

# Proposed District Plan Change 29

Proposed Zoning Change to the Western End of Petone  
(Petone Mixed Use)

Decision



**DISTRICT PLAN CHANGE 29 - PROPOSED ZONING CHANGE TO THE WESTERN END OF PETONE -  
PETONE COMMERCIAL ACTIVITY AREA - AREA 2 (PETONE MIXED USE)****REPORT FOR THE HUTT CITY COUNCIL****PREPARED BY INDEPENDENT HEARING COMMISSIONERS****9 AUGUST 2013**

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**EXECUTIVE SUMMARY****Introduction**

We were appointed to hear the submissions on Plan Change 29 ("PC29") and report to Council with recommendations on the submissions and therefore on the scope and detail of the proposed changes to the District Plan provisions to apply to the western end of Petone.

The hearing was held over six days during which we heard from 44 submitters and the Council's reporting team of officers and consultant advisors.

In advance of the hearing we read all the background documentation including the plan change itself, the submissions (a total of 251 submissions, 25 further submissions and 2 late submissions), the minutes of the four pre-hearing meetings and the Officer's s42A Report.

From our pre-hearing preparation it became apparent that PC29 raised a number of issues for submitters. While on the one hand there was support for the concept of the mixed use area, there was significant concern around the detail including:

- the proposal to remove any control on the scale of retail activities that could establish in the mixed use area;
- the proposed building heights;
- the proposed residential parking standards;
- the potential impact of natural hazards;
- providing for/maintaining residential amenity standards both within the mixed use area and within adjacent residential activity areas;
- urban design guidance for new development; and
- open space provision.

Of particular concern to many submitters was the potential impact on the vitality and viability of the Jackson Street Historic Retail Precinct as a consequence of an expansion of retailing, both small-scale and large-scale, in the proposed mixed use area.

Many submitters felt that PC29 as publicly notified did not respond appropriately to the Petone Vision.

Although there were some site-specific matters raised at the hearing, and also a number of concerns about the 'technical workings' of the objectives, policies and rules, and the draft Petone Mixed Use Area Design Guide, the above issues were the principal ones addressed at the hearing by the submitters, Council Officers and consultant advisors.

## Report Structure

Our report is structured as follows:

- Section 1: Introduction
- Section 2: Plan Change 29
- Section 3: Existing Environment
- Section 4: Background to Plan Change 29
- Section 5: Notification and Submissions
- Section 6: Pre-Hearing Meetings
- Section 7: Section 42A Report
- Section 8: Statutory Context
- Section 9: Hearing
- Section 10: Evidence
- Section 11: Section 32 Evaluation
- Section 12: Other Matters
- Section 13: Summary of Changes
- Section 14: Recommendations

Section 10 “Evidence” is the main body of the report. We have analysed the evidence on a thematic basis. The themes we have used are:

- Mixed Use Activity Area
- Provision for Retail Activities
- Jackson Street Historic Retail Precinct
- Building Form / Building Height, Bulk & Location
- Design Guide
- Traffic & Parking
- Residential Activities
- Open Space Provision
- Cultural Heritage
- Natural Hazards
- Infrastructure
- Miscellaneous

In turn, for each theme we have, in the main, used the following headings to organise our analysis:

- Existing Environment
- PC29 as Notified
- Submissions
- Pre-Hearing Meeting
- Changes to PC29 Recommended by Council Officers
- Overview of Evidence and Main Issues
- Officer’s Reply
- Evaluation of Evidence and Findings
- Summary of Recommendations
- Reasons

We have considered the issues raised in the submissions and further submissions on the basis of the themes we have identified, rather than individually by submitter or by the particular amendments proposed by the Plan Change.

## Main Findings

In Section 13 we summarise our recommendations. The major recommendations are based on the following principal findings:

1. That the mixed use area should be established, and, in particular, the area should provide for residential activity.
2. That retail activity in the mixed use area should be limited to shops no smaller than 500m<sup>2</sup> and no larger than 3000m<sup>2</sup>. Shops below 500m<sup>2</sup> and above 3000m<sup>2</sup>, but below 10,000m<sup>2</sup>, would be a discretionary activity; while shops or integrated retail developments above 10,000m<sup>2</sup> would be a non-complying activity.
3. That all new buildings should be subject to design guidance (Petone Mixed Use Activity Area Design Guide).
4. That the maximum permitted activity building height should be reduced to 20m, down from 30m.
5. That the maximum permitted height of buildings east of Victoria Street (extending up to Jackson Street) should be 14m, with a lower height of 12m for sites which abut the General Residential Activity Area.
6. That residential activities must provide a minimum level of outdoor open space.
7. That the car parking standard for residential activities should be 1 car park per residential unit.
8. That there should be a 3m setback from the residential activity area boundary along with a 2.5m + 45° recession control plane.
9. That there should be a 10m setback and planting strip along the road frontage to The Esplanade.
10. That there should be some additional controls (restrictions) on activities that can establish in the mixed use area in recognition of the potential risk from natural hazards.

### **Acknowledgement**

As Council's appointed hearing commissioners we wish to acknowledge the considerable value and assistance we received during the course of the hearing, from both the reporting officers and the submitters. The quality of the reporting and of the submitters' presentations was of a particularly high standard.

It will become evident that the 'form' of PC29 as now recommended to Council for adoption is very different to the version that was publicly notified back in June 2012.

The changes recommended by the Reporting Officer, initially in the s42A Report and subsequently in their 'right of reply' at the end of the hearing, have demonstrated to us the value of the notification, submission and hearing process, a process that has resulted in new District Plan provisions for a strategic part of the City that have significant community support.

Nevertheless, there are some other matters which, although not directly a part of PC29, we consider Council should take up in the next triennium. These matters, which we cover in Section 12 of our report, relate to future plan changes in relation to 'natural hazards' and 'cultural heritage', the need to develop an 'open space strategy' for Petone West, and the need to ensure that the Council is appropriately resourced to enable the Petone Mixed Use Area Design Guide to be efficiently and effectively implemented.

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2. New Zealand Coastal Policy Statement - Policy 24 and Policy 25
3. List of Submitters Who Appeared at the Hearing
4. Plan Change 29 Incorporating Recommended Changes

**[1] INTRODUCTION**

[1] District Plan Change 29 (Petone Mixed Use) was publicly notified by the Hutt City Council (“Council”) on 26 June 2012. The purpose of the plan change was to amend the District Plan provisions for the Petone Commercial Activity Area - Area 2, and parts of the General Business Activity Area, and enable ‘mixed use’ development. The plan change formed part of a ‘rolling review’ of the operative Hutt City District Plan.

