

Wellington City Proposed District Plan

ISPP wrap up and integration hearing

Part 1: Definitions nesting tables, general and omitted submissions, advice, and requests of minute 29.

Section 42A of the Resource Management Act 1991

Document Information

REPORT FOR: Independent Hearings Commissioners

SUBJECT: Wellington City Proposed District Plan – ISPP
Wrap up Hearing – Part one

PREPARED BY: Adam McCutcheon

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DATE OF HEARING: 19 September 2023

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Executive Summary

1. This report has two parts.
2. Part one addresses the following matters:
 - a. Definitions nesting tables;
 - b. General submission points and those that should have been addressed in earlier hearings, but which were omitted; and
 - c. Advice on matters requested by the panel in minute 29 and raised by submitters as enabled by Minute 27 paragraph 9.
3. Part two addresses the revised Residential and Commercial and Mixed Use Design guides which have been through significant revision with the involvement of expert witnesses.
4. Both reports:
 - a. Discuss the issues;
 - b. Consider the original and further submissions received;
 - c. Make recommendations as to whether those submissions should be accepted or rejected; and
 - d. Conclude with a recommendation for any consequential changes to the plan provisions or maps.
5. Given this is a 'wrap up' report, it addresses the new key issues, as well as any other relevant issues raised in the submissions. Where matters have already been addressed in an earlier S42A report, the relevant paragraphs of that document are referenced, and no further assessment undertaken.
6. The report includes recommendations to address matters raised in submissions as to whether the provisions in the Proposed District Plan relating to these matters should be retained as notified, amended, or deleted in full.
7. Appendix A of this report details officers' recommendations on submissions, and whether those submissions should be accepted or rejected. The body of this report should be consulted for reasoning.
8. Appendix B contains the nesting tables developed as per my recommendation in hearing stream 1.
9. Appendix C contains the 'Style guide' used to help inform the drafting of the plan. This was an internal working document intended to promote consistency of drafting styles.

10. Appendix D contains an approval form required by Wellington International Airport Limited under section 176(1)(b) to penetrate its obstacle limitation surface designation.
11. Appendix E contains a letter from WIAL's Planning Manager explaining its regulation of the Obstacle Limitation Surface (OLS) designation and approvals process for OLS penetration.
12. For the reasons set out in the Section 32AA evaluation and included in this report, the proposed objectives, and associated provisions, with the 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.

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	Wellington City Council
the ODP/ODP	Operative Wellington City District Plan
the Proposed Plan/PDP	Proposed Wellington City District Plan
GWRC	Greater Wellington Regional Council
NES	National Environmental Standard
NES-AQ	National Environmental Standards for Air Quality 2004
NES-CS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-ETA	National Environmental Standards for Electricity Transmission Activities 2009
NES-FW	National Environmental Standards for Freshwater 2020
NES-MA	National Environmental Standards for Marine Aquaculture 2020
NES-PF	National Environmental Standards for Plantation Forestry 2017
NES--SDW	National Environmental Standards for Sources of Drinking Water 2007
NESTF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
NPS-UD	National Policy Statement on Urban Development 2020
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement 2010
PNRP	Proposed Wellington Natural Resources Plan (Decisions Version) 2019
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
Argosy	Argosy Property No. 1 Limited
CentrePort	CentrePort Limited
Dept of Corrections	Ara Poutama Aotearoa the Department of Corrections
DOC	Department of Conservation Te Papa Atawhai
FENZ	Fire and Emergency New Zealand
Foodstuffs	Foodstuffs North Island Limited
Forest and Bird	Royal Forest and Bird Protection Society
Gen Zero	Generation Zero Wellington
Brooklyn residents association	Greater Brooklyn Residents Association Inc's
GWRC	Greater Wellington Regional Council
Heritage NZ	Heritage New Zealand Pouhere Taonga
House Movers Association	House Movers section of the New Zealand Heavy Haulage Association Inc
Investore	Investore Property Limited
JCA	Johnsonville Community Association
Kāinga Ora	Kāinga Ora
Kilmarston Companies	Kilmarston Developments Limited and Kilmarston Properties Limited
KiwiRail	KiwiRail Holdings Limited
Meridian	Meridian Energy Limited
MHUD	Ministry of Housing and Urban Development
MoE	Ministry of Education
NZDF	New Zealand Defence Force
Oil companies	Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Limited
Oranga Tamariki	Oranga Tamariki – Ministry of Children
Powerco	Powerco Limited
Property Council	Property Council of New Zealand
Retirement Villages Association	Retirement Villages Association of New Zealand Incorporated
Southern Cross	Southern Cross Healthcare Limited
Stride	Stride Investment Management Limited
Taranaki Whānui	Taranaki Whānui ki te Upoko o te Ika a Maui
Telcos	Chorus New Zealand Limited (Chorus), Spark New Zealand Trading Limited (Spark) and Vodafone New Zealand Limited (Vodafone)
Transpower	Transpower New Zealand Ltd
VUWSA	Victoria University of Wellington Students' Association
Waka Kotahi	Waka Kotahi NZ Transport Agency
WCC ERG	WCC Environmental Reference Group
WELL	Wellington Electricity Lines Limited
WIAL	Wellington International Airport Limited
Woolworths	Woolworths New Zealand Limited

In addition, references to submissions includes further submissions, unless otherwise stated.

1.0 Introduction

1.1 Purpose

13. This report is prepared under section 42A of the Resource Management Act 1991 (the **RMA**) to:
 - a. Assist the Independent Hearings Panel (IHP) in their role as Independent Commissioners in making their recommendations 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.
14. The scope of this s42A report has been directed by [Minute 27 of the Independent Hearings Panel](#).
15. The report is separated into the following two sections:
 - a. Part one – Overview and General Matters
 - b. Part two – Design Guides
16. Part one addresses the following matters:
 - a. Definitions nesting tables;
 - b. General submission points and those omitted from earlier hearings; and
 - c. Advice on matters requested by the panel in minute 29 and raised by submitters as enabled by Minute 27 paragraph 9.
17. Part two addresses the revised design guides which have been through significant revision with the involvement of expert witnesses.
18. Both reports:
 - a. Discuss the issues;
 - b. Consider the original and further submissions received;
 - c. Make recommendations as to whether those submissions should be accepted or rejected; and
 - d. Conclude with a recommendation for any consequential changes to the plan provisions or maps.

19. These reports are intended to be read in conjunction with the Section 42A Overview Report¹, which sets out the statutory context, background information and administrative matters pertaining to the District Plan review and plan.
20. The Hearings Panel may choose to accept or reject the conclusions and recommendations of these reports or may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.

1.2 Authors and Qualifications

21. There are two authors for this s42A report, Adam McCutcheon and Anna Stevens.

1.2.1 Part one author and qualifications

22. My full name is Adam Michael McCutcheon.
23. I am a Team Leader in the District Planning Team at Wellington City Council (the Council).
24. My role in preparing this report is that of an expert in planning.
25. I hold the qualifications of Master of Planning with Distinction and Bachelor of Arts (Geography) from the University of Otago.
26. I am an Intermediate Member of the New Zealand Planning Institute and have served for three years as a member of Wellington Branch Committee.
27. I have eight years' experience in planning and resource management.
28. I have had policy roles at the Dunedin City Council, and Ministry for the Environment prior to joining the Wellington City Council. In these roles I have been responsible for the development and implementation of national and local level planning policy and providing advice to Government Ministers and Councillors.
29. I have been involved with the district plan review process since joining the District Planning Team in 2019.
30. I have been involved in the development of the Spatial Plan and Draft District Plan since their initial drafting, participating in engagement and helping refine their proposals.
31. I led Council processes to have the PDP approved for notification and provided advice on amendments.
32. I have led the drafting of new chapters for historic heritage, notable trees, sites and areas of significance to Māori.

¹ [Section 42A - Overview Report](#)

33. I drafted the section 32 reports for these topics. I have assisted in the drafting and peer reviewed several chapters in the plan.
34. I was the reporting officer for the hearing streams devoted to the strategic directions, historic heritage, notable trees, sites and areas of significance to Māori chapters of the plan and their schedules.

1.2.2 Part two author and qualifications

35. My full name is Anna Stevens.
36. I am a Team Leader in the District Planning Team at Wellington City Council (the Council).
37. I hold the qualification of Master of Planning and Bachelor of Arts (Geography and Psychology) from the University of Otago. I am an Intermediate Member of the New Zealand Planning Institute and have served for five years as a member of Wellington Branch Committee.
38. I have seven years' experience in planning and resource management. I had policy roles at Bay of Plenty Regional Council, Harrison Grierson and Boffa Miskell (including a secondment to Department of Corrections) prior to joining the Wellington City Council. In these roles I have been responsible for the preparation and lodgement of resource consent applications, providing general planning and feasibility advice under various district plans and processing private plan change as a consultant Council officer.
39. I have been involved with the District Plan Review since joining the District Planning Team in 2019.
40. I have been involved with the development of the Spatial Plan and Draft District Plan since their initial drafting. I was involved in community engagement, and helped refine the provisions in the lead up to notification of the PDP.
41. I have led the drafting of new chapters for City Centre Zone, Te Ngākau Civic Square Precinct, Viewshafts, Wind, Special Purpose Hospital Zone and Special Purpose Tertiary Education Zone. I have assisted in the drafting of the Special Purpose Waterfront Zone, Special Purpose Port Zone, Inner Harbour Port Precinct, Multi-User Ferry Precinct, Special Purpose Stadium Zone, Temporary Activities chapter and Signage chapter and peer reviewed other chapters in the plan.
42. I prepared the section 32 reports for the Wind topic, City Centre Zone, Te Ngākau Civic Square Precinct, Special Purpose Waterfront Zone and Special Purpose Stadium Zone.

1.2.3 Supporting Evidence

43. The expert evidence which I have used or relied upon in support of the opinions expressed in this report is as follows:
 - a) Expert evidence of Dr Farzad Zamani with respect to Urban Design Guides.

44. The expert evidence statements can be found online at: <https://wellington.govt.nz/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/hearings-information>

1.3 Procedural Matters

45. [Minute 15](#) of the Independent Hearings Panel directed that the Residential and Commercial and Mixed Use Design Guides be subject to further work by way of joint conferencing with urban designers.
46. The process and methodology followed to revise the design guides is outlined in part two of this S42A report, authored by Anna Stevens.

1.4 Code of Conduct

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

2.0 Background and Statutory Considerations

2.1 Plan making processes followed

50. As detailed earlier in the section 42A Overview Report, the Council has chosen to use two plan review processes:
- a) The Intensification Streamlined Planning Process (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 Schedule 1 process of the RMA is used. Part 1 Schedule 1 provisions can be appealed.

2.2 Section 32AA

51. We have undertaken an evaluation of some recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA.
52. 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).

53. The required section 32AA evaluation for changes proposed because of consideration of submissions with respect to the topics of this report is contained within the assessment of the relief sought in submissions, as required by s32AA(1)(d)(ii).
54. 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. Additionally, further re-evaluation has not been undertaken if the recommended amendments have not materially altered the policy approach.

2.3 Trade Competition

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

Part one - Definitions nesting tables, general and omitted submissions, advice, and requests of minute 29

3.0 Consideration of Submissions and Further Submissions

57. 132 submitters have original and further submission points contained within the table appended to [Minute 27](#).

3.1 Format for Consideration of Submissions

58. Many of the matters in this wrap up hearing and appended to Minute 27 have already been addressed at length and recommendations made in earlier hearings.
59. Given this, this s42A report therefore references paragraphs in earlier s42A reports as relevant for reasons for acceptance or rejection of submissions.
60. Where the yet to be considered submission point raises new or substantial issues not previously addressed, additional assessment has been undertaken within the body of this report.
61. In accordance with Clause 10(3) of the First Schedule of the RMA, the following evaluations have been undertaken for the purposes of this report:
- a) An issues and provisions, versus submission by submission, based evaluative approach, where many similar submissions have been received.
 - b) A submission-by-submission evaluative approach, where a small number of submissions have been received.
62. For those provisions or matters where there are numerous submission points, the evaluation is generic only and may not contain specific recommendations on each submission point, but instead discusses the issues generally. This approach is consistent with Clause 10(2)(a) of Schedule 1 to the RMA.
63. The table attached to Minute 27 is appended at Appendix A to this s42A report and provides specific recommendations on each submission / further submission point.
64. The following evaluation should be read in conjunction with the summaries of submissions and further submissions, along with the full submissions.
65. Recommendations in relation to further submissions reflect the recommendations made on relevant primary submissions.

