriately clear outcome for

an objective.

219. I note the relief sought by Kilmarston Developments Limited and Kilmarston Properties Limited [290.65] and consider that this relief does not directly relate to amendments to NOSZ-O2.
220. I disagree with WIAL [406.509, 406.510 and 406.511] for the same reasons outlined in paragraphs 216 to 217 of this report.

Summary of recommendations

221. HS7-OSR-Rec20: That the NOSZ-O1, NOSZ-O2 and NOSZ-O3 are retained as notified.
222. HS7-OSR-Rec21: That submission points relating to submissions on the NOSZ chapter objectives are rejected as detailed in Appendix B.

Policies

Matters raised by submitters

NOSZ-P1

223. WCC Environmental Reference Group [377.484] seeks that NOSZ-P1 is retained as notified.
224. Horokiwi Quarries Ltd [271.67] seeks that NOSZ-P1 is amended to recognise other activities, if amendments sought by the submitter to NOSZ-P4 are not accepted.
225. WIAL [406.512, 406.513 and 406.514] seeks that NOSZ-P2 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-P2

226. WCC Environmental Reference Group [377.485] seeks that NOSZ-P2 is retained as notified.

NOSZ-P3

227. WCC Environmental Reference Group [377.486] seeks that NOSZ-P3 is amended as follows:

NOSZ-P3 Rural activities

Only allow rural activities such as grazing or forestry where they are part of a management programme identified in the relevant reserve management plan for the area, and where specific provision is made to avoid, remedy or mitigate adverse effects on freshwater and native biodiversity.

NOSZ-P4

228. WCC Environmental Reference Group [377.487] seeks that NOSZ-P4 is retained as notified.

229. Horokiwi Quarries Ltd [271.68] seeks that NOSZ-P4 is amended to recognise other activities, as follows:

NOSZ-P4 Potentially compatible activities

~~Only a~~ Allow other activities to establish where it can be demonstrated that they are compatible with the purpose, character and amenity values of the zone, having regard to whether:

...

230. Kilmarston Developments Limited and Kilmarston Properties Limited [290.66, opposed by Adam Groenewegen [FS46.7], and Jo McKenzie [FS64.7], Forest and Bird [FS85.33], and supported by Andy Foster [FS86.56]; and 290.67, opposed by Adam Groenewegen [FS46.8], and Jo McKenzie [FS64.8], and supported by Andy Foster [FS86.57]] seeks that NOSZ-P4 is amended to include wording for appropriate infrastructure to be located within the NOSZ.
231. WIAL [406.515, 406.516 and 406.517] seeks that NOSZ-P4 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-P5

232. WCC Environmental Reference Group [377.488] seeks that NOSZ-P5 is retained as notified.
233. Kilmarston Developments Limited and Kilmarston Properties Limited [290.68, opposed by Adam Groenewegen [FS46.9], and Jo McKenzie [FS64.9], Forest and Bird [FS85.34], and supported by Andy Foster [FS86.58]; and 290.69, opposed by Adam Groenewegen [FS46.10], and Jo McKenzie [FS64.10], Forest and Bird [FS85.35], and supported by Andy Foster [FS86.59]] seeks that NOSZ-P5 is amended to include wording for appropriate infrastructure to be located within the NOSZ.
234. WIAL [406.518, 406.519 and 406.520] seeks that NOSZ-P5 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-P6

235. WCC Environmental Reference Group [377.489] seeks that NOSZ-P6 is retained as notified.
236. WIAL [406.521, 406.522 and 406.523] seeks that NOSZ-P6 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-P7

237. WCC Environmental Reference Group [377.490] and Taranaki Whānui ki te Upoko o te Ika [389.107] seek that NOSZ-P7 is retained as notified.

Proposed new NOSZ policies

238. Royal Forest and Bird Protection Society [345.395] seek a new policy in the NOSZ to protect

biodiversity and vegetation values outside SNAs.

239. Horokiwi Quarries Ltd [271.66] advises that the NOSZ is of relevance to them as it adjoins the existing quarry to the west and they are exploring options for expansion and wish to ensure that the policy and rule framework within the adjoining zone provides a consenting pathway. They consider it is appropriate that there is policy recognition in the NOSZ for other activities and seek the inclusion of a new policy, as set out below, in addition to amendments to NOSZ-P4.

NOSZ-P4a Other activities

Enable other activities within the zone where they have regional benefits.

240. WIAL [406.501, 406.501] seek that if the relief sought with respect to their preferred option (outlined in paragraph 90 of this report) is not supported, that two new policies are inserted into the NOSZ chapter as follows:

NOSZ P8 Enabling seawalls that protect regionally significant infrastructure between Lyall Bay and Moa Point

Enable the ongoing maintenance, repair and upgrade of the sea wall and associated activities between Lyall Bay and Moa Point.

NOSZ-P9 Adverse effects of seawall construction, alteration and additions

Manage the adverse effects of construction, alterations and additions to the seawall between Lyall Bay and Moa Point, including effects on:

1. Natural and physical resources;
2. Amenity values;
3. The identified values of Overlays;
4. The safe and efficient operation of other infrastructure; and
5. The health, well-being and safety of people and communities.