[2] The Council appointed, pursuant to s34A(1) of the Resource Management Act 1991, an independent commissioner panel comprising of Alistair Aburn (Chair), Roger Lane and Chris Mitchell to:

*“ ... hear and recommend a decision to Hutt City Council on the provisions of the proposed plan change and matters raised in submissions ...”.*

This report is our report prepared in accordance with our appointment.

**[2] PLAN CHANGE 29**

[3] The principal objective of PC29 was to establish a ‘mixed use area’ at the western end of Petone providing for a greater diversity of activities in the area, particularly residential development. A total of 57 amendments to the current operative District Plan provisions were proposed.

[4] Following public notification 251 submissions were received, 25 further submissions and two late submissions.

[5] As publicly notified, PC29 proposed a number of significant changes to the operative District Plan, including:

- rezoning approximately 33 hectares of land from a mixture of ‘Petone Commercial Area Activity Area - Area 2’ and ‘General Business Activity Area’ to ‘Petone Commercial Activity Area - Area 2’ (Petone Mixed Use);
- enabling retail developments up to a maximum of 10,000m<sup>2</sup> floor area throughout the area;
- enabling residential development throughout the area;
- establishing a maximum 30m building height throughout most of the area; and
- introducing design guidelines for buildings on the three principal entrance roads.

[6] The plan change area is generally bounded by Hutt Road, Petone Avenue, Campbell Terrace, Victoria Street, Sydney Street and The Esplanade.

**[3] EXISTING ENVIRONMENT**

[7] At the present time the plan change area is currently used for larger format retailing, servicing, industrial and commercial activities. These activities reflect the overall strategy for commercial and business areas laid down in earlier District Plan zonings.

[8] Petone West is essentially a developed ‘brownfields’ location with significant [re]development occurring in the area following the closure of the Gear Meat Works and a number of other industrial activities. The more significant development over the last 20 or so years has been for retailing and commercial activities including the former IBM Centre building (now Koru House) at 85 The Esplanade and the new IBM Petone tower at 25 Victoria Street, both in the ‘General Business Activity Area’; and a Pak n Save supermarket and The Warehouse department store in the ‘Commercial Activity Area - Area 2’. A Countdown supermarket has also recently opened in this Area 2.

- [9] At its eastern end the plan change area abuts residential development on Nelson Street and the Commercial Activity Area - Area 1, which covers the Jackson Street Historic Retail Precinct (aka 'main street'). The Historic Retail Precinct is located on both sides of Jackson Street between Victoria Street and Cuba Street.
- [10] A feature of considerable cultural significance is the Te Puni Urupa in Te Puni Street, which is zoned 'Community Iwi'.
- [11] The Wellington Faultline traverses the central portion of the area in a south-westerly to north-easterly direction.

#### [4] BACKGROUND TO PLAN CHANGE 29

- [12] In June 2009 the Council issued a Discussion Document "District Plan Review for Petone". In a 'foreword' to the Discussion Document it was noted that:

*This District Plan Discussion Document follows on from the Petone Vision Statement. The Vision Statement sought to answer the question:*

*What will Petone be like as a place to live and work in 5 years' time? In 20 years? And even longer term?*

*The outcome was the final Petone Vision Statement (published in 2009) - the result of submissions, discussions and workshops over several months with Petone residents and businesses.*

*It outlines four major elements which the community identified as important in considering the future of Petone:*

- *Element 1: A distinguishing feature of Petone is it being a unique heritage place.*
- *Element 2: Growth in Petone will be managed in an economically and sustainable manner.*
- *Element 3: We recognise that Petone has to be a real place for our people.*
- *Element 4: Petone needs an attractive and vibrant village culture at its heart.*

*In this first phase of reviewing the District Plan provisions for Petone we have used the elements in the Petone Vision Statement as starting points for discussion.*

- [13] Under the heading "Commercial Area" at pages 10 and 11 of the Discussion Document, it was noted that the Petone Commercial Activity Area was divided into two areas of very different character: Area 1 located on both sides of Jackson Street between Victoria Street and Cuba Street is characterised by smaller sites, adjoining residential areas and a distinctive built form, style and character; and Area 2 bounded by Te Puni Street, Hutt Road, Petone Avenue and Victoria Street, which includes a mix of industrial and commercial activities and provides for large-scale vehicle-oriented retail activities. The Discussion Document suggested that Area 2 could be considered for transformation into a Mixed Use Activity Area allowing for "smaller scale retail and residential activities to be added to the other uses already provided for in the area".
- [14] Three issues were identified in the Discussion Document:
- Area 1: are the existing rules and guidelines for the historic commercial part of Jackson Street (Area) effective?
  - Area 2: should Area 2 and the adjoining General Business Activity Area be considered for transformation into a Mixed Use Area?



- Boundary between Area 1 and Area 2: is the boundary between Area 1 and Area 2 in the right place?

[15] Under the heading “Business Area” at pages 12 and 13 of the Discussion Document it was noted that given the proximity to the foreshore and to public transport, consideration was to be given to allowing for commercial uses, retailing, restaurants and cafes in this area along with residential activities, with the comment that:

*“... this could be achieved by creating a Mixed Use Activity Area at the western end of The Esplanade”.*

[16] Again three issues were identified:

- Should the Esplanade West Area be considered for transformation into a Mixed Use Activity Area?
- Should the other General Business Activity Areas in Petone remain unchanged to avoid issues of reverse sensitivity?
- Should rules be introduced into the District Plan to protect adjacent residential areas?

[17] Feedback received on the Discussion Document indicated strong support for the transformation of Petone West into a mixed use activity area. However, concern was expressed about the size of the area and the range of the mixed use activities that would be permitted, particularly retailing, being a potential threat to Area 1 (Jackson Street). There was support for reduced maximum building height and site coverage. General comments included the need for quality design, design guides and community involvement, and the need to maintain Petone’s special character.

[18] We were advised that following the Discussion Document exercise further consultation was undertaken during 2010-12 with landowners, occupiers and other parties with an interest in the plan change area, prior to the Council adopting and subsequently publicly notifying PC29.

## [5] NOTIFICATION AND SUBMISSIONS

[19] Following public notification of PC29 on 12 June 2012 a total of 251 submissions were received by the closing date of 10 August 2012. A 778 signature petition was also received.<sup>1</sup> Subsequently, 25 further submissions were received and two late submissions. We accepted the late submissions. Copies of the submissions and further submissions were included in the Order paper for the hearing.