4.0 Definitions

4.1 Duplicate and omitted submissions

4.1.1 Maintenance and repair

4.1.1.1 Matters raised by submitters

Retain as notified

66. Historic Places Wellington [182.6], Waka Kotahi [370.24], CentrePort Limited [402.16] and KiwiRail Holdings Limited [412.17] seeks that the definition of ‘maintenance and repair’ is retained as notified.

Amend

67. Heritage New Zealand [70.5 and 70.6] supports the definition for ‘maintenance and repair’ but seeks amendment to add ‘heritage building’.

68. Wellington City Council [266.56] seeks that the definition of ‘maintenance and repair’ is amended with respect to windows.

69. Transpower New Zealand Limited [315.23 and 315.24] seeks that the definition of ‘maintenance and repair’ is clarified that clause ‘a.’ and ‘b.’ do not apply to the Infrastructure Chapters.

70. The Heritage Professionals seek amendment in relation to structural elements, windows, and surface treatment.

4.1.1.2 Assessment

71. The definition as it relates to built heritage, buildings in the character precincts and across the city more generally has been addressed in hearing streams 2 and 3.

72. The definition as it relates to infrastructure will be dealt with in hearing stream 9.

4.1.1.3 Summary of recommendations

73. **WUP1-Rec1:** That submissions on the definition of ‘maintenance and repair’ are accepted/rejected/deferred for consideration as detailed in Appendix A.

4.1.2 Streetscape

4.1.2.1 Matters raised by submitters

74. Waka Kotahi [370.36] seeks that the definition of ‘streetscape’ is retained as notified.

4.1.2.2 Assessment

75. The definition of ‘streetscape’ is relevant for application of the definition of ‘character’ as it relates to the character precincts.

76. There is no scope through submissions to amend this definition and accordingly it must be confirmed as notified.

4.1.2.3 Summary of recommendations

77. **WUP1-Rec2:** That the definition of 'streetscape' is confirmed as notified.

78. **WUP1-Rec3:** That submissions on the definition of 'streetscape' are accepted/rejected/deferred for consideration as detailed in Appendix A.

4.1.3 Waterbody

4.1.3.1 Matters raised by submitters

79. Tyers Stream Group [221.6] seeks that the Tyers Stream from the junction of Delhi and Karachi Crescents is a 'waterbody' under the RMA definition and considers it unclear from the definition of 'waterbody'.

4.1.3.2 Assessment

80. This is a matter of interpretation and application of the definition. I consider that the broader stream is a waterbody.

81. No changes can be made to the definition as it is from the national planning standards. Accordingly, it must be confirmed as notified.

4.1.3.3 Summary of recommendations

82. **WUP1-Rec4:** That the definition of 'streetscape' is confirmed as notified.

83. **WUP1-Rec5:** That submissions on the definition of 'streetscape' are accepted/rejected/deferred for consideration as detailed in Appendix A.

4.1.4 Ahi Kā

4.1.4.1 Background and matters raised by submitters

84. I agreed with Taranaki Whānui [389.26] that a glossary term for ahi kā be added to the PDP (para 702 of my [S42A report](#)).

85. I further stated in my HS1 Right of Reply ([para 73 ROR](#)) that if the timeframe is agreeable to mana whenua, that this be developed in time for the wrap-up hearing.

4.1.4.2 Assessment

86. On reflection, given this is a P1Sch1 matter and in light of other work required on the IPI, I consider it better to defer this matter to provide time for both mana whenua partners to participate in this discussion. Council's Senior Advisor RMA iwi Partnerships has advised that developing this glossary term is not a priority at present, such that a longer timeframe to develop the term following tikanga is preferable.

4.1.4.3 Summary of recommendations

87. **WUP1-Rec6:** That the glossary term for ahi kā be developed for the P1Sch1 wrap up hearing in 2024.

4.2 Nesting Tables

4.2.1.1 Background and matters raised by submitters

88. The intention of the nested tables is to aid interpretation and demonstrate the relationships between higher and lower order definitions.
89. In Hearing Stream 1 I recommended that nesting tables be developed for the PDP considering that there appeared to be general support to include them. Para 740 of my [s42A report](#) identified these submissions. I consider them useful to aid interpretation and recommended they be developed (HS1-Rec117).
90. I confirmed in my Right of Reply for that hearing stream that they would be produced for the wrap up hearing (HS1 Right of Reply, para 131).
91. Nesting tables have accordingly been produced for consideration by submitters and the Panel. They are an interpretation aid to demonstrate the full range of activities which are captured by a broader term. For example, 'Integrated Retail Activities' have been nested under 'Commercial Activities' as they are a specific form of commercial activity. In the policy and rule framework of the plan, where the broader term is used, the narrower term is captured, unless an exception to the broader term is included or the narrower term is specifically addressed.
92. I do not relitigate recommendations I have made earlier, such as my recommendation that retirement villages should be considered residential activities ([para 73 ROR](#)) at a high level. I have not sought to change the meaning or relationship between terms; however, submitters can assist in identifying if I inadvertently have.
93. The appended nesting tables account for the definitions included in chapters heard until now. I acknowledge that these amendments may not be retained by the time the ISPP hearing stream chapters become operative, and I have used alternative colouring of text and guidance where necessary to distinguish definitions that are from the PDP as notified, and those that have been added, amended, or removed through this process.
94. Format wise, I note that the ePlan can add 'pop-up' boxes where definitions are included within the text of another. For example, the defined terms within the definition of 'contributing buildings and structures' (identified in red in figure 1 below) can be made formatted to be blue in colour and appear as pop-up boxes when clicked.

CONTRIBUTING BUILDINGS AND STRUCTURES	means buildings and structures that contribute to the heritage values of a heritage area and have not otherwise been identified as a heritage building, heritage structure or non-heritage building or structure.
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Figure 1: Example how definitions pop-up boxes can be added

95. I suggest officers make these minor and technical amendments in the version of the ePlan to be presented to Councillors for decisions.

4.2.1.2 Assessment

96. Nesting tables have been prepared and attached at Appendix B.

97. These should be inserted as a new chapter within the ‘Interpretation’ section of the ePlan and definitions pop up boxes be added.

4.2.1.3 Summary of recommendations

98. **WUP1-Rec7:** That the nesting tables attached at Appendix B are confirmed and inserted into the ‘Interpretation’ section of the PDP.

5.0 General Submissions

5.1.1 General support for the plan or supporting material

5.1.1.1 Matters raised by submitters

99. Many submission points note general support or support in part for the PDP and background material [139.1, 352.1, 404.1, 405.1, 409.5, 425.2, 470.1, 123.2, 176.1].

5.1.1.2 Assessment

100. These submission points are general in nature, largely supporting the PDP and background material, such that they cannot be tagged to specific provisions.

101. I acknowledge these submissions.

102. I do not consider any changes are required because of these submission points.

5.1.1.3 Summary of recommendations

103. **WUP1-Rec8:** That no changes are made to provisions because of general support submission points.

104. **WUP1-Rec9:** That submission points of general support are accepted/rejected as detailed in Appendix A.

5.1.2 General opposition

5.1.2.1 Matters raised by submitters

105. Several submission points note general opposition or opposition in part for the PDP and one for the MDRS [52.2, 52.3, 213.2, 213.3, 213.4, 448.3, 115.1, 192.1 192.7].

5.1.2.2 Assessment

106. These submission points are general in nature, largely opposing the complexity of the PDP, such that they cannot be tagged to specific provisions.

107. I acknowledge these points and that the PDP covers a wide range of complex matters. Complexity is difficult to avoid given the necessity for technical language. Efforts have been made to use plain English where possible.

108. Other submission points relate to the customer service approach of the Council. While I agree that good customer service is important for the Council, this ultimately is not a PDP matter.

109. Submissions on implementing the MDRS are addressed in the [Hearing stream 1 – Section 42a Report, section 4.2 'Growth approach to intensification'](#) as well as the [hearing stream 2 s42A report](#).

110. I do not consider any changes are required because of these submission points.

5.1.2.3 Summary of recommendations

111. **WUP1-Rec10:** That no changes are made to provisions because of general opposition submission points.

112. **WUP1-Rec11:** That submission points of general opposition are accepted/rejected as detailed in Appendix A.

5.1.3 General support or opposition for other submissions

5.1.3.1 Matters raised by submitters

113. Several submission points note general opposition or opposition for other submitters. Those supporting other submitters include: [420.8, 420.9 (supported by FS111.56), 479.6, 29.1, 118.1, 143.2, 143.3, 156.1 (supported by FS69.66), 182.1, 186.2 (supported by FS68.20), 190.2, 200.2, 242.1, 305.1, 305.2, 316.1, 321.2, 321.4, 328.1, 328.2, 336.2 (supported by FS68.34), 341.1, 346.1, 368.1 (supported by FS111.207), 417.1, 417.2, 418.1, 430.2, 434.3, 440.1, 457.1, 461.1, 478.1, 479.1, 497.1].

114. Further submitters Gareth and Joanne Morgan [FS38.24] opposes the parts of Kāinga Ora's submission that seek to amend or remove the Character Precincts in Oriental Bay.

115. Thorndon Residents' Association Inc [FS69.13] oppose much of the submission of Kāinga Ora, including [391.318] which seeks to delete Objective UFD-08 and rejects its recognition of “special character” at the strategic level of the Plan.

5.1.3.2 Assessment

116. I note these submission points regarding other submissions. The submissions they relate to have been and will be assessed according to the various points within the relevant hearing stream.
117. Given that some aspects of essentially all submissions have been accepted to some extent by reporting officers in earlier hearings, these submissions are accepted in part.

5.1.3.3 Summary of recommendations

118. **WUP1-Rec12:** That no changes are made to provisions because of general support or opposition to other submission points.
119. **WUP1-Rec13:** That submission points of general support or opposition to other submission points are accepted/rejected as detailed in Appendix A.

5.1.4 Submissions on process matters

5.1.4.1 Matters raised by submitters

120. Kay Larsen [447.1] considers that the summary of submissions on the Draft District Plan was insufficient.
121. Grant Birkinshaw [52.1] considers that the form for public consultation does not provide the detail of what is written when printed out.
122. Matthew Gibbons [148.1] considers that the submissions process favours established Wellington residents who have time and do not personally experience most of the disadvantages of not allowing densification. A similar submission was made by VicLabour [414.1].
123. Sophie Kahn [161.1 (supported by Ian Attwood FS16.10 and Sarah Cutten and Matthew Keir FS91.25)] seeks that a commissioner capable of understanding a Jewish perspective be appointed to the hearings panel for the PDP.
124. Chris Howard [192.4 - 192.6] seeks that debate on the PDP is impartial and driven by merit, that further public consultation is undertaken, and the spatial plan is updated to ensure compliance with the RMA with further analysis and documentation instead of the PDP as notified. A similar submission was made by Richard Murcott [322.2].
125. Regan Dooley [239.2] seeks better resourcing for Council officers related to the submissions.
126. GWRC [351.2] supports section 32 reports.

127. Hilary Watson [321.3] considers that submissions from the public on Spatial Plan and the District Plan and advice from officers to Councillors was disregarded by just over half of councillors.
128. Lorraine and Richard Smith [230.3] and Alan Fairness [242.5] seek that the PDP is evaluated against the newly suggested objectives. Elizabeth Nagel [368.5] and Paul Gregory Rutherford [424.4] seek that the plan be more rigorously tested.

5.1.4.2 Assessment

129. I disagree with Kay Larsen [447.1] that the summary of submissions on the Draft District Plan was insufficient. The process followed to analyse submissions on the Draft District Plan and respond to them if appropriate through the PDP is outlined in the [S42A Overview Report](#). All submissions were considered in detail in the refinement of the DDP provisions for the PDP. See the [Historic Heritage s32 report](#) pages 109 onwards as an example.
130. In response to Grant Birkinshaw [52.1], Mr Birkinshaw's submission was received successfully and if needed officers can assist in printing out submissions for him.
131. I disagree with Matthew Gibbons [148.1] that the submissions process favours established Wellington residents who have time and do not personally experience most of the disadvantages of not allowing densification. All residents of the city have equal opportunity to lodge a submission. The Council also made available a 'Friend of submitter' to assist the community, particularly those with limited experience and time. I add that for VicLabour, the Council and decision makers have a responsibility to sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of *future generations* (emphasis added). [HS1 - Section 4.2 'Growth approach of intensification'](#) also addresses this matter.
132. With respect to Sophie Kahn [161.1 (supported by Ian Attwood FS16.10 and Sarah Cutten and Matthew Keir FS91.25)] who seeks that a commissioner capable of understanding a Jewish perspective – the Panel holds a wide variety of skills and experience and can understand a wide range of perspectives. One of the purposes of the public process of plan development is to ensure a wide range of perspectives is brought to bear on the plan.
133. In relation to Chris Howard [192.4 - 192.6] and Richard Murcott [322.2], I agree that debate on the PDP should be driven by merit. I do not agree that further public consultation is undertaken given that the process followed meets the requirements of Schedule One of the Act. In respect of the Spatial Plan, I agree that it is desirable that it be updated to reflect the outcomes of the PDP in respect of some aspects after the PDP is settled. This needs to be considered in the light that the Spatial plan is a 30 year horizon document and will be reviewed periodically. The Spatial Planning Act and future development of Regional Spatial Strategies will also likely influence the development of future Spatial Plans.