Assessment

NOSZ-P1

241. I disagree with Horokiwi Quarries Ltd [271.67] that NOSZ-P1 is amended to recognise other activities, simply to provide a more supportive consenting pathway for quarrying activities on parts of their site or adjoining sites to accommodate a potential future expansion of the existing quarry. I do not agree that the policy framework needs to better recognise activities such as quarrying, which are not anticipated in the zone. I also note that the s42A reporting officer for PDP Hearing Stream 1 (in paragraph 1004) has recommended that a new objective be included in the 'Strategic City Assets and Infrastructure' chapter to recognise the strategic benefits of quarrying activities to the city. I consider that this objective adequately recognises the benefits of quarrying activities and can be considered as part of an assessment of a resource consent application for any proposal for quarrying activities in the NOSZ.

242. I disagree with WIAL [406.512, 406.513 and 406.514] that a specific exemption for the Seawall

is necessary as although the NOSZ are explicitly supportive of maintenance or upgrades to the Seawall I consider that in combination with the policies of the Coastal Environment, a resource consent application will be able to demonstrate where the activity is consistent with policy direction and also justify any misalignment with certain policies due to the functional need of the Seawall to be located where it is.

NOSZ-P3

243. I disagree with the amendments sought by WCC Environmental Reference Group [377.486] to NOSZ-P3 as the policy is intentionally enabling of rural activities as part of a management programme for the reserve, with the associated rule – NOSZ-R4 providing for this activity as a permitted activity. I note that any other rural activities would default to a discretionary activity. I consider that the amendment suggested by the submitter does not improve NOSZ-P3, and that NOSZ-P4 provides policy direction relevant to rural activities not covered by NOSZ-P3.

NOSZ-P4, NOSZ-P5, and NOSZ-P6

244. I disagree with the amendments to NOSZ-P4 sought by Horokiwi Quarries Ltd [271.68] as I consider the policy language as notified appropriately reflects the objectives of the zone, and informs the associated permitted rules and default rule and discretionary activity status established by NOSZ-R11.
245. I disagree with Kilmarston Developments Limited and Kilmarston Properties Limited [290.66, 290.67, 290.68 and 290.69] that seek to include wording for appropriate infrastructure to be located within the NOSZ for reasons similar to those set out in paragraphs 138 to 143 of this report.
246. I disagree with WIAL [406.515, 406.516, 406.517, 406.518, 406.519 and 406.520, 406.521, 406.522 and 406.523] that a specific exemption for the Seawall is necessary for similar reasons to those outlined in paragraph 242 of this report.

New policy

247. In response to Forest and Bird [345.395] I consider that a new specific policy in the NOSZ to protect biodiversity and vegetation values outside SNAs could be an appropriate way of giving effect to the direction of Policy 8 of the NPS-IB. However, as Council are currently considering a plan variation for the purposes of implementing the NPS-IB, my advice to the Panel is that this matter be comprehensively considered as part of Hearing Stream 11.
248. I disagree with Horokiwi Quarries Ltd [271.66] as I consider that NOSZ-P4 already adequately provides for potentially compatible activities or activities not explicitly provided for and there is a consenting pathway for quarrying activities, albeit not explicitly supportive. With respect to amendments to the NOSZ to explicitly recognise quarrying activities I disagree for similar reasons to those outlined in paragraph 241 of this report.
249. I disagree with WIAL [406.501, 406.501] for the similar reasons to those outlined in paragraph 242 of this report. In particular, I consider that NOSZ-P6 provides for adequate policy alignment for future upgrades to the Lyall Bay/Moa Point seawall.

Summary of recommendations

250. HS7-OSR-Rec22: That the NOSZ chapter policies are retained as notified.
251. HS7-OSR-Rec23: That submission points relating to submissions on the NOSZ chapter policies are accepted/rejected as detailed in Appendix B.

Rules

Matters raised by submitters

NOSZ-R11

252. Horokiwi Quarries Ltd [271.69] and MOE [400.149] seek that NOSZ-R11 is retained as notified.
253. WIAL [406.524, 406.525 and 406.526] seeks that NOSZ-R11 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.

NOSZ-R12

254. GWRC [351.286 and 351.287] supports the permitted activity status for the demolition of buildings provided that building waste is properly disposed of to give effect to Policy 34 of the operative RPS. They seek that NOSZ-R12 is amended to include a rule requirement that permitted activity status is subject to building and demolition waste being disposed of at an approved facility.
255. WIAL [406.527] seek the retention of NOSZ-R12 as notified, subject to adoption of submitters other submission points.

NOSZ-R13

256. WIAL [406.528] seeks the retention of NOSZ-R13 as notified, subject to adoption of submitters other submission points.

NOSZ-R14

257. WIAL [406.529 and 406.530] seeks that NOSZ-R14 is amended to make an exemption for the area of the seawall and associated structures above mean high water springs between Lyall Bay and Moa Point, and to enable the maintenance, repair and upgrading of the existing seawall located between Lyall Bay and Moa Point.
258. Proposed new NOSZ rules
259. WIAL [406.503, 406.504] seek that if the relief sought with respect to their preferred option (outlined in paragraph 90 of this report) is not supported, that two new rules are inserted into the NOSZ chapter as follows:

NOSZ-R12 Construction, maintenance, alteration, addition, and upgrade of the seawall between Lyall Bay and Moa Point.