[20] Although many of the submissions supported the concept of a mixed use activity area, significant concern was expressed about the detail of the plan change, with many submitters requesting that PC29 be rejected in its current form. Other submitters requested that substantial amendments be made.

[21] Principal issues and concerns raised in submissions included:

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<sup>1</sup> The ‘head note’ to the petition read:

To the Hutt City Council  
 We the undersigned  
 Ask that the Hutt City Council withdraw Plan Change 29 (a new mixed use area across the western part of Petone) and rewrite it so that there would be quality design, sustainable development and protection of the Jackson Street historic precinct.

- providing for retail activities as a permitted activity in the proposed mixed use activity area and consequent economic impacts on the vibrancy and vitality of the Jackson Street Historic Retail Precinct (Area 1);
- overall urban form including proposed building heights, in particular the 30m building height limit proposed for the majority of the Plan Change area, and consequent blocking of views, particularly between the foreshore and the western hills;
- landscaping and in particular a lack of provision for open space, including public open space;
- building setbacks, particularly on The Esplanade and from adjacent residential areas;
- traffic and parking, including parking provision for residential activities;
- risks associated with natural hazards;
- design guide content (or lack thereof); and
- inadequacy of s32 analysis.

Many submitters contended that PC29 did not 'reflect' the vision set out in the Petone Vision document.

#### **[6] PRE HEARING MEETINGS**

[22] Prior to the main hearing, four pre-hearing meetings were held in February 2013. The meetings were facilitated by an independent facilitator (Sue Piper) and provided an opportunity to clarify and confirm the main issues raised in the submissions under the following four themes:

- built form and design
- retail
- natural hazards
- traffic and parking.

Notes for each of the pre-hearing meetings prepared by Ms Piper are attached **[Appendix 1]**.

#### **[7] SECTION 42A REPORT**

[23] A comprehensive 190-page Officer's Report (plus Appendices) was pre-circulated in accordance with s42A of the Act.

[24] The Reporting Officer was Hamish Wesney, Consultant Planner, Boffa Miskell. Mr Wesney was supported by:

Alison Tindale, Environmental Policy Planner, Hutt City Council  
 Marc Baily, Consultant Planner, Boffa Miskell  
 Tim Kelly, Consultant Traffic Engineer, Tim Kelly Transportation Planning Ltd  
 Adam Thompson, Consultant Economist, Urbecon Ltd  
 Beverly Curley, Senior Engineering Geologist, GHD Ltd

[25] While confirming the intention to establish a mixed use activity area and retaining residential activity as a permitted activity, the s42A Report included Officer recommendations on a number of significant amendments to the Plan Change as publicly notified, including:

- amending the proposed provisions for retailing by ‘reinstating’ the restrictions on gross floor area (500m<sup>2</sup> - 3,000m<sup>2</sup>) to apply in the mixed use area, except on Jackson Street west of Victoria Street;
- amending built form and design requirements, including the requirement for resource consent for all new buildings, and not just buildings on the three principal entrance roads, under an expanded Design Guide;
- reducing building height from a maximum of 30m to a maximum of 20m;
- requiring a 10m setback for development fronting The Esplanade;
- removing a setback requirement for development adjacent to residential areas;
- providing additional building height (to a maximum of 30m) where new open space and/or street connections were provided;
- requiring provision of a minimum area of on-site open space of 20m<sup>2</sup> per residential unit; and
- amendments to the natural hazard rules.

A number of other ‘technical’ amendments were also recommended.

## [8] STATUTORY CONTEXT

### Legal Framework

[26] We turn now to outline the legal framework which governs the plan change process, including our assessment and recommendations to Council.

[27] First, we record the statutory framework which governs the process of plan preparation and review under the RMA. This framework consists of inter-related provisions, the key elements being the following:

- Part 2: section 5 sets and defines the purpose of the RMA, and sections 6 to 8 contain a hierarchy of matters which must be specifically considered by decision-makers in this context;
- Section 31 sets out the functions of the Council under the RMA;
- Section 32 directs the Council to evaluate whether each of its objectives is the most appropriate way of achieving the purpose of the RMA, and then whether the policies and rules are the most appropriate way of achieving those objectives;
- Sections 72-75 contain the provisions on the purpose of the plan, plan preparation and change, the matters to be considered by the Council, and the contents of the plan; and
- Schedule 1 Part 1 contains the detailed process under which new plans and changes are prepared, notified for submissions and further submissions, heard and decided, and then formally adopted.

[28] All planning decisions under the RMA must collectively achieve the statutory purpose of sustainable management of the district’s natural and physical resources (as defined in section 5) giving effect to

the other matters in sections 6 to 8. We will consider Part 2 as part of our overall evaluation of PC29, and will return to it below. We agree with the summary of the key considerations under Part 2 contained in the s42A Report (at page 19).

- [29] The Hutt City Council has the functions set out in section 31. In terms of the functions created by section 31, we look specifically in this context at the direction to “*achieve integrated management of effects of the use, development, or protection of land ...*”.
- [30] We note, particularly in this context, that the definition of ‘effect’ in section 3 includes “any positive or adverse effect”. While RMA decision-making often focuses on the avoidance of actual or potential adverse effects, planning must, to a significant degree, be concerned with enabling positive effects.
- [31] Section 32 requires the Council to undertake an evaluation in terms of sub-sections (3) and (4) before the change is notified. For PC29 that evaluation was set out in Part 5 of the document which was publicly notified (26 June 2012). We must make a further evaluation before making any recommendations to the Council on submissions and further submissions under clause 10 of Schedule 1.
- [32] That evaluation must examine:
- a. the extent to which each objective is the most appropriate way to achieve the purpose of the Act;
  - b. whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving those objectives;
  - c. the benefits and costs of policies, rules and other methods; and
  - d. the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.
- [33] Sections 72 to 77D contain the provisions dealing with the purpose of district plans, their preparation and change, the matters to be considered by the Council, the contents of the district plan and the powers to make rules. These are all matters we must have regard to in making our recommendations.
- [34] District plans exist (and must be created) within a context of other statutory plans and policies which may be relevant to the same resource management issues. We have considered that range of plans and policies in the next section of this report.
- [35] Section 79 requires district plans to be reviewed on a periodic basis. Council may either review its plan as a whole, or in sections - a ‘rolling’ or ‘sectional’ review. The approach taken by the Council to its District Plan is outlined as follows in the section 32 report accompanying PC29:

*The Council has been progressively reviewing the different parts of the Commercial Activity Area. In reviewing these provisions, Council has identified some issues that could be better accommodated in the District Plan. In March 2011 Plan Change 14 relating to the Central Commercial Activity Area was made operative. Following on from Plan Change 14, the next Commercial Activity Area to be reviewed was the Petone Commercial Activity Area 2, particularly in relation to giving effect to the potential for mixed use development in the western part of Petone.*

*The review has been informed by a number of documents and other Council initiatives, in particular*

*the Petone Vision Statement.*

[36] The PC29 section 32 report records that:

*"... the Proposed Plan Change provides an area within the western part of Petone to accommodate mixed use developments with activities of varying composition based on primarily residential, commercial and retail uses".*

The proposals in PC29 potentially affect, and are affected by, matters such as natural hazards, transportation networks and infrastructure - all of which are, to some degree, subject to other plans and policies which we will consider below.

[37] As with all decision-making in this context, we have thought it necessary to ask whether the proposed rezoning represents the best option for achieving the purpose of the RMA.

[38] Where a submission requests that we take a different approach to that proposed in PC29, then we must look at that request in the context of the other parts of PC29 and the operative District Plan, other relevant plans and policies, and also the over-arching provisions of Part 2 which we have just referred to.<sup>2</sup>

[39] Against the above background, we turn now to outline the policy context for the issues raised by PC29 and the submissions and further submissions on it.

#### **Policy Framework**

[40] As we noted above at [27], sections 74 and 75 state the matters which must be considered by the Council in preparing or changing a plan, and the contents of the plan. Section 75 includes the requirement to either 'give effect to' or 'not be inconsistent with' certain other policies made under the RMA. The plans, policies and other documents listed in or encompassed by these two provisions are the policy context for our assessment of PC29.

[41] We note also that under section 74(2)(b)(ii) we must have regard to any 'management plans and strategies prepared under other Acts'. This obligation is potentially particularly pertinent to natural hazards, transportation and urban design.

[42] The RMA sets out a hierarchy of plans which must be considered in evaluating PC29 (we have listed only those which are potentially relevant):

- it must give effect to any national policy statement, the New Zealand Coastal Policy Statement and the Wellington Regional Policy Statement;
- it must not be inconsistent with a regional plan for any matter under section 30(1);
- in preparing it Council must have regard to any proposed regional policy statement and any proposed regional plan; and
- in preparing it Council must have regard to management plans and strategies prepared under other Acts and to any relevant entry in the NZ Historic Places Register.

[43] In relation to the policies and plans which must be given effect to, we note that there are no presently relevant national policy statements or regional plans, and that the proposed Wellington Regional

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<sup>2</sup> Clause 10 Schedule 1 requires the Council to give reasons for its decisions on the submissions made. However, for purposes of the decision, the submissions may be grouped to subject matter or specific plan provisions. Submissions need not be addressed individually. As we have noted, this is how we have made our recommendations on submissions.

Policy Statement (RPS) became operative on 23 April 2013 (shortly after the conclusion of the hearing).

- [44] The relevance of the NZ Coastal Policy Statement (NZCPS) depends on whether (and to what extent) the Petone West area is within the 'coastal environment'. That term is not defined, and deciding whether or not a particular place is within the coastal environment requires assessing the significance of a range of coastal influences on it. For present purposes we regard the area as being within the coastal environment because it adjoins the harbour, and because it is clear that the area will be potentially subject to coastal hazards (including any which are in turn affected by climate change). On that basis NZCPS Policies 24 and 25 are particularly relevant to PC29 and we must give effect to them. For ease of reference, we have listed these two policies in **Appendix 2**.
- [45] There are a number of relevant RPS policies that PC29 must also give effect to. These are listed in the s42A Report (at p.23) and we do not need to repeat the list or evaluate whether it is complete: there appears to be no disagreement on this point.
- [46] The range of natural hazards identified as potentially significant in the Petone West area make consideration of the National Civil Defence Emergency Management Strategy highly relevant. Again the goals of this Strategy are summarised in the s42A Report. Those of specific relevance under PC29 are 'reducing the risks from hazards' and 'enhancing capability to manage and recover from civil defence emergencies'. The Strategy anticipates a major contribution from local authorities across all these goals, and in the present context it reinforces the Council's function under section 31(1)(b)(i) in relation to planning for the avoidance of natural hazards.
- [47] We also need to consider the more immediate strategy and planning foundations for PC29 identified in the section 32 evaluation and in evidence from a number of witnesses. These are:
- The Petone Vision Statement (adopted by Council 2009)
  - District Plan Review for Petone - Discussion Document (issued 2009)
  - Wellington Regional Strategy (2012)
  - New Zealand Urban Design Protocol (signed by Council 2008)
  - Council Long Term Plan 2012-2022 (particularly as to development of programmes for traffic management, infrastructure improvements and CBD concept planning)
  - CBD Making Places (CBD Vision 2030).
- [48] We have considered all these documents where they are relevant to the development and direction of PC29. Some will be considered in greater detail in the assessment of specific topics.
- [49] Finally, we note that, as with any proposed plan change, the District Plan itself (and possibly other proposed changes) will be highly relevant, particularly in terms of ensuring an overall consistency of objectives and policies. In this category the District Plan provisions of primary relevance are those relating to the adjoining areas of Petone, the definitions, the general rules (covering transport, noise and natural hazards) and subdivisions.

## [9] HEARING

- [50] The hearing was held in the Council Chambers over six days (10, 11, 12, 15, 16 and 19 April). At the end of the sixth day (Friday 19 April) the hearing was 'adjourned' to enable a process of further refinement of the Design Guide to be undertaken. This process involved further Officer input to the Design Guide to address issues raised during the hearing; and an opportunity for submitters to comment on the amended Design Guide. At the end of this process (21 June 2013), the hearing was closed.

[51] A total of 44 submitters appeared over the course of the hearing, principally individual residents and business owners, but also a number of organisations as follows:

Petone Community Board  
 Jackson Street Programme Inc  
 Petone Planning Action Group  
 Petone Urban Environmental Association  
 Historic Places Wellington Inc  
 New Zealand Transport Agency  
 GNS Science (Natural Hazards Division)  
 Greater Wellington Regional Council

A full list of submitters who appeared at the hearing is provided in **Appendix 3**.