134. I appreciate Mr Dooley's [239.2] encouragement that Council officers have sufficient resourcing to undertake analysis of submissions but note that this is not related to the provisions of the PDP.
135. I acknowledge the GWRC's [351.2] support of the section 32 reports released alongside notification of the PDP.
136. Hilary Watson's [321.3] submission point is a statement better directed towards Councillors and is not a submission on the provisions of the PDP.
137. In respect of Lorraine and Richard Smith [230.3], Alan Fairness [242.5], Elizabeth Nagel [368.5] and Paul Gregory Rutherford [424.4], this is part of the section 32AA process for any changes post notification. In addition, a panel of experienced hearings commissioners is responsible for thoroughly testing the proposals of submitters and the Council. I expect this delivers the relief sought.

5.1.4.3 Summary of recommendations

138. **WUP1-Rec14:** That no changes are made in response to submissions on process.
139. **WUP1-Rec15:** That submission points on process are accepted/rejected as detailed in Appendix A.

6.0 Duplicated or omitted submissions

6.1.1 Relocated buildings

6.1.1.1 Matters raised by submitters

140. The House Movers Association seeks that relocated buildings are treated no different from those constructed on site and reflect the New Zealand Heavy Haulage Association Inc v The Central Otago District Council (Environment Court, C45/2004, Thompson EJ presiding). [485.1, 485.2, 485.3, 485.4].

6.1.1.2 Assessment

141. I agree with the submitter and note that the rules and standards for buildings and structures are intended to treat relocated and buildings constructed on their sites in the same way.

6.1.1.3 Summary of recommendations

142. **WUP1-Rec16:** That no changes are made in response to submissions on relocated buildings.
143. **WUP1-Rec17:** That submission points on relocated buildings are accepted/rejected as detailed in Appendix A.

6.1.2 Notification

6.1.2.1 Matters raised by submitters

144. Kāinga Ora [391.6] - Supports the preclusion of public notification for activities under Restricted Discretionary status.
145. Kāinga Ora [391.8] (Supported by Stride Investment Management Limited [FS107.35] and Investore Property Limited [FS108.35]) - Seeks that the preclusion of limited notification is applied beyond a development site, for breaches such as outdoor living space infringements.
146. Josephine Smith [419.3] (Supported by Lower Kelburn Neighbourhood Group [FS123.32], opposed by The Retirement Villages Association [FS126.112] and Ryman Healthcare Limited [FS128.112]) - Seeks that the Proposed District Plan is amended to make greater provision for limited notification (as opposed to non-notification) in relation to light, shading, privacy and wind effects so as to enable and support fair and reasonable compromises between neighbours.
147. The Urban Activation Lab of Red Design Architects [420.2] (Opposed by Kāinga Ora – Homes and Communities [FS89.161], supported by Historic Places Wellington Inc [FS111.49] and Lower Kelburn Neighbourhood Group [FS123.28]) AND The Urban Activation Lab of Red Design Architects [420.3] (Supported by Historic Places Wellington Inc [FS111.50] and Lower Kelburn Neighbourhood Group [FS123.29]) AND The Urban Activation Lab of Red Design Architects [420.4] (Supported by Historic Places Wellington Inc [FS111.51] and Lower Kelburn Neighbourhood Group [FS123.30]) seeks that the PDP needs to be amended to make greater provision for limited notification (as opposed to non-notification) in relation to shading, light and privacy so as to enable and support fair and reasonable compromises between neighbours.
148. Alan Fairless [242.11] (Opposed by The Retirement Villages Association [FS126.1] and Ryman Healthcare Limited [FS128.1]) seeks that the PDP includes greater provisions for limited notification (as opposed to non-notification) in relation to light, shading, privacy, and wind effects.

6.1.2.2 Assessment

149. These submission points have already been addressed by the relevant reporting officer. Given this, no further assessment has been undertaken and the relevant recommendation within the earlier S42A is identified in Appendix A.

6.1.2.3 Recommendations

150. **WUP1-Rec18:** That no changes are made in response to submissions on notification.
151. **WUP1-Rec19:** That submission points on notification are accepted/rejected as detailed in Appendix A.

6.1.3 Waste

6.1.3.1 Matters raised by submitters

152. Michelle Rush [436.1] seeks that the plan provisions enable the collection and processing of recycled waste at smaller scale, in more places, as a controlled activity.
153. Amos Mann [172.8] seeks that waste is minimised and designed out of construction projects, and that resource recovery infrastructure is put in place to manage any remaining waste.

6.1.3.2 Assessment

154. I consider it appropriate that refuse and recycling facilities are treated as heavy industrial activities given the potential for adverse effects (noise, dust, traffic movements, odour, amenity) incompatible with the receiving environment. Accordingly, this relates to only a few specific locations where such an activity is envisaged by the plan.
155. It is difficult to understand the scale of such an activity as no examples are provided. I note that depending on the environment that this activity occurs there are Discretionary or Non-complying Activity consenting pathways.
156. In respect of Amos Mann, opportunities to design waste out of construction projects sits outside of the district plan and to a large extent is reliant on other Council and Central Government interventions e.g. waste minimisation fund and legislation.

6.1.3.3 Recommendations

157. **WUP1-Rec20:** That no changes are made in response to submissions on waste.
158. **WUP1-Rec21:** That submission points on waste are accepted/rejected as detailed in Appendix A.

6.1.4 Levy for civic spaces

6.1.4.1 Matters raised by submitters

159. James Barber [56.1] seeks that a levy is introduced on property developers to contribute to civic spaces with densification.

6.1.4.2 Assessment

160. This submission point is not related to a specific PDP provision. I note that development contributions have such a function. The proposals for 'City Outcome Contributions' have a similar effect.

6.1.4.3 Recommendations

161. **WUP1-Rec22:** That no changes are made in response to submissions on a civic levy.
162. **WUP1-Rec23:** That submission points on waste are accepted/rejected as detailed in Appendix A.

6.1.5 Visitor accommodation/student housing

6.1.5.1 Matters raised by submitters

163. AirBnB [126.1, 126.2, 126.3, 126.4] seeks that local districts and councils take the opportunity to support efforts to streamline and simplify Residential Visitor Accommodation regulation at the central government level and that a similar mechanism to the NSW Code of Conduct is employed as part of a national framework.
164. Victoria University of Wellington Students' Association [123.3] Seeks that housing and city areas should have a people-centred design.

6.1.5.2 Assessment

165. I note that AirBnB states that it supports the approach of the notified residential zones where Visitor Accommodation is a permitted activity up to 10 guests.
166. The degree and scope to which Council can influence central government regulations on Residential Visitor Accommodation is outside of the scope of the PDP process. Equally the adoption of a Code of Conduct for the short-term rental accommodation sits outside of the PDP.
167. In respect to [126.4] I agree that a standardised approach by consenting planners should be followed to assess impact on amenity from all visitor accommodation activities.
168. In respect of the Victoria University of Wellington Students' Association [123.3] no specific provisions have been identified as not delivering on 'people-centred design'. I note that the PDP seeks a wide range of outcomes including resilience, good design, a variety of housing types and increasing the prevalence of cultural narratives. I would expect these outcomes are consistent with the relief sought by the submitter.

6.1.5.3 Recommendations

169. **WUP1-Rec24:** That no changes are made in response to submissions on visitor accommodation/student housing.
170. **WUP1-Rec25:** That submission points on visitor accommodation/student housing are accepted/rejected as detailed in Appendix A.

6.1.6 Green Network Plan

6.1.6.1 Matters raised by submitters

171. Steve Dunn [288.1, 288.2] seeks to amend the plan to include the Council's Green Network Plan as an enforceable key document for greening Wellington and that the plan identifies open spaces in the City Centre.
172. Cheryl Robilliard [409.3] seeks to amend the plan to include the Wellington City Council Green Network Plan as an enforceable key document for greening Wellington.

6.1.6.2 Assessment

173. The matter of the Green Network Plan was addressed in hearing stream 4. I am of the view that the Green Network Plan being a non-statutory and unenforceable LGA document should not be incorporated by reference. Much of its ambition cannot be realised by the PDP. In my view the most effective and meaningful steps the PDP can make is through setting a strategic direction and including provisions in the plan to give effect to it.
174. The reporting officer in the s42A report for hearing stream 4 identified at [para 153](#) how the PDP does this.

6.1.6.3 Recommendations

175. **WUP1-Rec26:** That no changes are made in response to submissions on the Green Network Plan.
176. **WUP1-Rec27:** That submission points on the Green Network Plan are accepted/rejected as detailed in Appendix A.

6.1.7 Water tanks

6.1.7.1 Matters raised by submitters

177. Mt Cook Mobilised [331.2, 331.3, 331.4, 331.5] considers that:
- a) all Community Emergency Hubs should have water tanks on site;
 - b) all parks have water tanks on site unless they are within the tsunami hazard zone;
 - c) seeks that multi-unit dwellings have provisions for water tanks in their grounds, basements, or in designated separate storage areas within their building; and
 - d) that water tanks be required for all social housing complexes, particularly for new-builds.

6.1.7.2 Assessment

178. While I too value emergency preparedness, my view is that the PDP is not the most efficient or effective avenue for the relief sought.
179. Many of these matters in my opinion are more appropriately addressed through building code requirements and can be achieved through education and emergency preparedness programmes.
180. In addition, no section 32AA has been supplied for me to consider, demonstrating the logic for the intervention and assessment of options supporting the relief sought.

6.1.7.3 Recommendations

181. **WUP1-Rec28:** That no changes are made in response to submissions on water tanks.
182. **WUP1-Rec29:** That submission points on water tanks are accepted/rejected as detailed in Appendix A

6.1.8 Density

6.1.8.1 Matters raised by submitters

183. Mt Victoria Residents' Association [342.2] seeks that a new density measurement based on people per hectare be included.
184. JCA [429.3] seeks that WCC undertake independent monitoring of what happens to Wellington Property Market prices when properties are surrounded by High Density Developments over 3 storeys versus those that are not.
185. Kāinga Ora [391.743, 391.744] seeks consequential amendments for all rules to reflect the High Density Residential Development rules.
186. Willis Bond and Company Limited [416.94] seeks that Council consider the relationship between the Medium Density Residential Zone and denser zones to ensure development is not unduly restricted in denser zones by greater restrictions and Council discretion.
187. The Brooklyn Residents Association [459.2] seeks that consideration should be given to topography (supported by Lower Kelburn Neighbourhood Group [FS123.11 and FS123.14]).

6.1.8.2 Assessment

188. In response to Mt Victoria Residents' Association [342.2], the submission does not detail how or where a density measure based on people per hectare should be incorporated into the plan. Therefore, I am unable to support it. There are other drivers of density that have been included in the PDP such as the directions of Policy 3 of the NPS-UD that determine density.
189. I thank the JCA for their topic of a research project to determine the impacts of the MDRS. It is a useful suggestion for the suite of s35 of the RMA monitoring project.
190. Kāinga Ora [391.743, 391.744] and Willis Bond and Company Limited's [416.94] relief will be partially granted in the determination of eventual built form standards of lower and higher order zones where there will be transition between higher and lower density. For example, if height increases are accepted in an area of HRZ, any adjacent land zoned LCZ will need to be increased so as to avoid a scenario where commercially zoned land has less development potential enabled than residential land.
191. In respect of the Brooklyn Residents Association [459.2], the allocation of building heights and densities has been influenced by the implementation of the NPS-UD and policy 3. Topography has not been identified as a matter which would justify departure from that direction but will form part of the site specific constraints a development will need to consider in its design, and through assessment in the resource consent process.

6.1.8.3 Recommendations

192. **WUP1-Rec30:** That no changes are made in response to submissions on density.

193. **WUP1-Rec31:** That submission points on density are accepted/rejected as detailed in Appendix A.

6.1.9 RPS and regional plan

6.1.9.1 Matters raised by submitters

194. GWRC [351.1 and 351.3] seeks that any changes through the process that require S32AA evaluation should include matters in Policy FW.3 and Policy 55 of plan change 1 to the RPS as appropriate. In addition, GWRC [351.6 and 351.7] seeks that references to the 'Proposed' Natural Resources Plan be changed to remove 'Proposed' as the plan will be operative by the time the PDP is determined.
195. GWRC also ask for the 2016 Boffa Miskell natural character assessment report to be made publicly available.