1. Activity Status: Permitted

NOSZ-R15 Alteration and addition to existing seawalls (including construction)

1. Activity status: Permitted

Where:

a. Compliance with the Standard NOSZ-S6 is met.

2. Activity status: Restricted Discretionary

Where:

a. Compliance with NOSZ-R15.1 is not met.

Matters of discretion are:

1. The matters in NOSZ-P9.

260. Forest and Bird [345.393] notes that land in this zone contains high ecological and other values and that while some areas within this zone will have vegetation removal rules applying because of the SNA overlay, there does not appear to be any other restrictions on vegetation clearance in this zone. They seek the addition of a rule in the NOSZ chapter to manage vegetation clearance outside of significant natural areas to protect maintain indigenous biodiversity. The submitter [345.394] also seeks that all rules in NOSZ chapter are amended to include vegetation clearance limits on permitted activities to protect and maintain indigenous biodiversity.

Assessment

NOSZ-R11, NOSZ-R14 and new rules relating to seawalls

261. Firstly, I disagree with WIAL [406.524, 406.525 and 406.526] with respect to the exclusion sought in NOSZ-R11 as this rule does not apply to seawalls as they are treated as structures and managed under NOSZ-R13 (and assumedly NOSZ-R14) of the PDP as discussed in paragraph 110 of this report.
262. However, I agree with WIAL [406.503, 406.504, 406.524, 406.525 and 406.526] to the extent that it would be more effective and efficient to amend NOSZ-R14 with respect to the management of potential adverse effects of upgrading of the Seawall (noting the relevance to the Coastal Environment). In my opinion:
- It would be efficient for any alteration, addition, or upgrade of existing seawalls to have bespoke standards so minor works involving minor NOSZ height or site coverage standards infringements do not elevate to a discretionary activity status;
 - I agree that a small increase in height, such as 1 m, in of itself would not result in unacceptable adverse effects and would reflect an efficient approach to very minor works necessary to ensure the effectiveness of the existing seawall. However, I consider that any

increase in footprint should require resource consent and note that the submitter has not expressly sought a permitted standard that provides an allowance for any increase in footprint.

- Given the Coastal Environment provisions in relation to coastal margins (outside of high coastal natural character areas) relies on underlying zone rules, the construction of new seawalls should not be permitted subject to general standards.

263. For the reasons outlined above I recommend the below amendments to NOSZ-R14 to provide for minor upgrades relating to the Seawall. I note that these relate the to the Lyall Bay/Moa Point Seawall only. I also note amendments to standards and a new NOSZ-S7 are outlined in paragraphs 275 to 277 of this report.

NOSZ-R12

264. I disagree with GWRC [351.286 and 351.287] for the same reasons set out in paragraph 198 of this report.

New rules

265. I agree with Forest and Bird's [345.393] that the application of the NOSZ is informed by the presence of vegetation and ecological values, and consequently it would be appropriate for the Plan to contain provisions to ensure the values of the zone are preserved i.e. some form of vegetation clearance limitation. I note that the ODP contained a rule (7.1.15.3) that applied to the Open Space B zone that limited indigenous vegetation removal to no more than 100m² over a 5 calendar year period, but no similar rule was proposed in the PDP. I also note the policy direction of the NPS-IB that seeks to protect and maintain indigenous biodiversity outside of SNA.

266. However, as this matter is not specific to the NOSZ I suggest that the matter of citywide indigenous vegetation protection is deferred to the Ecosystems and Indigenous Biodiversity topic in Hearing Stream 11 to ensure a consistent and comprehensive approach.

Summary of recommendations

267. HS7-OSR-Rec24: That NOSZ-R1 to NOSZ-R13 are retained as notified.

268. HS7-OSR-Rec25: That NOSZ-R14 is amended as set out below and detailed in Appendix A.

NOSZ–R14 Construction, alteration of and addition to buildings and structures

1. Activity status: **Permitted**

Where:

- a. For alterations or additions to the Lyall Bay/Moa Point Seawall compliance with the following standard is achieved:
 - i. NOSZ-S7; or
- b. For the construction, alteration of and addition to buildings and structures (excluding Lyall Bay/Moa Point Seawall) compliance with the following standards is achieved:
 - i. NOSZ-S1;
 - ii. NOSZ-S2;
 - iii. NOSZ-S3;
 - iv. NOSZ-S4; ~~and~~
 - v. NOSZ-S5; ~~and~~
 - vi. NOSZ-S6.

2. Activity status: **Discretionary**

Where:

- a. Compliance with any of the requirements of NOSZ-R14 cannot be achieved

269. HS7-OSR-Rec26: That submission points relating to submissions on the NOSZ chapter rules are accepted/rejected as detailed in Appendix B.