## [10] EVIDENCE

[52] A considerable body of evidence was presented over the course of the hearing. It is not possible or indeed necessary to summarise each individual statement. Rather, the summary that follows is organised around the following principal themes or topics:

- mixed use activity area
- provision for retail activities
- Jackson Street 'main street' / historic retail precinct
- building heights / building bulk and location and 'urban form'
- Design Guide
- traffic and parking
- residential amenities
- open space provision
- cultural heritage
- natural hazards
- infrastructure
- miscellaneous

For each theme the discussion is generally summarised under the following headings:<sup>3</sup>

- Existing Environment
- PC29 as Notified
- Submissions
- Pre-Hearing Meeting
- Changes to PC29 Recommended by Council Officers
- Overview of Evidence and Main Issues
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- Reasons

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<sup>3</sup> Note: not all headings are used for all topics or themes. The depth of analysis is dependent on the significance of the topic and/or the amount of evidence presented.

**[10.1] MIXED USE ACTIVITY AREA**

[53] The principal purpose of PC29 is to create a mixed use area and therefore promote more diversity in activities in the area. The new area would incorporate land currently included in the Petone Commercial Activity Area 2 and the General Business Activity Area (including the Esplanade West Area) to allow for its transformation into a mixed use environment, primarily for residential, commercial and retail activities.

**Existing Environment**

[54] Presently the west end of Petone is used for larger format retailing and a range of commercial, industrial and servicing activities. The larger format retail is concentrated in the Petone Commercial Activity Area 2, particularly on sites fronting Jackson Street, and includes the Pak n Save supermarket and The Warehouse department store, along with Kathmandu and Briscoes stores. A second supermarket (Countdown) has also recently opened in Area 2. A range of light industrial and service activities are located in the blocks between Sydney Street and Victoria Street and along the Hutt Road north of Jackson Street, and in Gear Street. Prominent large format commercial activities include the Te Puni NZ Postal Centre, the IBM Petone 'tower' and the former IBM centre building now known as Koru House. Many of the larger buildings to the south of Jackson Street are on land previously occupied by the Gear Meat Works and the Odlins Timber Yard.

**PC29 as Notified**

[55] As notified, PC29 provides for a greater range of activities in the area including residential and small-scale retail. Residential activities, currently not permitted under the operative zoning, have been identified as a particular activity type which is seen as a necessary 'ingredient' for a successful and vibrant mixed use area. Higher density residential development is envisaged.

[56] A mixed use area involving residential, retail, commercial and other business activities is seen as providing a range of benefits, including:

- increased residential and workplace populations which would provide support for other activities and facilities in Petone;
- increased housing choice;
- promoting the efficient use of land and resources, including the use of existing public transport facilities;
- increasing the overall vitality and vibrancy of Petone West;
- increasing flexibility in land use and buildings to meet changes in market demand; and
- increasing opportunities to improve the amenity of Petone West.

**Submissions**

[57] Although the majority of submissions requested that the plan change be rejected in its current form, there was nevertheless significant support for the general concept of a mixed use area. Where concern was expressed, it was about the 'make-up' of the mixed use area (the built form and the nature and scale of activities) and, in particular, the intention to allow small-scale retail to establish throughout the area. [Note: this issue is addressed in the next section]. Some submitters were concerned that the new mixed use area would 'force out' some long-established industrial businesses.

[58] The other 'sub-headings' used in the following sections are not used for this section as it would result in unnecessary duplication. Suffice to say that the Officer's Report confirmed 'in principle' support for



the concept of a mixed use area being established. However, on the basis that a mixed use area is established, the questions that we posed were:

- what uses should be allowed; and
- whether the same uses and intensity of activity should be provided for throughout the area.

#### **Officer's Reply**

[59] Having heard all the evidence at the hearing, the Officers in reply confirmed their endorsement of the concept of the mixed use area. Their concluding point was:

*" ... the Proposed Plan Change and our recommended amendments seek to provide a planning framework which manages the transition of the Plan Change area into a mixed use area. This planning framework supports and encourages different types and forms of activities and development to enhance the character and amenity of this area, as well as protect the economic vitality and vibrancy of the Jackson Street main street and the Hutt City CBD. It is important to recognise that the District Plan (planning framework) would only achieve so much, and that other measures and initiatives outside the District Plan would influence the outcomes for this area".*

In essence, as commissioners we see our task being to identify and recommend an appropriate planning framework for the proposed Petone Mixed Use Area (Petone Commercial Activity Area - Area 2) for adoption by Council, in the knowledge that the concept of a mixed use activity area is supported.

## **[10.2] PROVISION FOR RETAIL ACTIVITIES**

### **Existing Environment**

[60] As already noted, significant large format retailing has established west of Victoria Street under the operative District Plan zoning (Petone Commercial Activity Area 2) where retail stores not less than 500m<sup>2</sup> and not more than 3,000m<sup>2</sup> are a permitted activity. Stores above 3,000m<sup>2</sup> are a restricted discretionary activity, while stores below 500m<sup>2</sup> are a non complying activity.

[61] In the General Business Activity Area retailing activities are non-complying activity.

[62] The policy context for the operative District Plan provisions is stated in Chapter 1.10.4 and consists of the following objective and five related policies:

*Objective: To promote an integrated and hierarchical approach to commercial centres as community focal points.*

*Policies (a) Identify the existing commercial centres and recognise the different roles and functions each centre has in the hierarchy.*

*(b) Recognise the Central Area and Petone Area commercial centres as the primary areas in the hierarchy, being of a large scale with a great diversity of activities servicing the whole city and wider region.*

*(c) Recognise the Suburban and Special commercial centres as secondary areas in the hierarchy, being small scale with a limited number of activities servicing local area needs.*

*(d) Manage the nature and scale of activities in the commercial centres based on the integrated and hierarchical approach.*

*(e) Manage and restrict commercial and other activities located outside the identified commercial centres that have the potential to undermine or detract from the vitality and vibrancy of the commercial centres.*

[63] In the case of the Petone Commercial Activity Area, under the current operative Plan provisions it is 'split' into two areas:

- Area 1: area on Jackson Street generally between Victoria Street and Cuba Streets; and
- Area 2: area generally bounded by Te Puni Street, Hutt Road, Petone Avenue and Victoria Street.