6.1.9.2 Assessment

196. I agree with the latter point of GWRC, that references to the 'Proposed' Natural Resources Plan be amended to the 'Natural Resources Plan' as that document is now operative from July 2023.
197. In respect of the former point, I note that a district plan must have regard to a Proposed Regional Policy Statement (including changes) (s74 of the Act). The PDP must give effects of an RPS, only when it is operative (s75). Given this statutory test, and that the provisions the submission requests the Council undertake a s32AA assessment against are in contention through submissions on Plan Change 1 I do not consider it necessary to undertake a s32AA assessment against them to have regard to it. I note that the drafting of S32AA refers to the general requirements of S32, such that it does not heighten or increase the requirement to undertake an assessment against a change to an RPS. I invite GWRC to undertake such an assessment themselves if concerned that the reporting officers' s32AA assessments are deficient in respect of changes to the RPS.
198. I confirm that the 2016 Boffa Miskell natural character assessment report can be made available in time for hearing stream 8.

6.1.9.3 Recommendations

199. **WUP1-Rec32:** That references to the Proposed' Natural Resources Plan be changed to remove 'Proposed'.
200. **WUP1-Rec33:** That submission points on the RPS and Regional Plan are accepted/rejected as detailed in Appendix A

6.1.10 Use of Māori data

6.1.10.1 Matters raised by submitters

201. GWRC [351.4] seeks to ensure that where Māori data is used, sovereignty is upheld and data is interpreted within Te Ao Māori.

6.1.10.2 Assessment

202. This matter was dealt with by Para 125 of [hearing stream 1 right of reply](#) and hearing stream 1 HS1-Rec132.

6.1.10.3 Recommendations

203. **WUP1-Rec34:** That no changes are made in response to submissions on Māori data.
204. **WUP1-Rec35:** That submission points on Māori data are accepted/rejected as detailed in Appendix A.

6.1.11 Height limits and resource consents

6.1.11.1 Matters raised by submitters

205. Lower Kelburn Neighbourhood Group [356.1 (Supported by Historic Places Wellington Inc [FS111.158])] seeks that height limits be strictly enforced.
206. Relatedly, Mt Victoria Residents' Association [342.1] seeks that resource consents are properly enforced.
207. The Wellington Heritage Professionals [412.4] seeks that the Council investigate making resource consent fees fixed and payable up front, depending on the cost of the activities being applied for.
208. John Schiff [166.2] – seeks generic relief against increased building heights in the inner suburbs.
209. Jonathan Markwick [490.5] (Supported by Generation Zero [FS54.3]) seeks an amendment to the mapping to allow six storey high density residential buildings in Kelburn (with a viewshaft protection from the top of the cable car).
210. James Coyle [307.4] seeks that building height for all other zones apart from the CCZ and the Centres Zones be reduced by one or two storeys to be more specific to Wellington. [Inferred decision requested]
211. Ben Barrett [479.2] seeks that the Council has a dedicated customer team to support those that are leading the way in development and make it easier for them to get consent.

6.1.11.2 Assessment

212. In response to Lower Kelburn Neighbourhood Group [356.1], the purpose of the resource consent process is to establish the merits of a development proposal (including where height limits are exceeded) in the context of the policy direction of the plan. It may be that for a specific development, exceeding height limits is an acceptable outcome where designed in a way that minimises impacts on neighbouring sites and achieves a good public-private interface. There is clear national direction by way of the NPS-UD which now means increased building height and

bulk and different amenity values can be expected, especially in high growth urban environments.

213. I will also note that the City Outcomes Contribution mechanism provides a means to exceed height limits in certain zones if they enhance the amenity of the public realm.
214. Mr Schiff's [166.2] submission appears to revolve around character precincts and their extent. Given the recommendations of the reporting officer from hearing stream 2 on this matter I accept the submission in part.
215. Mr Markwick's submission point [490.5] has been addressed by the amalgam of recommendations in hearing stream 1 on walking catchments from the CCZ, around local centres and around Victoria University of Wellington (see 4.4.2.18 [hearing stream 1 S42A report](#)). This matter is also dealt with at paragraph 653 of the [Medium Density Residential Zone S42A report](#).
216. I reject Mr Coyle's submission point as no analysis has been provided as to why lowering building heights would be appropriate in the context of analysis that has been put forward by the Council and the direction of the NPS-UD. That analysis would also have to meet the more stringent qualifying matter tests.
217. I recognise that resource consent fees can be contentious and highly specific to the consent in question. The matter of resource consent fees sits outside of the PDP and is determined based on cost recovery. There are different fees depending on the activity and its notification. There are existing avenues to seek costs back from Council where statutory time limits are exceeded and reimbursement are granted for simpler consents which do not use all the deposit fees. More information can be found: [Building and resource consents - Resource consent fees - Wellington City Council](#).
218. The Council uses a variety of methods to try and streamline the resource consent process for non-experts including pre-application meetings. It is planned that the ability to automatically check development proposal details against the district plan ('resource consent check tool') will be reinstated after decisions are made on the PDP. In addition, the Council's 'Build Wellington' team plays a red-carpet function for developers in the city and supports navigating Council processes.

6.1.11.3 Recommendations

219. **WUP1-Rec36:** That no changes are made in response to submissions on height limits.
220. **WUP1-Rec37:** That submission points on height limits are accepted/rejected as detailed in Appendix A.

6.1.12 Compensation framework

6.1.12.1 *Matters raised by submitters*

221. JCA [429.4, 429.5] (Opposed by Director-General of Conservation [FS107.1] and Investore Property Limited [FS108.1]) seeks that the PDP include a compensation framework for neighbouring residents who suffer a loss of value and amenity due to nearby high density accommodation housing developments. [See original submission for further details on this framework]

6.1.12.2 *Assessment*

222. I do not agree with the JCA that there is a need for compensation for loss in amenity for existing properties or change of zoning or zone provisions. The NPS-UD sets a strong direction that amenity values will change over time to meet the diverse and changing needs of people and that this is not in of itself an adverse effect. I also note that where land has been upzoned, that landowner has been granted extra development potential, even if they have not taken it up, which is likely to correlate with higher property value, even if neighbouring sites have been developed.

6.1.12.3 *Recommendations*

223. **WUP1-Rec38:** That no changes are made in response to submissions on compensation frameworks.

224. **WUP1-Rec39:** That submission points on compensation frameworks are accepted/rejected as detailed in Appendix A.

6.1.13 Rezone / new zone

6.1.13.1 *Matters raised by submitters*

225. Conor Hill [76.3] Seeks that Takapu Valley is rezoned to allow for more housing.

226. Taranaki Whānui ki te Upoko o te Ika [389.110] Seeks that Special Purpose Zone – Māori Purpose Zone be added to the Proposed District Plan and be used as an alternative.

227. Save Our Venues [445.9] Seeks that the WCC consider creating a Special Entertainment Precinct Zone to protect existing and new music venues.

228. Conor Hill [76.1, 76.2] Seeks that the mapping is amended to provide more greenfield areas and commercial land.

6.1.13.2 *Assessment*

229. In response to Conor Hill [76.1, 76.2 and 76.3], I note that such a move would be generally inconsistent with the strategic direction of the plan and its direction to retain a compact urban form and undertake development in a way that supports a reduction in carbon emissions. Given the sufficient provision of development capacity in the PDP I do not support the submission.

230. In respect of Taranaki Whānui ki te Upoko o te Ika [389.110], who seeks that Special Purpose Zone – Māori Purpose Zone be added, this matter will be addressed in Hearing Stream 7 as it relates to the Miramar Peninsula.
231. In response to Save Our Venues [445.9], this submission point is addressed at paragraphs 101 – 107 of the [NOISE chapter S42A report](#). In summary, the reporting officers for the chapter recommend that the addition of a new Special Entertainment Precinct or an expansion of the existing Courtenay Place Noise Area (CNPA) be considered, but do not make a recommendation on the location of the SEP, or extension for the CPNA.

6.1.13.3 Recommendations

232. **WUP1-Rec40:** That no changes are made in response to submissions on new zones.
233. **WUP1-Rec41:** That submission points on new zones are accepted/rejected as detailed in Appendix A.

6.1.14 Camping

6.1.14.1 Matters raised by submitters

234. New Zealand Motor Caravan Association [314.1, 314.2] seeks that camping be recognised in the PDP as an important activity, an exemption for freedom camping in the PDP on the basis that this is dealt with through the Council bylaw(s) such that it, and campgrounds be a permitted activity in all zones.

6.1.14.2 Assessment

235. In response to New Zealand Motor Caravan Association [314.1, 314.2, 314.10, 314.11], it is not the role of the District Plan to regulate freedom camping in public spaces. I note that section 13 of the Public Places Bylaw 2022 regulates freedom camping such as on legal road and road reserves. Therefore, I do not consider that a specific reference to this is required in the PDP.
236. In respect of campgrounds – in my view these fall under the definition of ‘visitor accommodation’ as they offer services of land or buildings for visitors subject to tariffs being paid. I note this is a national planning standards definition. This groups campgrounds with motels and hotels. I consider this appropriate given the often extensive range of facilities that are commonly provided within campgrounds (for example recreation and community facilities).
237. In my view, the status for this activity (or if addressed as a ‘catch all’ any other activity) has been appropriately allocated across the zone chapters of the plan. For example, this activity will be a Discretionary activity in the rural and open space zones. There will also be other consent triggers which play a role, including for the construction of buildings and structures. Accordingly, I reject the submission.

6.1.14.3 Recommendations

238. **WUP1-Rec42:** That no changes are made in response to submissions on camping.

239. **WUP1-Rec43:** That submission points on camping are accepted/rejected as detailed in Appendix A.

6.1.15 Development design

6.1.15.1 Matters raised by submitters

240. Carolyn Stephens [344.8] and Paul Gregory Rutherford [424.14] seek that the plan be amended to encompass more new developments as controlled activities in respect to urban design.
241. Guy Marriage [407.2] seeks the addition of a mandatory Design Review Panel for all inner-city developments, 3x3 developments in the medium density residential zone, mixed use developments and centres where developments are over 3 levels.
242. Wellington City Youth Council [201.5] seeks that non-car parking be incorporated into city design such as cycle parking.
243. Ben Barrett [479.9] seeks that the PDP should better encourage the quality of urban form with density. Relatedly, he seeks that the District Plan supports safe attractive walking corridors with food growing that is cared for by Council staff [479.19].
244. Victoria University of Wellington Students' Association [123.1] seeks that the City's "identity" is promoted through prioritising affordability, accessibility, well-being, functionality, arts, nature, and public space.
245. Amos Mann [172.1] seeks that lifts in multi-storey developments are incentivised.
246. Living Streets Aotearoa [482.13, 482.19] seek design that manages the impacts of COVID-19 and opposes developers' proposals which they consider idealistic.

6.1.15.2 Assessment

247. In respect of Carolyn Stephens [344.8] and Paul Gregory Rutherford [424.14], activity statuses for new development have been thoroughly examined in the relevant hearing streams heard to date, especially streams 2 (residential) and 4 (centres). The reporting authors for those hearings have typically endorsed restricted discretionary activity statuses for new development not meeting the MDRS or standards. I concur with those authors that it is appropriate to retain discretion and the ability to reject applications that create adverse environmental outcomes.
248. In response to Guy Marriage [407.2], urban design panels have been addressed in paras 204 – 208 of Hearing Stream 3 S42A report. I agree with those recommendations.
249. In respect of Wellington City Youth Council [201.5], there are minimum cycle and micro mobility parking requirements in the plan which I envisage address the relief sought. There are no

minimum car parking requirements, and the plan contains strict controls on carparking in the city centre and centres zones.

250. I accept the submission of Ben Barrett [479.9], but only [479.19] in part, as it relates to well-designed walking corridors (in the context of public space). Food growing attended to by Council staff is not a PDP matter.
251. In respect of Victoria University of Wellington Students' Association [123.1], my commentary in 14.3 CC – Tāone Kāwana - Capital City chapter (P1 Sch1) of the [hearing stream 1 S42A report](#) addresses this matter.
252. I empathise with Amos Mann [172.1] regarding accessibility concerns. Ultimately Council is heavily constrained by section 18 of the Building Act and can only take an advocacy role in promoting accessibility reform. I note that the City Outcomes Contribution as notified recognises accessibility improvements as having public benefit.
253. In respect of Living Streets Aotearoa [482.13, 482.19] COVID-19 design responses have not formed part of the PDP, rather enduring good design outcomes, such as management of the public private interface and responding to context. Where a resource consent is required, development is assessed against these outcomes.