Standards

Matters raised by submitters

NOSZ-S1

270. WIAL [406.531 and 406.532] submits that a further amendment is required to ensure that the standards appropriately provide for the height of seawall structures between Lyall Bay and Moa Point, and seeks the following amendment to NOSZ-S1:

NOSZ-S1 Maximum height of buildings and structures (excluding seawalls)

- 1. Buildings and structures (excluding seawalls) must not exceed the following maximum height limits above ground level.

NOSZ-S2

271. WIAL [406.533 and 406.534] submits that a further amendment is required to ensure that the standards appropriately provide for the height of seawall structures between Lyall Bay and Moa Point, and seeks the following amendment to NOSZ-S2:

NOSZ-S2 Maximum gross floor area

1.

This standard does not apply to:

a. Additions and alterations to existing buildings at Karori Wildlife Sanctuary (Zealandia, Legal Description Lot 1 DP 313319).

b. The maintenance, repair, upgrade, construction, addition or alteration to the seawall located between Lyall Bay and Moa Point.

...

NOSZ-S3

272. WIAL [406.535 and 406.536] submits that a further amendment is required to ensure that the standards appropriately provide for the height of seawall structures between Lyall Bay and Moa Point, and seeks the following amendment to NOSZ-S3:

NOSZ-S3 Maximum building coverage

1. Maximum building coverage is 5%

This standard does not apply to:

a. The maintenance, repair, upgrade, construction, addition or alteration to the seawall located between Lyall Bay and Moa Point.

273. WIAL [406.505] seek that if the relief sought with respect to their preferred option (outlined in paragraph 77 of this report) is not supported, that two new rules are inserted into the NOSZ chapter as follows:

NOSZ-S6 Seawall structures between Lyall Bay and Moa Point

1. Maintenance, repair, upgrade construction, addition and alteration to the seawall located between Lyall Bay and Moa Point:

a. Any addition shall add no more than 1m in vertical projection to the structure, as it existed on the date on [insert date plan is made operative].

Assessment criteria where the standard is not met:

1. The extent to which the additional height is necessary to provide for functional needs or operational needs of the activities on the site; and

2. Whether topographical or other site constraints make compliance with the standard impractical.

3. The importance of protecting the adjacent regionally significant infrastructure.

274. KiwiRail [408.131] considers that building setbacks are essential to address significant safety hazards associated with the operational rail corridor due to parts of the KiwiRail network adjoining the NOSZ which does not currently include requirements for boundary setbacks for buildings and structures. They seek a boundary setback of 5m from the rail corridor for all buildings and structures and an associated matter of discretion, as set out below, and that the rail corridor be recognised as a qualifying matter in relevant non-residential zones in accordance with section 77(1)(o) of the RMA.

NOSZ-SX:

Boundary setbacks

Buildings or structures must not be located within a 5m setback from a rail corridor boundary.

Matters of discretion:

(X) The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

Assessment

NOSZ-S1, NOSZ-S2 and NOSZ-S3

275. I agree in part with WIAL [406.531, 406.532, 406.533, 406.534, 406.535 and 406.536] and consider that bespoke standards for the repair, maintenance and minor upgrade to existing Lyall Bay seawall would provide a more effective and efficient planning response than the notified Plan provisions.
276. However, I consider that subject to the recommendations outlined in paragraph 279 of this report the NOSZ-S1, NOSZ-S2, and NOSZ-S3 will not be applicable to any upgrade, addition or alteration to the existing Seawall.
277. I agree with WIAL [406.505] that a new standard is appropriate to provide for a small increase in permitted height with respect to future maintenance, repair, upgrade construction, addition and alteration to the Seawall. I note that the submitter has not provided evidence with respect to all existing seawalls.

Proposed new NOSZ standards

278. In response to KiwiRail [408.131], I note that this matter was well-traversed in Hearing Stream 5, and note the Panel's recommendation that a building setback of 1.5 m from the boundary adjoining a rail corridor is appropriate. I concur with the view of the Panel and consider that a 1.5 m building setback would be appropriate and adequate with respect to the NOSZ.

Summary of recommendations

279. HS7-OSR-Rec27: That NOSZ-S6 is included as outlined below and detailed in Appendix A.

NOSZ-S6 Boundary setbacks

Buildings or structures (excluding fences) must be setback a minimum of 1.5m from a rail corridor boundary.

Matters of discretion:

1. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

280. HS7-OSR-Rec28: That NOSZ-S7 is included as outlined below and detailed in Appendix A

NOSZ-S7 Seawall structures between Lyall Bay and Moa Point

1. Maintenance, repair, upgrade construction, addition and alteration to the seawall located between Lyall Bay and Moa Point:

a. Any addition shall add no more than 1m in vertical projection to the structure, as it existed on the date on [insert date plan is made operative].

Assessment criteria where the standard is not met:

1. The extent to which the additional height is necessary for the seawall to protect the adjacent regionally significant infrastructure.

281. HS7-OSR-Rec29: That submission points relating to submissions on the NOSZ chapter policies are accepted/rejected as detailed in Appendix B.