In relation to Area 1 the operative District Plan states:

*On both sides of Jackson Street between Victoria and Cuba Streets sites generally are small and adjoin residential activity areas. It is important that the scale and character of activities are controlled so that there are no encroachments into the adjoining residential areas and adverse effects, such as adverse traffic effects, are managed.*

In relation to Area 2 the operative District Plan states:

*There is a demand for large sites to accommodate vehicle oriented retailing activities and other large scale activities. The area generally between Te Puni Street, Hutt Road, Petone Avenue and Victoria Streets on both sides of Jackson Street is suitable for such purposes.*

[64] PC29 proposes to 'transform' Area 2 into a new mixed use area, but not Area 1 which lies to the immediate east of the proposed new mixed use area, east of Victoria Street.<sup>4</sup>

[65] Over the last decade or so retailing activities that have established include: Pak n Save, Briscoes, The Warehouse, Ballentynes, Kathmandu, No 1 Shoe Warehouse, Nood, and recently Countdown.

[66] We were advised of a number of other smaller retail activities that had established, including some in the General Business Activity Area. We were also advised that the Environment Court recently granted consent for five smaller (less than 500m<sup>2</sup>) retail stores to establish on the Countdown site.<sup>5</sup>

[67] In its decision, the Environment Court drew attention to s104(3)(a) of the Act that required that consent authorities not have regard to 'trade competition' adding that:

*"Unless the commercial consequences of a rival activity are, or will be, such that the viability and community amenity of the Jackson Street heritage commercial area as a whole is imperilled, issues of competition are not to be considered." [48]*

Furthermore, on the specifics of potential effect on the viability of the Jackson Street Historic Retail Precinct, the Court concluded that granting consent would not give rise to effects that would undermine the viability of the historic retail precinct, but rather would provide alternative retailing opportunities in the commercial area without creating adverse effects that could not be avoided, remedied or mitigated.

[68] In reaching its decision, the Court also noted that although the District Plan does include a statement that *"It is important that this be protected"* it linked the statement to the further statement that

<sup>4</sup> Three small sites on Victoria Street (north of Jackson Street) currently zoned General Business Activity Area are proposed to be rezoned Petone Commercial Activity Area 1.

<sup>5</sup> Decision No [2012] NZEnvC 243 Jackson Street Retail Limited v Hutt City Council.

many buildings in the historic precinct “were built between 1926 and 1940, and have a distinctive built form, style and character” [underlining is the Court’s emphasis] <sup>6</sup>

[69] In the end the Court essentially concluded that the Plan is silent on any directive indicating that small-scale retail is to be exclusively located in Area 1, recording at [42] that:

*“We do not read the Plan as attempting to licence various types of retail activity within either or both Commercial Areas”.*

[70] The Court at [43] summarised its view of the relevant provisions of the operative District Plan (i.e. prior to PC29) as follows:

- It is important that the distinctive built form style and character of Area 1 is protected.
- Activities in Area 1 should not have an adverse effect on adjoining residential activity and this is achieved in part, by limiting the scale of activities permitted in Area 1.
- Demand for large sites to accommodate vehicle oriented and other large-scale activities will be met in Area 2. The control of the size of floor space permitted in this area confirms this expectation.
- In addition to the traffic and transportation matters, development within Area 2 should complement and be linked to Area 1.

#### **PC29 as Notified**

[71] PC29 as notified proposed the following changes:

- extending the spatial area where retail activities are permitted to include the General Business Activity Area;
- removing the minimum floorspace limit for retail activities throughout the new mixed use area; and
- removing the maximum floorspace limit for single retail premises and extending the maximum permitted floorspace limit for ‘integrated retail developments’ to 10,000m<sup>2</sup>.

#### **Submissions**

[72] If it were simply a ‘numbers game’ then it was very clear to us that the issue of greatest concern expressed through the majority of submissions was the proposal to extend the opportunity (as a permitted activity) for both small and large-scale retail activity (up to 10,000m<sup>2</sup>) to establish throughout the proposed mixed use area. The opposition was from a wide cross-section of submitters including:

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<sup>6</sup> The full District Plan reference is:

Area 1 - Victoria Street to Cuba Street

Area 1 consists of both sides of Jackson Street, between Victoria and Cuba Streets and adjoins residential activity areas. These commercial sites are generally small and consist of a mix of one and two storey buildings, with small frontage retail and commercial activities at road level. Residential flats and offices are located above street level activities. Many of the buildings in this area were built between 1926 and 1940, and have a distinctive built form style and character. It is important that this be protected.

- residents
- business owners/retailers in the Jackson Street Historic Retail Precinct
- heritage protection interest groups
- Jackson Street Programme Inc
- Petone Community Board
- Petone Planning Action Group
- Petone Urban Environmental Association.

Concern was two-fold:

- (a) essentially 'unfettered' retail development in the mixed use area would undermine the vitality and vibrancy of the Jackson Street historic retail precinct; and, as a consequence
- (b) would significantly erode the heritage character and significance of Jackson Street.

Something of the 'flavour' of the concern is captured in the following comments made in submissions:

- *As currently worded, the Proposed Plan Change 29 would result in significant adverse effects on the heritage character, look and feel of Petone. I don't want to see Jackson Street become a run-down area that it was two decades ago. Look at the impact Queensgate Mall has had on surrounding shops. They are run down and there are a lot of vacancies. [Submitter 38]*
- *The proposals [sic] to allow retail up to 10,000m<sup>2</sup> was not part of the Petone Vision the community agreed on. There is a real risk that the existing retail strip in Jackson Street will be damaged. Jackson Street is regarded as one of the key attractions in the City and the success story it is today is the result of 20 years of work to turn a declining retail area into a vibrant retail destination. [Submitter 152]*
- *I do not oppose the provision of retail floor space in the proposed mixed use zone for the western end of Petone, but it should provide a complementary function to, and not compete with, the small shop retail function of Jackson Street. [Submitter 154]*
- *The admission under Issue (5B1.1.2) that making provision for mixed use could also detract from the established vibrancy and vitality of the retail areas of Jackson Street and the Central Commercial Activity Area needs to be dealt with - not just alluded to. [Submitter 199]*
- *The proposed retail rules will undermine Jackson Street as they are too permissive [Submitter 234]*

#### **Pre-Hearing Meeting**

- [73] The notes (see Appendix 1) of the PC29 pre-hearing meeting held on 20 February to discuss the 'retail' theme, which was attended by 19 submitters, records that the meeting agreed that:

*"... the plan change should protect the heritage values of the Petone area. The meeting agreed that the plan change provisions did not protect the heritage precinct in Petone. The removal of the maximum and minimum floor space rule for retail was cited as an example. The concern was that changes allowing development of small scale retail at the western end (Victoria Street to the Petone Railway Station) would have the effect of retail moving westward leaving heritage buildings and the precinct empty. This would threaten the economic future of those buildings which may be left empty with no income for maintenance or earthquake strengthening with the cumulative effect of destroying*

*the vitality and amenity values of the heritage precinct. Similarly, submitters were concerned that the removal of the maximum floor space of developments would threaten the heritage precinct given that larger buildings in the precinct would be out of scale”.*

- [74] The meeting also expressed concerns about the likely impact of retail on The Esplanade given that traffic issues were already an issue.