6.1.15.3 Recommendations

254. **WUP1-Rec44:** That no changes are made in response to submissions on development design.
255. **WUP1-Rec45:** That submission points on development design are accepted/rejected as detailed in Appendix A.

6.1.16 National direction instruments

6.1.16.1 Matters raised by submitters

256. Royal Forest and Bird Protection Society [345.383] seeks that:
- a) all zones are amended to remove any exemptions to requirements of national direction instruments, particularly the NZ Coastal Policy Statement; and
 - b) special purpose zone chapters are amended to give effect to national direction regarding Significant Natural Areas, Outstanding Features and Landscapes, and Significant Amenity Areas in line with national direction instruments, particularly the NZ Coastal Policy Statement.
257. GWRC [351.290] seeks to ensure the Special Purpose Zone 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.

6.1.16.2 Assessment

258. Neither of the submitters provided any alternative wording for me to consider how the provisions as notified do not deliver the relief sought. Given this I am unable to meaningfully understand what changes are required and reject the submissions.

6.1.16.3 Recommendations

259. **WUP1-Rec46:** That no changes are made in response to submissions on national direction.
260. **WUP1-Rec47:** That submission points on national direction are accepted/rejected as detailed in Appendix A.

6.1.17 Demolition

6.1.17.1 Matters raised by submitters

261. Kāinga Ora [391.12 (Opposed by Thorndon Residents' Association Inc [FS69.17])] seeks removal of the references of 'demolition' throughout the PDP.

6.1.17.2 Assessment

262. This matter is dealt with at para 127 of the [hearing stream 3 S42A report](#).

6.1.17.3 Recommendations

263. **WUP1-Rec48:** That no changes are made in response to submissions on the definition of demolition.
264. **WUP1-Rec49:** That submission points on the definition of demolition are accepted/rejected as detailed in Appendix A.

6.1.18 Education Facilities

6.1.18.1 Matters raised by submitters

265. The Ministry of Education [400.92] seeks that educational facilities are enabled as part of urban growth and development and are considered in any zoning changes made.

6.1.18.2 Assessment

266. I agree in principle that it is beneficial to enable educational facilities as appropriate to the relevant zone and area of the environment and invite the ministry to work with the Council to coordinate growth with the development of educational facilities.

6.1.18.3 Recommendations

267. **WUP1-Rec50:** That no changes are made in response to submissions on educational facilities.
268. **WUP1-Rec51:** That submission points on educational facilities are accepted/rejected as detailed in Appendix A.

6.1.19 Urban development authorities, infrastructure investment and regeneration opportunities

6.1.19.1 Matters raised by submitters

269. Oliver Sangster [112.1] seeks that the Council consult with Kāinga Ora and the Ministry of Housing and Urban Development over the use of powers under the Urban Development Act 2020 to acquire the Johnsonville Mall site if development of the site does not occur.
270. Peter Nunns [196.2, 196.3] seeks that appropriate resources are allocated to identifying water/wastewater/stormwater infrastructure capacity and upgrade costs, in addition to adequate resourcing. Similar views are shared by Richard Norman [247.3 and 247.4] who seeks review if a development agency is required and investigate if changes to the rating system are required to incentivise development.
271. Wellington City Youth Council [201.2] seeks that investment is made in the three waters network.
272. Taranaki Whānui ki te Upoko o te Ika [389.1] seeks the opportunity to engage with Council and stakeholders regarding future regeneration opportunities in Strathmore.
273. Wellington Civic Trust [388.1] seeks that the Council completes the unfinished work on the Wellington Waterfront Framework so that it provides greater detail for the future of the distinctive areas of the waterfront.
274. Sarah Walker [367.1] considers that a derelict building on the terrace would make a good redevelopment opportunity.
275. Trelissick Park Group's [168.1] submission about stormwater capacity is addressed by way of the comprehensive assessments of their submission points in [hearing stream 5 Three Waters s42A](#) report.
276. JCA [429.8] seeks that WCC support planned growth in Johnsonville.
277. Marilyn Head [457.2] considers that redevelopment of existing buildings should take place over construction of new buildings.

6.1.19.2 Assessment

278. Ultimately the call to engage Kāinga Ora and the Ministry of Housing and Urban Development to regenerate the Johnsonville mall site rests with Councillors.
279. It is difficult for Council to force private landowners to develop their property.

280. In my view, the powers available for a Specified Development Project (SDP) under the Urban Development Act have great potential to regenerate Johnsonville as suggested by Mr Sangster, in comparison to the Council's abilities using the Public Works Act.
281. I note that in the first instance the Council has tried to work alongside the landowner, Stride, to achieve a good outcome for the centre. At present this has not eventuated. Stride has also sought increased development potential for its sites in the PDP process. Whether increased potential will indeed serve to incentivise Stride to development its site is unknown.
282. While the establishment of a specific urban development agency, in response to Richard Norman, is not currently 'on the cards' for the Council, I note that works regarding stations, infrastructure and amenity upgrades along the proposed LGWM Mass Rapid Transit route (through Mount Victoria and Newtown) are expected to utilise the extensive powers available under the Urban Development Act 2020.
283. Significant investment in infrastructure is required to enable the development capacity provided by the PDP. The Spatial Plan attempts to set out a coordinated sequence of investment for Council, which has signalled an aspirational investment package in its annual and long term plans.
284. Work reviewing the rating system was addressed in [hearing stream 1 para 401](#).
285. In respect of Strathmore, the Spatial Plan identified this area as an 'opportunity area', in large part due to the consolidated ownership of Kāinga Ora in the suburb. I am not aware of any current or future plans by Kāinga Ora to redevelop its assets but would welcome the opportunity to enter into talks with Kāinga Ora and mana whenua as to the regeneration of this area with the settings of the PDP. Most of the influence in this conversation lies with Kāinga Ora.
286. I note the submission of Sarah Walker.
287. In respect of JCA [429.8], please see my commentary in 6.1.20 'Community facilities and bird habitats' on this matter.
288. Marilyn Head's [457.2] submission point matter is dealt with in para 431 of the [hearing stream 1 s42A report](#).

6.1.19.3 Recommendations

289. **WUP1-Rec52:** That no changes are made in response to submissions on Urban development authorities, infrastructure investment and regeneration opportunities.
290. **WUP1-Rec53:** That submission points on Urban development authorities, infrastructure investment and regeneration opportunities are accepted/rejected as detailed in Appendix A.

6.1.20 Community facilities and bird habitats

6.1.20.1 Matters raised by submitters

291. JCA [429.11] seeks that the WCC outline the specific planned investments that require further investment in facilities and infrastructure, about Indoor sports stadiums, parks, greenspace, public transport and roading.
292. Jane Szentivanyi and Ben Briggs [369.1] seeks that provisions be made in the District Plan to provide for food source and flight paths of local birds.
293. Mt Victoria Residents' Association [342.8] seeks more infrastructure and open space improvements in all suburbs.

6.1.20.2 Assessment

294. The Council is currently consulting on Te Awe Māpara - the draft Community Facilities Plan. This addresses the location, quality, and distribution of community facilities across the city. It will address the investment required to respond to the growth distribution of the PDP and population growth expected in the city.
295. While not the main intention of the significant natural area provisions, the proposals of the PDP to manage indigenous biodiversity and prevent its loss may assist in securing food sources for birds.
296. I agree with Mt Victoria Residents' Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification. The Council is starting to undertake work identifying deficits and opportunities in this space, starting with Johnsonville. It is likely the Mount Victoria element of the LGWM programme will influence the acquisition and development of open space in Mount Victoria per my response in the 'Urban development authorities, infrastructure investment and regeneration opportunities' section above.

6.1.20.3 Recommendations

297. **WUP1-Rec54:** That no changes are made in response to submissions on Urban development authorities, infrastructure investment and regeneration opportunities.
298. **WUP1-Rec55:** That submission points on Urban development authorities, infrastructure investment and regeneration opportunities are accepted/rejected as detailed in Appendix A.

7.0 Submission points seeking clarification

7.1.1.1 Matters raised by submitters

299. Wellington City Council [266.1 through 266.6] seeks that:
- a) consequential amendments are made to resolve numbering and minor spelling errors;
 - b) consequential renumbering changes are made for all inserted or deleted provisions;

- c) all references of 'Makara' are amended to 'Mākara'; and
 - d) references to 'dwelling' be changed to 'residential unit'
 - e) definition links so that they appear as pop-ups.
300. Southern Cross Healthcare Limited [380.3] seeks that a consistent formatting approach to 'healthcare facility' is taken and that full zone names are used rather than acronyms.
301. Waka Kotahi [370.3 and 370.4] seek that consequential changes are made to:
- a) convert "Access Allotment" to "Access Lot".
 - b) change "access strip" to "access lot".
302. John Wilson [453.1] seeks that the plan clarify how zones are defined in terms of distance from the centre point compared to time in minutes walked.

7.1.1.2 Assessment

303. The relief sought by WCC is editorial in nature. I accept the relief sought which can be addressed in final checks of the decisions versions of the plan by Council officers and the hearings panel.
304. I accept the relief of Southern Cross with respect to a common spelling of healthcare facilities, and recommend that 'healthcare facility' is consistently used. On the matter of zone names and acronyms – I am of the view that acronyms are sufficient and that over time as more district plans incorporate the national planning standards, they will become commonly understood.
305. I do not agree with Waka Kotahi [370.3] to remove the term 'access allotment' as it used within the definition of 'access'. I suggest instead that references to 'access lot' be changed to access allotment and 'access lot' deleted. There is only one reference in the General Rural Zone chapter.
306. Similarly, I do not agree to remove the term 'access strip', as it does not duplicate the term 'access lot' as the submitter considers but is different as these are less than five meters wide (and are not allotments per se), whereas an access lot is defined as being greater than five meters.
307. In respect of John Wilson [453.1] I clarify that where the NPS-UD directions for enabling growth 'from the edge' of a zone are implemented per Policy 3c, this is from all points of the outermost edge of the zone where it adjoins differently zoned lots.

7.1.1.3 Recommendations

308. **WUP1-Rec56:** That all references of 'Makara' are amended to 'Mākara' across the PDP.
309. **WUP1-Rec57:** That all references to 'dwelling' be changed to 'residential unit'.

310. **WUP1-Rec58:** That minor editorial amendments be made in the ePlan to address missing definition pop-ups.
311. **WUP1-Rec59:** That the definition 'healthcare facility' is consistently used across the plan in replacement of 'health care facility (with spaces).
312. **WUP1-Rec60:** The term 'access allotment' replaces the term 'access lot', which is deleted.
313. **WUP1-Rec61:** That submission points on matters of clarification are accepted/rejected as detailed in Appendix A.

8.0 Submission points for generic relief

8.1.1.1Matters raised by submitters

314. The following submitters have made generic submission points seeking recognition of their activities or general relief in accordance with their submission:
- a) Go Media Ltd [236.1]
 - b) Wellington International Airport Ltd [406.12] (supported by BARNZ [FS139.12])
 - c) New Zealand Defence Force [423.5]

8.1.1.2Assessment

315. I acknowledge and accept these submissions.

8.1.1.3Recommendations

316. **WUP1-Rec62:** That submission points seeking general relief are accepted/rejected as detailed in Appendix A.

9.0 Out of scope submission points

9.1.1.1Matters raised by submitters

317. A variety of matters were commented on including parking, road corridors, road maintenance, and elected representatives.