3.6 Sports and Active Recreation Zone

General

Matters raised by submitters

282. Waka Kotahi [370.416] supports the Sport and Active Recreation Zone chapter, with amendments. Waka Kotahi [370.417] considers some of the activities permitted in this chapter have the potential to generate significant traffic and have a significant impact on the safe and efficient operation of the transport network if not managed appropriately. As trip generation is proposed to be managed in the traffic chapter, specific reference should be included to that chapter. Permitted rules in this chapter should be also required to comply with the trip generation rules in the transport chapter. The submitter is seeking a permitted trip generation threshold of 100 equivalent car movements per day for any activity accessed from the state highway. They seek the addition of a note to the SARZ chapter as follows:

All activities in this chapter must comply with the trip generation thresholds in the transport chapter.

Assessment

283. In response to Waka Kotahi [370.416 and 370.417] although I agree that some of the activities permitted in the SARZ have the potential to generate traffic of a scale that could result in adverse effects on the transport network, I consider that this is most appropriately left to the transport chapter to manage. I note that other chapters of the Plan do not seek to manage traffic effects within the chapter provisions and rely on the transport chapter.

Summary of recommendations

284. HS7-OSR-Rec30: That general submission points relating to SARZ are accepted/rejected as detailed in Appendix B.

Objectives

Matters raised by submitters

285. Waka Kotahi [370.418] seeks the retention of SARZ-O2 as notified.

Assessment

286. No further assessment required.

Summary of recommendations

287. HS7-OSR-Rec31: That SARZ objectives are retained as notified.
288. HS7-OSR-Rec32: That submission points relating to SARZ Objectives are accepted as detailed in Appendix B.

Policies

Matters raised by submitters

SARZ-P1

289. Waka Kotahi [370.419 and 370.420] considers some of the activities permitted in this chapter have the potential to generate significant traffic and have a significant impact on the safe and efficient operation of the transport network – particularly those that are of a larger scale or directly access the state highway network. The submitter requests that the wording of the policy is amended to include consideration of wider effects on the transport network. They seek the following amendment:

SARZ-P1 (Enabled activities)

Enable a wide range of recreational activities that are compatible with the purpose, character and amenity values of the Sport and Active Recreation Zone, or which enhance the public use and enjoyment of the open space, while ensuring that their scale and intensity is appropriate and adverse effects on the wider environment, including the transport network, are managed.

SARZ-P3

290. Waka Kotahi [370.421] considers some of the activities permitted in this chapter have the potential to generate significant traffic and have a significant impact on the safe and efficient operation of the transport network – particularly those that are of a larger scale or directly access

the state highway network. The submitter requests that the wording of the policy is amended to include consideration of wider effects on the transport network. They seek the following amendment:

SARZ-P3 (Potentially compatible activities)

...

5. Any maritime activities and associated facilities adjoining the coast or a water body have a functional need or operational need for a coastal location; and
6. Any adverse residential amenity effects will be minimised.; and
7. Effects on the wider environment, including the transport network, are managed.

Assessment

291. Similar to my response to the similar relief sought by the submitter on the OSZ, although I agree with Waka Kotahi [370.419, 370.420, and 370.221] that some of the activities permitted in the OSZ have the potential to generate traffic of a scale that would necessitate the plan manage the potential for adverse effects on the transport network, I consider that this is most appropriately left to the transport chapter to manage. I note that other chapters of the Plan do not seek to manage traffic effects within the chapter provisions and rely on the transport chapter. Consequently, I disagree with the amendments Waka Kotahi seek to SARZ-P1 and SARZ-P3.

Summary of recommendations

292. HS7-OSR-Rec33: That SARZ policies are retained as notified.
293. HS7-OSR-Rec34: That submission points relating to SARZ policies are rejected as detailed in Appendix B.

Rules

Matters raised by submitters

SARZ-R1, SARZ-R2, SARZ-R4, SARZ-R5, SARZ-R6

294. Waka Kotahi [370.422, 370.423, 370.424, 370.425, 370.426 and 370.427] considers that these permitted activities have the potential to have significant impact on the safe and efficient operation of the transport network, particularly those of a larger scale, or directly accessing the state highway network and opposed the permitted activity of these activities. Alternatively, if the permitted activity status is retained for these activities they seek reference to trip generation tables, which have thresholds for activities and traffic management plan requirements.

SARZ-R13

295. Waka Kotahi [370.4] and MOE [400.151] seek the retention of SARZ-R13 as notified.

Assessment

SARZ-R1, SARZ-R2, SARZ-R4, SARZ-R5, SARZ-R6

296. In response to Waka Kotahi [370.422, 370.423, 370.424, 370.425, 370.426 and 370.427] the

transport chapter manages the effects of high vehicle trip-generating use and development. Consequently, I see no justification to duplicate the transport chapter provisions in the open space zones. I also do not consider it necessary to specifically signpost the application of the trip generation tables (TR-S1) within the SARZ rules.

Summary of recommendations

- 297. HS7-OSR-Rec35: That SARZ rules are retained as notified.
- 298. HS7-OSR-Rec36: That submission points relating to SARZ rules are accepted/rejected as detailed in Appendix B.