#### **Changes to PC29 Recommended by Council Officers**

- [75] In the s42A Report the Officers advised that:

*A large number of submitters expressed opposition to the above changes. We are of the view that a more balanced approach should be adopted for retail activities which provides some additional opportunities for small scale retail in the plan change area, whilst providing a level of protection for existing small scale retail activity in the Jackson Street Historic Retail Precinct and the Central Commercial Activity Area to protect the vitality and vibrancy of these areas.*

- [76] Noting that the recent Environment Court case had identified some deficiencies in relation to the existing retail provisions for small-scale retail activities in the Petone Commercial Activity Area - Area 2 (refer Footnote 5 above), the Officers recommended a number of changes as follows:

- define the retail role of Petone Commercial Activity Areas 1 and 2;
- specifically identify the activity status of small-scale retail within Petone Commercial Activity Area 2 and relevant policy considerations for this activity;
- reinstate the minimum permitted floorspace of 500m<sup>2</sup> within Petone Commercial Activity Area 2, with one exception for retail activities along Jackson Street; and
- reinstate the maximum permitted floorspace for single retail premises (3,000m<sup>2</sup>) and a lower permitted floorspace threshold for ‘integrated retail developments’.

#### **Overview of Evidence and Main Issues**

- [77] Submitters who appeared were unanimous in their support for the reinstatement of the requirement that retail premises, as a permitted activity, should not be less than 500m<sup>2</sup> or more than 3,000m<sup>2</sup>. Some submitters, notably the Petone Planning Action Group (Submitter 199), did not agree to the extension of retailing into sites outside of the Petone Commercial Activity Area - Area 2, submitting that the opportunity for retailing to establish should not be extended spatially.

- [78] The proposal for small-scale retail to establish along Jackson Street west of Victoria Street was generally not supported. One submitter considered that extending the ‘length’ of the Jackson Street small-scale retail west of Victoria Street would result in an ‘unravelling of the historic precinct, especially the eastern end. On the other hand, some submitters felt that extending the opportunity for small-scale retail on Jackson Street west of Victoria Street could strengthen the ‘link’ between the Petone Railway Station and the Jackson Street historic retail precinct.

- [79] An issue of particular concern for many submitters who appeared at the hearing was the possibility of large shopping mall/integrated retail centres establishing in the new mixed use activity area.

#### **Officer’s Reply**

- [80] In their reply the Officers noted that the majority of submitters who presented evidence on the retail issue supported the recommendation in the s42A Report regarding the 500m<sup>2</sup> - 3,000m<sup>2</sup> retail floor area thresholds for a permitted activity. Consequently, the Officer’s reply focused on areas where

there remained some 'contested' issues which the Officers considered could be grouped into three discrete categories:

- small-scale retail activities (as recommended on Jackson Street only);
- large-scale retail activities (i.e. mall-type complexes or 'integrated retail developments'); and
- retail activities fronting The Esplanade.

[81] Issue 1: small-scale retail: having heard the evidence the Officers advised that they came to the view that no small-scale retail (i.e. less than 500m<sup>2</sup>) should be provided for in the Plan Change area, principally on the basis that it could result in the loss of vitality and vibrancy in the Jackson Street Historic Retail Precinct. While acknowledging that some small-scale retail could be appropriate in the area to meet the demand from people living in and working in the area, the Officers nevertheless advised that the most efficient and effective method for determining the appropriateness of small-scale retail would be through the resource consent process.<sup>7</sup>

[82] Given that the outcome of the revised recommendation was that only retail activities between 500m<sup>2</sup> and 3000m<sup>2</sup> could establish on Jackson Street west of Victoria Street, the Officers recommended that the tenancy frontage length to be applied to Jackson Street be increased from 15m to 30m, noting that this width was based on the existing frontages of the Kathmandu and Nood/Macpac stores on Jackson Street, which the Officers considered provided an effective display window shopping frontage.

[83] Issue 2: large-scale retail activities: having heard the evidence the Officers advised that:

- a. while they considered that the rules recommended in the s42A Report would effectively manage the effects of large-scale retail development (e.g. traffic effects, vitality and vibrancy effects), they nevertheless recommended further assessment criteria be added to provide more explicit guidance on the matters to be assessed in any resource consent process; and
- b. in relation to very large-scale integrated retail development, given the potential for significant adverse effects on the vitality and vibrancy of the Jackson Street historic retail precinct, the Officers recommended that integrated retail developments exceeding 10,000m<sup>2</sup> should be a non-complying activity.

[84] Issue 3: retail activities fronting The Esplanade: the Officers advised that in their opinion the key matter was managing safe entry/exit for vehicles to any site with frontage to The Esplanade, rather than retailing inherently being inappropriate in that part of the proposed mixed use area. The Officers advised that they considered that the existing rules (i.e. the requirement for resource consent as a restricted discretionary activity for all new buildings, with traffic effects being one of the matters for discretion) would be effective in managing the traffic effects of retail activities on The Esplanade to ensure its safe and efficient operation.

#### **Evaluation of Evidence and Findings**

[85] While there was little 'economic' evidence, aside from the evidence of Adam Thompson on behalf of the Council, and we note that this is quite an unusual situation when District Plan rules for retail activity are being scrutinised (and for that we can perhaps be thankful for often the economic evidence is quite conflicting) we consider that the point was well made by a number of submitters that really there is no need or justification for allowing essentially 'unfettered' retailing throughout the proposed mixed use area.

[86] There was evidence from some submitters with businesses in the Jackson Street Historic Retail Precinct that a significant drop-off in sales did follow the opening of large retail format businesses (the opening of The Warehouse was specifically mentioned) in Area 2. While we accept that this may

<sup>7</sup> We were advised that five established retail premises of less than 500m<sup>2</sup> in the proposed mixed use area had been granted non-complying consents since 2000 under the operative District Plan provisions.

have been the case, nevertheless the 'main street' has continued to remain strong, which, of course, was a point made by many other submitters who pointed to the 'success' of the shopping environment in the Historic Retail Precinct.