9.1.1.2Assessment

318. The following submissions are considered out of scope as they:
- a) Have not been made on the PDP nor its content; and
 - b) Cannot be granted relief sought by the submitter under the RMA or through the PDP.
319. Submitters are welcome to challenge my assessment and I will response in rebuttal, at the hearing or through right of reply:
- i. Alicia Hall on behalf of Parents for Climate Aotearoa - 472.1, 472.2, 472.3, 472.4
 - ii. Amanda Wang - 93.1

- iii. Amos Mann - 172.2, 172.3, 172.4, 172.5
- iv. Andrew Flanagan - 198.9, 198.10, 198.11
- v. Anne Lian - 132.1 , 132.2
- vi. Ben Barrett - 479.7
- vii. Braydon White - 146.1, 146.2, 146.3
- viii. Cheryl Robilliard - 409.4
- ix. Chris Howard - 192.2
- x. Dale Mary McTavish - 448.2
- xi. David Cadman - 398.1, 398.2, 398.3
- xii. Emma Osborne - 410.1, 410.2,410.3
- xiii. Graham Thomas Stewart - 451.1
- xiv. Henry Bartholomew Nankivell Zwart - 378.1, 378.2, 378.3
- xv. Hilary Car – 483.3
- xvi. Ingo Schommer - 133.1, 133.2, 133.3
- xvii. Interprofessional Trust - 96.1
- xviii. James Harris - 180.1, 180.2, 180.3, 180.4
- xix. John Liu - 95.1
- xx. JCA - 429.7, 429.9 and 429.10
- xxi. Matthew Tamati Reweti - 394.1, 394.2, 394.3
- xxii. Marilyn Head - 457.4
- xxiii. Mt Cook Mobilised - 331.6
- xxiv. Mt Victoria Residents’ Association - 342.3
- xxv. Oliver Sangster - 112.2
- xxvi. Olivier Reuland - 134.1, 134.2, 134.3
- xxvii. Patrick Wilkes - 173.1, 173.2, 173.3, 173.4
- xxviii. Penny Griffith - 418.2, 418.3
- xxix. Pete Gent - 179.1, 179.2, 179.3
- xxx. Peter Nunns - 196.1
- xxxi. Simon Cocks - 20.1, 20.2, 20.3, 20.4, 20.5, 20.6
- xxxii. Susan Birch - 94.1
- xxxiii. Svend Heeselholt Henne Hansen - 308.1
- xxxiv. Tim Bright - 75.1
- xxxv. Tim Brown - 97.1
- xxxvi. Wellington City Youth Council - 201.3, 201.4, 201.6
- xxxvii. Wellington Civic Trust – 388.1
- xxxviii. Wellington Heritage Professionals – 412.13, 412.14
- xxxix. Zoe Ogilvie-Burns - 131.1, 131.2, 131.3

9.1.1.3 Recommendations

320. **WUP1-Rec63:** That submission points seeking general relief are accepted/rejected as detailed in Appendix A.

10.0 Submission points deferred until a later hearing

321. The following submission points have been allocated to this wrap-up hearing but are in my view better addressed in a later hearing stream. This is because they relate to or implement the content of a later hearing which is yet to be heard.

As the submission points relate to infrastructure – Hearing Stream 9		
Transpower New Zealand Limited	315.23	Interpretation Subpart / Definitions / MAINTENANCE AND REPAIR
Transpower New Zealand Limited	315.24	Interpretation Subpart / Definitions / MAINTENANCE AND REPAIR
Waka Kotahi	370.24	Interpretation Subpart / Definitions / MAINTENANCE AND REPAIR
CentrePort Limited	402.16	Interpretation Subpart / Definitions / MAINTENANCE AND REPAIR
KiwiRail Holdings Limited	408.8	Interpretation Subpart / Definitions / MAINTENANCE AND REPAIR
As the submission point relates to Glenside west development area – Hearing Stream 6		
Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt	276.2	Other / Other / Other
As the submission point relates to rezoning open space zoned land – Hearing Stream 7		
Taranaki Whānui ki te Upoko o te Ika	389.110	Special Purpose Zones / General point on Special Purpose Zones / General point on Special Purpose Zones

11.0 Advice on plan drafting protocols followed

322. Paragraphs 11 - 16 of [Minute 27](#) asked me to provide advice on the usage of policy language by activity status.
323. The Wellington City District Plan Drafting Style Guide, dated March 2020, is attached at Appendix C.
324. The style guide was used by council officers and consultants to assist in achieving a consistent drafting approach and language. It was used to inform the drafting of the Draft District Plan, and ultimately the PDP.
325. It was not revised between 2020 and the notification of the PDP.
326. My view is that the notified PDP is *generally* consistent with the drafting protocols of the style guide, but there are observable differences to it.
327. Ideally, the style guide would have been followed strictly by all authors and any divergence from the guide identified during Council's internal pre-notification review.

328. However, there are several reasons why the notified PDP differs from the style guide. These include:

- a) The 2021 RMA Enabling Housing Supply Amendment Act introduced objectives and policies that must be directly inserted into the PDP to support the MDRS (eg MRZ-P4). These objectives and policies included language not used elsewhere within the PDP and not envisaged by the style guide;
- b) Pre-notification consultation and collaboration with industry groups (eg, utility providers) and mana whenua between the DDP and PDP resulted in preferences for specific language, tone and words to be used;
- c) The late 2020 gazettal of the NPS-UD including strong direction that the PDP must positively express or make allowance for development in specific parts of the urban environment (but not all), as well as those activities that contribute to a well-functioning urban environment;
- d) Existing national policy statements have little consistency of drafting language eg NPS-REG 2011 cf NPS-UD 2020 meaning that a specific phraseology or framing might be required for one particular part of the plan, but not for the rest.

329. Further to the table on pages 12 and 13 of the Style Guide, the table below identifies how activity statuses can share chapeaux. It also shows that policy direction can be either framed positively or directly/negatively depending on a) through c) above, as well as the framing of the strategic direction for that topic.

330. Positive or defective/negative framing is expressed through a combination of:

- a) The chapeau of a policy; and
- b) Whether the policy directs;
 - i. Compliance with a set of development responses; or
 - ii. A weighted assessment of considerations.

331. NB: References in the table below are to notified PDP provisions.

Common policy drafting language of the notified Wellington City Proposed District Plan

Activity status	Chapeau	Positively framed when used with command structure/conjunctive	Chapeau	Directive or negatively framed when used with command structure/conjunctive
Permitted	Enable	<p><i>'...Where....'</i></p> <p><i>'...That...'</i></p> <p>Positive outcomes can be demonstrated or identified.</p> <p>Eg, MRZ-P1 SASM-P2</p>	Enable	<p><i>'...Except where'.....</i></p> <p>The outcome would be identified adverse effects or the activity were to be undertaken in a specific way or affect specific features.</p> <p>Eg, HH-P3</p>
	Allow	<p><i>'...Where...'</i> a specified activity is undertaken</p> <p><i>'...where it...'</i></p> <p>Positive outcomes can be demonstrated, or standards are met.</p> <p>Eg, NH-P3 TREE-P3</p>		

	Provide for	<p><i>'...that...'</i></p> <p>Positive outcomes can be demonstrated or identified.</p> <p>Where activities are permitted outright or permitted subject to standards.</p> <p>Eg, NATC-P2</p>	
	Facilitate	<p><i>...'in a manner that...'</i></p> <p>Achieves a list of positive outcomes. Not commonly used.</p> <p>Used only in MRZ chapter for Tapu Te Ranga Marae where a range of complex/unusual factors influence a permitted activity.</p> <p>Eg, MRZ-P13</p>	
	Encourage	<p><i>'...by...'</i></p> <p>Achieving a specific positive outcome/activity</p>	

		<p>Eg, HH-P2 WIND-P1</p> <p>Also used with <i>'the preparation of' 'the retention of'</i> for creating policy hook to a matter of assessment/ discretion or standard</p>		
Controlled	Enable	<p><i>'...Where...'</i></p> <p><i>'...That...'</i></p> <p>Positive outcomes can be demonstrated or identified.</p> <p>Eg, ECO-P2</p>	Enable	<p><i>'Except where'.....</i></p> <p><i>'Provided that...'</i></p> <p>The outcome would be identified adverse effects, or the activity were to be undertaken in a specific way or affect specific features.</p> <p>Eg, GRUZ-P9</p>
Restricted discretionary			Manage	<p>..an activity <i>'by.....'</i> taking specific development responses</p> <p>..a specific activity (as a statement of intent)</p>

			Used where the intention is not to prevent an activity, but to implement specific measures and development responses to achieve something with potentially difficult context. Eg HH-P19
	Provide for	<p><i>'...where it can be demonstrated that...'</i> A list of positive outcomes can be achieved or achieves the intent of the policy after a weighted assessment.</p> <p>Given the direction of the NPS-UD, is widely used to positively frame urban development policies.</p> <p>Eg, MRZ-P6 HH-P13</p>	
	Maintain	an outcome <i>'having regard to....'</i> a list of matters.	Maintain

		Used when status quo is the desired policy outcome but there are various ways that this can be achieved, or a range of considerations that can inform whether divergence from maintenance is an acceptable outcome. Eg, VIEW-P2		Used for directing specific development responses to achieve policy direction to ensure that changes maintain current values or that effects/risk do not increase. Eg, PA-P2
			Require	<i>'an activity to...'</i> Take specified development responses. Used for directing specific development responses to achieve policy direction or set up performance standards. Eg TREE-P5
			Only allow...	<i>'where...'</i> <i>'where it can be demonstrated that...'</i> Scenario based outcomes are met or a specified level of effect is met.

			<p>Used where activities are provided for but only in the right circumstances/ where effects can be adequately managed/ where key outcomes can be achieved..</p> <p>Eg HH-P15 NH-P5</p>
Discretionary		Only allow	<p><i>'where...'</i></p> <p><i>'where it can be demonstrated that...'</i> Used where activities are provided for but only in the right circumstances/ where effects can be adequately managed/ where key outcomes can be achieved.</p> <p>Eg HH-P15 NH-P5</p>
		Avoid	<p>An activity outright</p> <p><i>'...unless..'</i></p> <p><i>'...unless it can demonstrated that...'</i> specific criteria have</p>

			<p>been exhaustively ruled out or a level of effect can be achieved.</p> <p>Eg, HH-P16 NH-P8</p> <p>Given established caselaw on the term avoid (ie King Salmon) it is reasonable that avoid carries greater weight than 'only allow' which can be interpreted as potentially acceptable in very specific circumstances/when development responses are taken.</p>
<p>Non-complying</p>		<p>Avoid</p>	<p>An activity outright</p> <p>'...unless' specific criteria are met or scenarios met</p> <p><i>'unless it can be demonstrated that....'</i></p> <p>Used when the gateway test is considered most appropriate</p>

			<p>for determining acceptability of an activity in exceptional circumstances.</p> <p>Eg, SASM-P6 ECO-P6</p>
No direct correlation to rules	Identify	Use for policies that relate to identifying specific features or values, particularly when listing them in the Plan. Can be part of matters of discretion for restricted discretionary activities, but not in of themselves.	

332. In addition to the common drafting approach followed above, exceptional drafting approaches are used in the following chapters. These in-part reflect my observations of the different drivers of terminology:

a) Infrastructure chapters (yet to be heard):

- i. *'Recognise the benefits of'*, meaning there is a trade-off required / a balance; indicates that there are benefits and adverse effects. Likely to require an accompanying policy that manages the adverse effects;
- ii. *'Provide flexibility'*
- iii. *'When considering the effects of'*
- iv. *'Design, construct and locate'*

b) Port zone chapter (yet to be heard)

- i. *'Maintain and protect'*, used for policies making a statement about an environment or feature where there is some capacity for change, particularly opportunities for positive change.

c) Ecosystems and indigenous biodiversity chapter (yet to be heard)

- i. *'Protect'*, used where there should be restrictions placed on things; where there is a trade off or balance required. Indicates that there are both benefits and potential adverse effects.

d) Natural Hazards chapter

- i. *'Maintain and enhance'*, used for policies making a statement about an environment or feature where there is some capacity for change, particularly opportunities for positive change.

333. I have also been made aware that the panel for hearing stream 5 asked for advice on the use of conjunctives in policies and rules.

334. I am of the view that so long as a consistent approach is followed across the plan different approaches can be followed, such as including conjunctives between every clause of a policy or rule, unless they are intended to operate separately. This was not the approach followed in the PDP as demonstrated below.

335. In general, the plan was drafted according to the following principles.

a) Policy clauses where a list of activities/matters of assessment are included, do not need to each individually joined by 'and'.

- i. The conjunction 'and' is inserted at the end of the penultimate clause Eg, in MRZ-P1 (figure 2). All these activities are permitted subject to standards.

MRZ-P1	<p>Enabled activities</p> <p>Enable residential activities and other activities that are compatible with the purpose of the Medium Density Residential Zone, while ensuring their scale and intensity is consistent with the amenity values anticipated for the Zone, including:</p> <ol style="list-style-type: none"> 1. Home Business; 2. Boarding Houses; 3. Visitor Accommodation; 4. Supported Residential Care; 5. Childcare Services; and 6. Community Gardens.
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Figure 2: Example of MRZ-P1 drafting style

- ii. Another example is policy HH-P13 (figure 3) which is an exclusive list comprising an independent list of matters which decisions makers must ‘have regard to’ and another which decision makers must ‘have regard to the extent to which’. Again, the conjunctive ‘and’ has been added, in this case twice at the penultimate clauses of both lists.