3.7 Wellington Town Belt Zone

General

Matters raised by submitters

- 299. Lorraine and Richard Smith [230.22] seek provisions to ensure that remnants of the town belt are protected, to enhance green space and historic elements in these areas.
- 300. Lucy Harper and Roger Pemberton [401.90, supported by Roseneath Residents' Association [FS49.8], Matthew Wells, Adelina Reis and Sarah Rennie [FS50.7]] seek retention of the WTBZ as notified to ensure the identification and recognition of the Wellington Town Belt in a specific zone.
- 301. Craig Palmer [492.43, supported by Wellington Civic Trust [FS83.33]] considers that the District Plan needs to be the ultimate bastion of the Town Belt given recent legislation (Wellington Town Belt Act 2016, and Wellington Town Belt Management Plan June 2018) has diminished the public's awareness of the competing interests over the Town Belt. The submitter seeks a new provision in the WTBZ chapter to evaluate proposed commercial activities within the Town Belt that is accorded discretionary activity status with mandatory public notification.

Assessment

- 302. In response to Lorraine and Richard Smith [230.22] I consider that, subject to the recommended amendments in this report, the WTBZ provisions adequately protect the Town Belt.
- 303. Noting that commercial activities are treated as a discretionary activity under rule WTBZ-R8, I disagree with Craig Palmer [492.43] that any proposed commercial activities should be required to be publicly notified regardless of environmental effects. I consider that sections 16, 17 and 18 of the Wellington Town Belt Act 2016 provide for community consultation with respect to commercial activities and provide the safeguard sought by the submitter.

Summary of recommendations

- 304. HS7-OSR-Rec37: That general submission points relating to WTBZ are accepted/rejected as detailed in Appendix B.

Objectives

Matters raised by submitters

WTBZ-O1

305. Lucy Harper and Roger Pemberton [401.91] seeks the retention of WTBZ-O1 as notified.
306. Wellington Civic Trust [388.106 and 388.107] considers that WTBZ-O1 should be amended to match its purpose with the principles of the Town Belt Act. They seek that WTBZ-O1 be amended as follows:

WTBZ-O1

...

4. Large areas of landscape value
5. Areas, places, associations and structures of cultural heritage significance
6. Existing ecosystem values, which must be sustained and enhanced

WTBZ-O2

307. Lucy Harper and Roger Pemberton [401.92, supported by Wellington Civic Trust [FS83.39]] seek the retention of WTBZ-O2 as notified.
308. Wellington Civic Trust [388.108 and 388.109] considers that WTBZ-O2 is inadequate and should be amended, as it only refers to managing effects at the Zone interface and surrounding area. The Town Belt is an area which experiences significant pressure for use by non-recreational activities, for activities such as public parking, additional through-routes and the location of public services and facilities. There are also significant circumstances where the effects of access and recreational use must be managed within the zoned area itself. They seek WTBZ-O2 is amended as follows:

WTBZ-O2 (Managing effects)

Adverse effects of activities and development undertaken in the Wellington Town Belt Zone are managed effectively within the zone and at the zone interface and surrounding area.

WTBZ-O3

309. Lucy Harper and Roger Pemberton [401.93] seeks the retention of WTBZ-O2 as notified.

Assessment

WTBZ-O1

310. I agree with the Wellington Civic Trust [388.106 and 388.107] that it is generally appropriate to align with the principles in section 4(1)(b) of the Wellington Town Belt Act. However, I consider that WTBZ-O1 as notified adequately addresses landscape character, support for indigenous ecosystems, accessibility and the provisions for a wide range of recreational activities. In my opinion, an amendment to WTBZ-O1 that recognises the historic and cultural heritage values is appropriate to better reflect section 4(1)(b)(vii) of the Wellington Town Belt Act. Noting that the submitter does not propose any additional provisions to achieve the objective, I consider it

appropriate to rely on the existing WTBZ provisions in combination with relevant Historic Heritage provisions that apply to specific parts of the site, and non-statutory methods such as implementation of the WTB reserve management plan.

WTBZ-O2

311. I agree with Wellington Civic Trust [388.108 and 388.109] as this relatively minor amendment improves clarity without changing the intent of the objective.

Summary of recommendations

312. HS7-OSR-Rec38: That WTBZ-O1 is amended as outlined below and detailed in Appendix A.

WTBZ-O1

The Wellington Town Belt is used by and accessible to the public as a public recreation ground in such a way that maintains and, where possible, enhances the predominant values of the zone, which include:

1. Large areas of public open space with a high degree of accessibility;
2. A low extent and scale of built development and paving that is ancillary to public access to and use of the Wellington Town Belt for informal recreation activities, organised sport and recreation activities, and conservation activities; ~~and~~
3. A patchwork of vegetation of varying types, with the proportion of native vegetation increasing through continued planting and regeneration; ~~and~~
4. Historic and cultural heritage values, including the presence of Sites and Areas of Significance to Māori, notable trees, and heritage structures.

313. HS7-OSR-Rec39: That WTBZ-O2 is amended as outlined below and detailed in Appendix A.

WTBZ-O2 Managing effects

Adverse effects of activities and development undertaken in the Wellington Town Belt Zone are managed effectively within the zone and at the zone interface and surrounding area.