HH-P13	<p>Additions and alterations to, and partial demolition of buildings and structures within heritage areas</p> <p>Provide for additions and alterations to, and partial demolition of buildings and structures within heritage areas where it can be demonstrated that the work does not detract from the identified heritage values of the heritage area, having regard to:</p> <ol style="list-style-type: none"> 1. The extent to which the work: <ol style="list-style-type: none"> a. Supports buildings and structures having a sustainable long term use; b. Promotes, enhances, recovers or reveals heritage values; c. Respects the valued neighbourhood patterns of the heritage area including any predominant architectural style or design; d. Is compatible with the scale, form, proportion and materials that have been identified as part of the heritage values of the heritage area; e. Responds to the relationships between buildings and structures within the heritage area; f. Enables any adverse effects on heritage values to be reversed; g. Minimizes the loss of heritage fabric and craftsmanship; h. Is in accordance with any conservation plan that has been prepared by a suitably qualified heritage professional; i. Increases structural stability, accessibility and means of escape from fire; and j. Fulfills the intent of the Heritage Design Guide; 2. The relative contribution of the building or structure to the identified values of the heritage area; 3. The visibility of the work from street frontages; 4. Whether the works would lead to cumulative adverse effects on the identified heritage values of the heritage area; 5. Whether there has been any change in circumstances since scheduling of the heritage area in the plan, including damage from natural disaster; and 6. Any advice that has been obtained from a suitably qualified heritage professional including Heritage New Zealand Pouhere Taonga.
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Figure 3: Example of HH-P13 drafting style

336. I accept that alternative drafting approaches the panel might choose to take is to not use any ‘ands’ at all, or alternatively join every clause with an ‘and’ given they all must be considered. Ultimately, I do not think either approach fallible, though note the latter will result in much additional text.

b) Policy clauses where different scenarios occur are separated by ‘or’, while where groupings of considerations/requirements apply to a single scenario these are joined by ‘and’

- i. In the example of HH-P6 (figure 4) below, the intended interpretation is that a chimney can be removed if clause 1 is met, independent of clause 3, which is directly linked to clause 2. The effect being that a replacement chimney is not required if the removed chimney is not part of the primary elevation.

HH-P6	<p>Removal of unreinforced masonry chimneys</p> <p>Provide for the removal of unreinforced masonry chimneys from <u>built heritage</u> where it can be demonstrated that either:</p> <ol style="list-style-type: none"> 1. The chimney(s) to be removed are not part of a <u>primary elevation</u> and have not been specifically identified in the heritage schedule; or 2. The chimney(s) to be removed are part of a <u>primary elevation</u> but are damaged beyond reasonable repair or cannot reasonably be seismically strengthened; and 3. A replacement chimney will be constructed that: <ol style="list-style-type: none"> a. Is an accurate replica in design, location, size, colour, finish and ornamentation; and b. Reuses <u>fabric</u> from the original chimney, where practicable.
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Figure 4: Example of HH-P6 drafting style

- ii. Another drafting approach would have been to include clause 3 within clause 2 so that it reads as a single clause. I consider that is an equally valid approach but note that it will result in a longer, and perhaps less easily readable policy. I would suggest that be the case and the approach followed across the PDP.
- iii. Another example from recommended NH-P10 (figure 5) is inserted below. The same approach has been followed whereby clause 3 (b) and (c) are related to one another such that a building needs to have both mitigation measures and an operational and functional need to locate in the fault overlay, but those more than 20 metres away do not.

<p><u>3. Only allow educational facilities, health care facilities, hazardous facilities major hazardous facilities, and emergency service facilities within the uncertain poorly-constrained, uncertain constrained, distributed, well-defined or well-defined extended areas of the of the Terawhiti and Shepherds Gully Fault Overlays, where it can be demonstrated that:</u></p> <ol style="list-style-type: none"> a. <u>The building, building platforms associated with subdivision or activity is more than 20 m from the edge of the fault deformation zone of the Shepherds Gully Fault and Terawhiti Fault; or</u> b. <u>Mitigation measures are incorporated into the building to maintain safety of the occupants and the structural integrity of the building in the event of fault rupture; and</u> c. <u>The building or activity has an operational need or functional need to locate within the Terawhiti and Shepherds Gully Fault Overlays and locating outside of these overlays is not a practicable option.</u>

Figure 5: Example of recommended NH-P10 drafting style

c) Rules apply the same principles as policies such that ‘or’ separates scenarios that can occur independently, while ‘and’ links them.

- i. In the example of TREE-R1, each of 1(a)(i-iv) operate independently to satisfy the permitted activity. In this case to reduce verbiage, some technical requirements have been included as standards and compliance with the standard addressed within the same clause rather than as an additional clause.

Rules: Land use activities	
TREE-R1	Trimming and pruning of notable trees
All Zones	<p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. The <u>trimming and pruning</u> is necessary to:</p> <ul style="list-style-type: none"> i. Comply with the <u>Electricity (Hazards from Trees) Regulations 2003</u>; or ii. The works are necessary to prevent interference with footpaths, <u>buildings, structures</u> or network utilities and are undertaken to the minimum extent required to prevent interference and <u>TREE-S1</u> is complied with; or iii. The works involve the removal of broken branches, dead wood and diseased vegetation and <u>TREE-S1</u> is complied with; or iv. The works are essential due to a serious and imminent threat to the safety of people or damage to property and <u>TREE-S2</u> is complied with.

Figure 6: Example of TREE-R1 drafting style

- ii. Another example is CE-R3 where CE-R3(1)(a)(i-iv) are all valid ways of achieving CE-R3(1)(a), that being not all need to be achieved, and clause CE-R3(1)(b) operates independently of (1)(a).

P1 Sch1		CE-R3	Restoration and enhancement activities within the coastal environment: 1. Within high coastal natural character areas; or 2. Within coastal or riparian margins.
All Zones	1. Activity status: Permitted	Where:	<ul style="list-style-type: none"> a. The works are for the purpose of restoring or maintaining the coastal natural character by: <ul style="list-style-type: none"> i. Planting eco-sourced local indigenous vegetation; ii. Carrying out pest animal and pest plant control activities; iii. Carrying out activities in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977; or iv. Carrying out activities in accordance with a Reserve Management Plan approved under the Reserves Act 1977; or b. The works are undertaken by mana whenua in accordance with the principle of kaitiakitanga.
All Zones	2. Activity status: Restricted Discretionary	Where:	<ul style="list-style-type: none"> a. Compliance with the requirements of CE-R3.1.a cannot be achieved. <p>Matters of discretion are:</p> <ul style="list-style-type: none"> 1. The matters in CE-P3.

Figure 7: Example of CE-R3 drafting style

337. My advice to the panel is that if it considers that changes should be made to this approach, clear statements of its preferred principles would helpfully assist officers in checking that no changes to intent have inadvertently been made when the panel's draft recommendations are reviewed.

12.0 Advice on notification approach

338. Paragraph 15 of Minute 29 of the panel asked me to provide *'information on the general approach that the Council has followed or applied to determine notification preclusions or requirements in the PDP, including examples on a like-for-like basis across the Plan'*.

339. Firstly, [Section 77D](#) of the Act enables local authorities to specify activities for which consent applications must be notified or are precluded from being notified.

340. The PDP does include statements requiring or precluding notification per s77D. They have been drafted to be very specific so that decision makers and applicants have certainty as to their application. Some rules contain multiple notification statements depending on the standards the activity complies with or not.

341. The drafting style guide does not direct authors to take a specific approach to the notification (or preclusion thereof). Instead, authors were enabled to make decisions about whether it would be desirable to require notification considering the principles outlined below.

a) Mandatory public notification should be considered when:

- i. There are clear public good reasons why the community at large should have the ability to make a submission on a proposal, accepting that this may have the effect of discouraging an activity from taking place.
- ii. It is likely that further information from the community about the effects of an activity with impact on the public, public good or public realm.
- iii. For example, the following recommended rules are required to be publicly notified as this consistent with these principles:
 - HH-R13 (total demolition of a heritage building)
 - CCZ-R14 (carparking activities in the city centre zone)
 - WFZ-R15 (new larger scale buildings and structures in the waterfront zone)

b) Limited (but not public) notification should be considered for preclusion when:

- i. Public notification of the activity has also been precluded, and there is a need to separately preclude limited notification when some (but not all standards are met).

- ii. For example, the following recommended rules are precluded from limited notification as they are consistent with these principles:
 - HRZ-R14 (Construction of buildings or structures for multi-unit housing or a retirement village which complies with standards)

c) Public (but not limited) notification should be considered for preclusion when:

- i. Non-compliance with standards or an activity will only have effects that are limited to the immediate area such that public notification would not be proportionate to the effects of non-compliance.
- ii. For example, the following recommended rules are precluded from public but not limited) notification as they are consistent with these principles:
 - HRZ-R9 (community facility, health care facility, emergency facility, educational facility (excluding childcare services)) in the High Density Residential Zone.
 - CCZ-R13 (Industrial activities, excluding repair and maintenance service activities) in the City Centre Zone.

d) Public and limited notification should be considered for preclusion when:

- i. There is clear direction and certainty (including from national direction e.g. NPS-UD) that an activity is expected to occur within established thresholds and limits. While not everyone may agree that thresholds and limits are desirable, they have been established through the plan making process, which is the time to determine them, and the trade-offs involved.
- ii. The effects of the activity and their mitigation are well understood, and solutions can be worked through directly between the Council and applicant, such that limited or public notification cannot be expected to add value (noting the special circumstances exception remains available for any rare situations where notification may be appropriate).
- iii. For example, the following recommended rules are precluded from being both publicly and limited notified as they are consistent with these principles:
 - CCZ-R20 (Construction of buildings and structures) where that building complies with all the built form standards.
 - HRZ-R13 (Construction, addition or alteration of buildings and structures where no more than three residential units occupy the site) where standards for windows to the street, landscape area, outdoor space and outlook space are not met.

e) Standard RMA s95 tests

- i. Where effects are variable, in a sensitive receiving environment, uncertain, or highly dependent on context/circumstances, the PDP reverts to the standard notification tests under s95 of the Act.
 - ii. This is inherent through the absence of any notification statement requiring or precluding notification.
342. In the same way that the drafting language of policies has been influenced by higher order direction, this is the same for notification statements. The NPS-UD for example, sets clear expectations about the built form of specific areas (eg in HRZ and CCZ), such that I am confident it is appropriate to precluded notification to various extents to reflect that direction.
343. I also note that [clause 5 of Schedule 3A](#) of the Act sets out specific requirements for notification preclusions for developments utilising the MDRS.

13.0 Advice on WIAL's obstacle limitation surface designation

344. [Paragraph 15 of Minute 29](#) of the panel also asked me to provide *'information on how easy or difficult it is for developments to obtain the requiring authority's s176 approval for intruding into the Airport's Obstacle Limitation Surface designation (OLS) across the City, and whether the process acts as a material constraint on development in practice'*.
345. The panel also asked for a cross section of the city centre zone overlaid with the OLS to show what its implications are. Unfortunately, I have been unable to procure the requested cross section in the time provided but expect this can be obtained by the time the hearing commences on 19 September.
346. While WIAL are best placed to speak to regulate its own designation, I provide the following commentary.
347. The OLS designation has been in place since 1999 and has been rolled over into the PDP. The extent of the OLS has been included in the [designations appendix](#) since 1999 with accompanying maps 36 - 38, and implemented as such. Plans of the OLS are included in the Designation Chapter and a map layer showing the spatial extent of the OLS in the PDP planning maps.
348. Written consent to penetrate the OLS is a matter between applicants and the airport company as a requiring authority pursuant to Section 176 of the Act.
349. I understand the panel has received a presentation from WIAL on its effect, so I do not repeat such information here.
350. Requests to penetrate the OLS under section 176(1)(b) of the Act can be made by downloading and emailing the form on [WIAL's website](#) to the airport company. The form (Attached as

Appendix D) provides fields where applicants must detail their proposal including which surfaces of the OLS are penetrated and by how much. Elevation plans are required to be submitted with the application.

351. I have asked WIAL to advise how long an assessment takes as the Council is not privy to such information. This information is attached at Appendix E.
352. WIAL's webpage advises that an aeronautical study, and/or notifications to the Director of Civil Aviation may be required under [Part 77 of the Civil Aviation Rules](#). I am not able to advise on what this includes but I understand it a separate process to the requirements of the Airport's OLS designation.
353. I understand that the requiring authority will consider the effect of 'shielding' (as explained in the attached information from WIAL) and duration of penetration in its assessments.
354. I am advised by WIAL that in the past four years all applications for penetration of the OLS have been approved. WIAL have indicated that in all but one of these requests for written approval were processed within three working days.
355. As at 27 July 2023, the PDP ePlan now displays the OLS designation and can be queried to return information about at what height a building would penetrate the OLS on a parcel by parcel basis.
356. In the example below for 20 Kent Terrace, Mount Victoria, (figure 8) the ePlan returns that this city centre zoned property is located at 13m above mean sea level. There is 44m of clearance height until the inner horizontal surface of the OLS would be penetrated at 57m above mean sea level.
357. The maximum building height under the notified PDP for this site (notwithstanding any additional height obtained through the city outcome contribution mechanism) is 28.5m.
358. Users can therefore ascertain that notification or approval under s176 from WIAL is not required for a building built to the maximum height in the PDP because the designation does not apply to the airspace beneath the OLS.