314. HS7-OSR-Rec40: That submission points relating to WTBZ objectives are accepted/rejected as detailed in Appendix B.

Policies

Matters raised by submitters

WTBZ-P2

315. Wellington Civic Trust [388.110 and 388.111] considers that WTBZ-P2 does not recognise the need to consider internal compatibility between activities within the Zone and should be amended. They seek WTBZ-P2 is amended as follows:

WTBZ-P2 (Managed activities) as follows:

Only allow other activities to establish in the Wellington Town Belt Zone where it can be demonstrated that they are compatible with the purpose and values of the zone, having particular regard to whether:

...

4. Any adverse residential amenity effects will be minimised.

5. Adverse effects between activities are able to be avoided or limited to an appropriate level

WTBZ-P3

316. Taranaki Whānui ki te Upoko o te Ika [389.129] seeks clarification of how policy WTBZ-P3 role in achieving WTBZ-O3.

Assessment

WTBZ-P2

317. I disagree with Wellington Civic Trust [388.110 and 388.111] as I consider that compatibility of activities is already explicit in WTBZ-P2, which informs the permitted activities enabled by the WTBZ rules. For those activities not provided for by the permitted rules, the discretionary activity status provides an appropriate level of discretion for decision-making on resource consent applications.

WTBZ-P3

318. In response to Taranaki Whānui ki te Upoko o te Ika [389.129] in my opinion policy WTBZ-P3 sets the direction on how WTBZ-O3 is to be achieved. The rules within the WTBZ in part implement the policy, along with other methods outside of the District Plan such as council undertaking early engagement with mana whenua on management and development of the WTB, in accordance with management plan.

Summary of recommendations

319. HS7-OSR-Rec41: That WTBZ policies are retained as notified.
320. HS7-OSR-Rec42: That submission points relating to WTBZ policies are accepted/rejected as detailed in Appendix B.

Rules

Matters raised by submitters

WTBZ-R6

321. Wellington Civic Trust [388.112 and 388.113] considers that the construction and alteration (including extensions) of new footpaths and tracks should not be permitted activities. WTBZ-R6 should only allow for maintenance of existing such facilities, but require new such facilities to obtain consents through the default rule.
322. Craig Palmer [492.44, supported by Wellington Civic Trust [FS83.34], and 492.45, supported by Wellington Civic Trust [FS83.35]] opposes WTBZ-R6 enabling the construction of, and alterations and additions to, carparking areas and vehicle access as a permitted status activity and seeks a discretionary activity status for new footpaths and tracks with a mandatory public notification.

WTBZ-R7

323. Wellington Civic Trust [388.114 and 388.115] considers that the construction and alteration (including extensions) of car parking areas and vehicle accesses should not be permitted activities and WTBZ-R7 should only allow for maintenance of existing such facilities, but require new such facilities to obtain consents through the default rule.

WTBZ-R7 (Construction of, and alteration and additions to car parking areas and vehicle access)

WTBZ-R7: Maintenance of ~~Construction of, and alteration and additions to~~ car parking areas and vehicle accesses

1. Activity status: Permitted

324. Craig Palmer [492.46, supported by Wellington Civic Trust [FS83.36], and 492.47, supported by Wellington Civic Trust [FS83.37]] opposes WTBZ-R7 enabling the construction of, and alterations and additions to, carparking areas and vehicle access as a permitted status activity and seeks a discretionary activity status for new carparking areas and vehicle access points with a mandatory public notification.

WTBZ-R9

325. GWRC [351.313 and 351.314] supports the permitted activity status for the demolition of buildings provided that building waste is properly disposed of to give effect to Policy 34 of the operative RPS. They seek that NOSZ-R12 is amended to include a rule requirement that permitted activity status is subject to building and demolition waste being disposed of at an approved facility.

WTBZ-R11

326. Craig Palmer [492.48] seeks mandatory public notification under WTBZ-R11.

Assessment

WTBZ-R6

327. I disagree with Wellington Civic Trust [388.112 and 388.113] and Craig Palmer [492.44 and 492.45] that the construction of, or alteration and additions to footpaths and tracks should require resource consent. I consider that construction of new paths and tracks, which would be undertaken by council or persons approved by council (such as a contractor or community group) would be undertaken in accordance with the management plan for the Town Belt. I also note that there are other parts of the plan that control potential effects from use and development including earthworks, activities in Sites and Areas of Significance to Māori, and Heritage Area that are scheduled in the plan.

WTBZ-R7

328. I disagree with Wellington Civic Trust [388.114] and Craig Palmer [492.46] that the construction of, or alteration and additions to car parking areas and vehicles access should require resource consent. I consider that construction of new car parking areas and vehicles accesses, which would be undertaken by council or persons approved by council (such as a contractor or community group) would be undertaken in accordance with the management plan for the Town Belt. I also note that there are other parts of the plan that control potential effects from use and development including earthworks, activities in Sites and Areas of Significance to Māori, and Heritage Area that are scheduled in the plan, and transport.