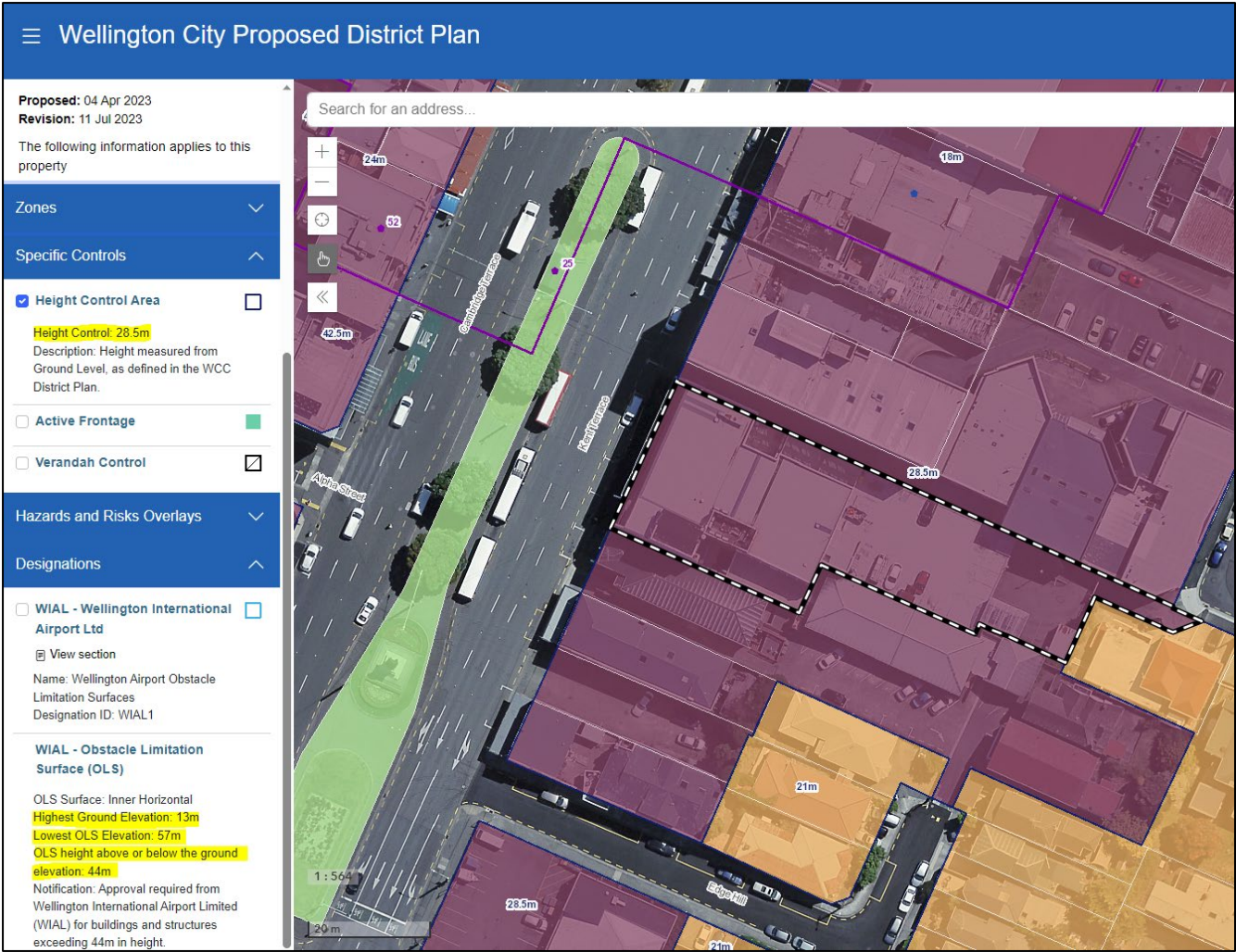


Figure 8: Example of OLS query in ePlan

359. Any site in the district can be queried through the ePlan. In addition to site specific queries, a layer showing clearance from the OLS (or lack thereof) can be shown in the map viewer (figure 9).

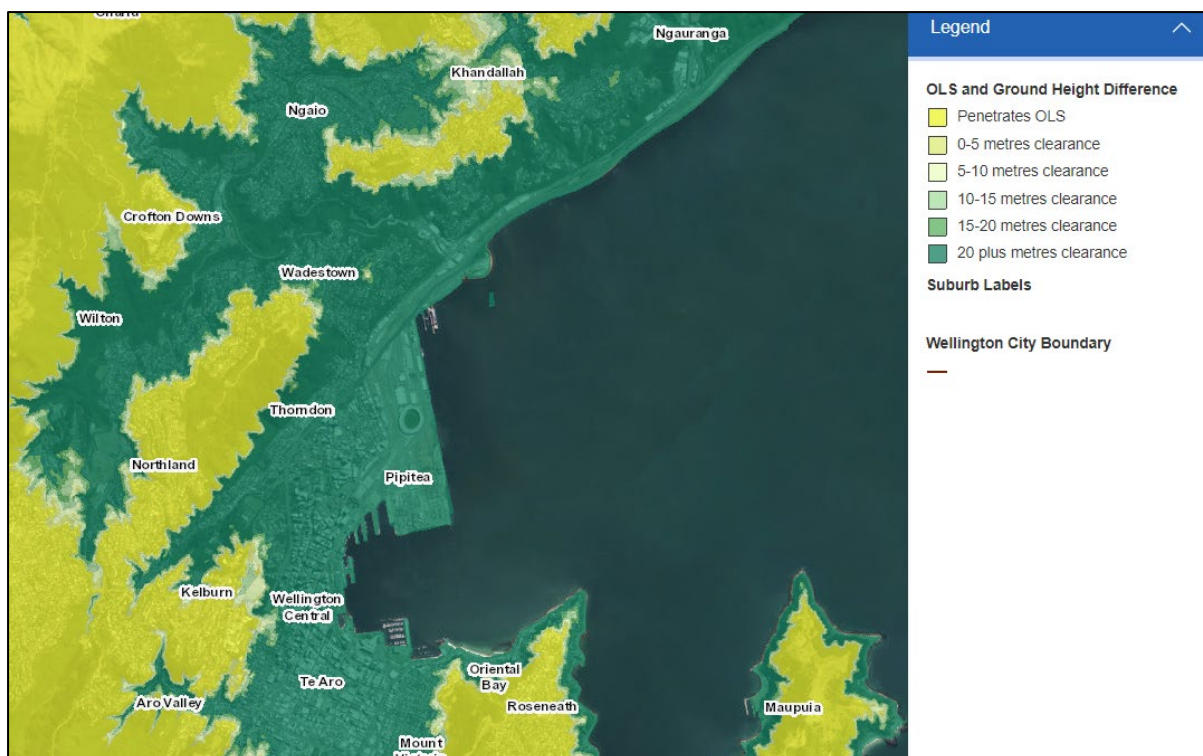


Figure 9: Example of OLS layer on ePlan

360. My advice to the panel is that the OLS should not be a determinant in your decision making around building heights or the application of NPS-UD Policy 3 and the MRDS. My response to whether it acts as a material constraint in practice, is ‘not in any significant way’.
361. There is no ODP planning response to manage the relationship between OLS and built development, such as through down zoning or otherwise decreasing permitted or restricted discretionary building heights. This has not changed in the notified PDP. The OLS designation is therefore just that, a designation which uses the *approval mechanisms under s176* to manage impacts on aircraft operations. An additional district plan response would constitute double handling.
362. The designation has functioned this way for over 20 years, within the context that parts of the existing environment and development permitted under the ODP already penetrate the OLS. In recognition of this, the conditions of the designation allow within the urban area, buildings of up to 8m be constructed on sites which already penetrate the OLS to without approval from the airport company.
363. I understand that it is not possible for the airport company to determine whether penetrating the OLS is an acceptable outcome (or not) for its operations and the flight of aircraft until a site specific application is made and modelling provided. For the large part this is due to terrain shielding. Reflecting this the extent of the OLS designation in the PDP is not informed by shielding information. While perhaps not an optional outcome, the mapped extent of the OLS designation covers essentially the entire urban area. Only the requiring authority can modify this.

364. In my view, there is not sufficient information to thoroughly understand and quantify the impact of the OLS on development capacity, its costs, and impacts, nor alternative building heights and densities that would appropriately depart from policy 3 of the NPS-UD or the MDRS to incorporate a planning response in the PDP or consider it a qualifying matter.

14.0 Matters raised for response by submitters and approved by Minute 29

14.1.1.1 Matters raised by submitters

Wellington's Character Charitable Trust

365. The Wellington's Character Charitable Trust (233.24) submitted that policies should be added or strengthened to regulate the encroachment of city centre zone activities into residential zones.

14.1.1.2 Assessment

366. I do not consider that the PDP is too enabling of non-residential activities in residential areas.

367. The submitter references the following policies of the ODP:

- a) General Residential zone policy 4.2.7.3 *'Provide for a range of non-residential activities within Residential Areas, provided character and amenity standards are maintained, and any adverse effects are appropriately avoided, remedied, or mitigated'*.
- b) Central Area policy 12.2.1.2 *'Contain Central Area activities and development within the Central Area'*.

368. The matter of commercial activities in residential areas (though not WCCT's submission point) was dealt with in stream 2, see [para 277 of the MRZ S42A report](#).

369. My view is the same as the reporting officer that commercial activities are appropriately regulated as 'other activities' and assigned a discretionary activity status.

370. The reporting officer for hearings stream 2 recommended that non-residential activities are regulated through recommended [MRZ-P14/HRZ-P14](#), which sets out a list of considerations which non-residential activities must be assessed against (figure 10).

MRZ-P14	<p>Non-residential activities and buildings</p> <p>Only allow non-residential activities and buildings that:</p> <ol style="list-style-type: none"> 1. Support the needs of local communities; 2. Are of an intensity, scale and design that is consistent with the amenity values anticipated for the Zone; 3. Contribute positively to the urban environment and achieve attractive and safe streets; 4. Reduce reliance on travel by private motor vehicle; 5. Maintain the safety and efficiency of the transport network; and 6. Are <u>able to be</u> adequately serviced by three waters infrastructure or can address any constraints on the site; and 7. <u>Are integrated into residential developments where possible.</u>
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Figure 10: Recommended policy MRZ-P14

371. This required assessment includes effects on amenity values, as does the submitters preferred 4.2.7.3. The recommended PDP policy however goes further and requires a more extensive assessment whether the activity supports the needs of local communities, is well designed, reduce private vehicle travel and the safety of the transport network. I do not consider this policy to be any weaker than the submitter’s preferred ODP policy, rather I see it as stronger and allowing for a more well-rounded planning assessment of the suitability of an activity to locate in the residential zone.

372. Considering Central Area policy 12.2.1.2, this policy is contained in the Central Area chapter of the ODP, such that an assessment wouldn’t be triggered against it for non-residential activities in residential areas (subject to the General Residential Zone provisions). I acknowledge that there might be some scope in the case of a Discretionary resource consent, but I would consider the more specific policy 4.2.7.3 would have greater weight as it provides a specific assessment framework for the relevant zone itself. I also note that non-residential activities in the residential zone are not going to be akin to ‘central area’ scale or intensity as might have been expected by 12.2.1.2.

14.1.1.3 Recommendation

373. **WUP1-Rec64:** That no changes are made in response to the Wellington’s Character Charitable Trust (233.24).

374. **WUP1-Rec65:** That submission 233.24 is rejected.

15.0 Map viewer of consolidated IPI mapping recommendations

375. To assist the panel in making its recommendations, a map viewer showing the spatial effect of the consolidated officer recommendations has been produced. It shows the combined effect of s42A, rebuttal and right of reply recommendations.

376. The viewer can be accessed here:

<https://experience.arcgis.com/experience/7424f0ed9e2c4602bae13a46119475db>

16.0 Minor and inconsequential amendments

377. Pursuant to Schedule 1, clause 16 (2) of the RMA, a local authority may make an amendment, without using the process in this schedule, to its PDP to alter any information, where such an alteration is of minor effect, or may correct any minor errors.

378. The following minor and inconsequential amendments relevant to this report are identified below and proposed to be corrected.

- a) That hyperlinks be added to definitions included within other defined terms.

17.0 Conclusion

379. Submissions have been received both in support and opposition of the chapters, schedules and appendices addressed in this report.

380. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I do not recommend any further changes to the PDP other than the inclusion of definitions nesting tables attached at Appendix B.

17.1 Recommendations

381. I recommend that:

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