WTBZ-R9

329. I disagree with GWRC [351.313 and 351.314] for similar reasons to those outlined in paragraph 198.

WTBZ-R11

330. I disagree with Craig Palmer [492.48] that the construction of, and alterations and additions to buildings and structures in accordance with WTBZ-R11 should require mandatory public notification regardless of the scale of adverse effects from a proposal. I consider that the Wellington Town Belt Act 2016 processes adequately provide for community consultation with respect to development on the Town Belt.

Summary of recommendations

331. HS7-OSR-Rec43: That WTBZ rules are retained as notified.
332. HS7-OSR-Rec44: That submission points relating to WTBZ rules are accepted/rejected as detailed in Appendix B.

Standards

Matters raised by submitters

333. Wellington Civic Trust [388.116] is opposed as it sets a permitted 5% building coverage standard. The submitter is unclear how this rule would apply in the Town Belt and seeks that it is deleted. The submitter notes that the maximum gross floor area (GFA) standard (maximum 30m²) would be the limiting factor and considers WTBZ-S4 to be ineffective.

Assessment

334. Whilst I generally agree with Wellington Civic Trust [388.116] that the maximum gross floor area

(GFA) standard (maximum 30m²) for a building or structure in the WTBZ will in most cases be the trigger that necessitates having to obtain resource consent, WTBZ-S4 will manage cumulative effects that could result from multiple small buildings (less than 30m²) being permitted on a site, or where there is an existing large building on a site, by triggering a discretionary activity status. I recommend retaining WTBZ-S4 as notified.

Summary of recommendations

335. HS7-OSR-Rec45: That WTBZ-S4 is retained as notified.
336. HS7-OSR-Rec46: That submission points relating to WTBZ standards are accepted/rejected as detailed in Appendix B.

3.8 Section 32AA evaluation

337. In my opinion, based on the analysis above, the amendments recommended in this report are the most appropriate way to achieve the purpose of the Act and objectives of the plan compared to the notified provisions. In particular:

a. Changes to OSZ-O3

- **Costs and benefits:** The recommended amendments will not have any greater environmental, economic, social, and cultural costs than the notified provisions. However, there will be minor cultural benefits that result from improved plan interpretation and more efficient plan administration.
- **Effectiveness and Efficiency:** The proposed relatively minor amendment to OSZ-O3 improves clarity of outcomes sought by the Plan with respect to mana whenua and the strategic direction objectives AW-O1-AW-O4. Consequently, they are more efficient and effective than the notified provisions in achieving the objectives of the PDP.

b. Changes to WTB-O1

- **Costs and benefits:** The amendments to WTBZ-O1 better recognises the historic and cultural heritage values and improves alignment with section 4(1)(b)(vii) of the Wellington Town Belt Act which results in improved cultural benefits.
- **Effectiveness and Efficiency:** The recommended amendments will improve alignment with the Wellington Town Belt and clarifies the outcomes sought by the Plan which will result in improved plan interpretation and more efficient plan administration.

c. Changes to NOSZ-R14, and new standard NOSZ-S7 relating to the Lyall Bay/Moa Point Seawall

- **Costs and benefits:** The recommended amendments will not have any greater environmental, economic, social, and cultural costs than the notified provisions. However, there will be economic and social benefits as a result of simplifying the consenting process for maintenance and upgrades of the Lyall Bay/Moa Point Seawall required to ensure the Seawall structure adequately protects regionally significant infrastructure.
- **Effectiveness and Efficiency:** The amendments relating to the maintenance and upgrade of the Lyall Bay/Moa Point Seawall required to ensure the Seawall

structure adequately protects regionally significant infrastructure simplifies the consenting process resulting in a more effective and efficient approach.

d. Changes to the definition of Informal Recreation Activities

- **Costs and benefits:** The recommended amendments will not have any greater environmental, economic, social, and cultural costs than the notified provisions. However, there will be minor economic and social benefits as result of removing consenting requirements for motor vehicle use for informal recreation, and reduced duplication between the district plan and other processes under bylaws and reserve management plans.
- **Effectiveness and Efficiency:** The proposed changes to the definition of Informal Recreation Activities reduces duplication with other processes, reduces costs associated with the preparation and processing of unnecessary resource consent applications, and compliance and enforcement. Consequently, they are more efficient and effective than the notified provisions in achieving the objectives of the PDP.

4.0 Conclusion

338. Submissions have been received in support of, and in opposition to the open space and recreation zone related provisions in the PDP.

339. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PDP should be amended as set out in Appendix A of this report.

340. For the reasons set out in the Section 32AA evaluation section of this this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:

- a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
- b. Achieve the relevant objectives of the PDP, in respect to the proposed provisions.

4.1 Recommendations

341. I recommend that:

- a. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report; and
- b. The PDP is amended in accordance with the changes recommended in Appendix A of this report.

5.0 Appendices

Appendix A: Recommended Amendments to the Open Space and Recreations zone's Chapters

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the PDP is underlined.
- Text recommended to be deleted from the PDP is ~~struck through~~.

Appendix B: Recommended Responses to Submissions and Further Submissions on Open Space and Recreations zone's Chapters

**Appendix C: Wellington City Council. Internal Memorandum on
Huntleigh Park/Kilmarston Development – Ngaio. 2017.**