- [87] Speaking on behalf of the Jackson Street Programme (submitter 218) Ms Leone Dobbs advised that although there had recently been an increase in the number of vacancies (in the order of 10 currently) which reflected the difficult economic climate, 'normally' there were usually only one or two vacancies.
- [88] We consider the main issue for determination is: what format of retailing is appropriate in the mixed use area given the District Plan intention to provide for two "*distinct areas*" (refer Chapter 5, Commercial Introduction, 5(b)) - being Area 1 Victoria Street to Cuba Street and Area 2 Petone Mixed Use Area.

#### Summary of Recommendations

- [89] In relation to the 'provision for retail activities' in the Petone Commercial Activity Area - Area 2 (Petone Mixed Use Area) our recommendations are:
- a. permitted activity: retail activities with an individual store size not less than 500m<sup>2</sup> and individual or cumulative total floor space of not more than 3,000m<sup>2</sup>;
  - b. discretionary activity: retail activities with a gross floor area below 500m<sup>2</sup>;
  - c. discretionary activity: retail activities with an individual or cumulative total floor space of more than 3,000m<sup>2</sup>; and
  - d. non-complying activity: integrated retail developments with a gross floor area in excess of 10,000m<sup>2</sup>.

#### Reasons

- [90] Our assessment and conclusion is that the retail provisions that we are recommending will provide for a complementary retail role for the Petone Mixed Use Area (Area 2), complementary to the retail role of the Petone Historic Retail Precinct (Area 1) with its focus on small-scale retail activities. Thus, the retail vibrancy and vitality of Area 1 is appropriately protected / provided for consistent with its sustainable management, along with the sustainable management of Area 2 for large format retailing. Also refer comment in next section 10.3 "Jackson Historic Retail Precinct".

#### [10.3] JACKSON STREET HISTORIC RETAIL PRECINCT

- [91] Apart from the rezoning of three small Victoria Street properties from General Business Activity Area to Petone Commercial Area - Area 1, PC29 did not propose any changes to the current operative provisions applying to the Jackson Street Historic Retail Precinct. However, as will be apparent from the discussion to date, particularly in the previous section addressing the 'provision for retail activities', a major concern for many of the submitters was the potential impact of the proposed expansion of retail activities in the mixed use area, and, in particular, the provision for both small-scale and large-scale retail activities.
- [92] Principal concerns were the undermining of the economic viability of small-scale retailing in the Historic Retail Precinct, with the consequent erosion of the Precinct's vitality and vibrancy. Many submitters considered this outcome would put at risk significant heritage values through the inability of building owners to fund necessary earthquake strengthening and building refurbishment.

- [93] In essence, the focus of concern was on 'out-of-zone' effects - i.e. development 'in-zone' within the proposed mixed use area having adverse effects 'out-of-zone' - i.e. on the Jackson Street historic retail precinct (Petone Commercial Activity Area - Area 1).
- [94] For our part, we confirm that this concern is a valid RMA matter in that it really goes to the heart of the sustainable management of the 'combined' physical resources of the Petone Commercial Area, which, it so happens, is divided into two areas (Area 1 and Area 2) and principally on the back of appropriate provision for retail activities in the two areas, small-scale in Area 1 and large-format retail in Area 2.
- [95] Under this heading we do not intend to summarise and evaluate the evidence a second time, having effectively done so in relation to the 'provision for retail activities' section above.
- [96] However, by including a specific section in our report under the heading "Jackson Street Historic Retail Precinct" we have indicated our endorsement of the need to ensure that two of the key policies for the Petone Commercial Activity Area (as now proposed under PC29) - namely:

*5B 1.1.2(b) Manage large scale retail activities to ensure they do not detract from the vibrancy and vitality of Jackson Street Historic Retail Precinct (Petone Commercial Activity Area - Area 1) and the Hutt City's Central Commercial Activity Area, and create an attractive and public focused environment; and*

*5B1.1.(2)(c) Restrict smaller scale retail activities to ensure they do not detract from the vibrancy and vitality of Jackson Street Historic Retail Precinct (Petone Commercial Activity Area - Area 1) and Hutt City's Central Commercial Activity Area*

are implemented through the rules relating to retail activities in the mixed use area.

- [97] Finally, under this heading we also note that the Petone Planning Action Group (submitter 199) requested a small extension of Area 1 to incorporate two properties west of Victoria Street either side of Jackson Street which are within Area 2. After giving consideration to the points made by Ms Hanna the spokesperson for PPAG at the hearing, we concluded that Victoria Street was an appropriate 'boundary' between Area 1 and Area 2. We also agree with the other reasons listed by the Officers in their right-of-reply (refer paragraph 89 of the reply) supporting the retention of the boundary as proposed. Therefore, our recommendation is that there should be no change to the proposed boundary for the proposed mixed use area (Petone Commercial Activity Area - Area 2).

#### **[10.4] BUILDING FORM / BUILDING HEIGHT, BULK AND LOCATION**

##### **Existing Environment**

- [98] In terms of physical development the Petone West area divides into two distinct areas. The area bounded by Hutt Road, Jackson Street, Victoria Street and The Esplanade is characterised by very large modern buildings generally between 10-15m high. The remainder of the area is characterised by older and relatively small commercial or industrial buildings, typically 8-12m high.
- [99] There are only three buildings whose height makes them prominent: the TAB building on Jackson Street, the new IBM Petone tower on Victoria Street, and the Wellington Electricity building on The Esplanade. These buildings are all around 30m high.
- [100] In noting their prominence, we also need to note that this factor is also significantly influenced by design and location. For example, the TAB building is locally dominant in the western end of Jackson Street, but relatively less so beyond this area; however the new IBM Petone tower, set a long way



from the street edge, is often difficult to see from within the area, but becomes something of a landmark from outside the area because of its design and colour.

- [101] Having viewed these three high buildings from different places within the Petone West area, the Petone foreshore and Korokoro, we concluded that none of them was individually so dominant to an extent where wide views, character or landscape appeared to be adversely affected.
- [102] Of course, to a significant degree, this conclusion is shaped by the fact that there are only three 'high' buildings: if there were many more of them the overall impact could be quite different. Nevertheless, this conclusion suggests that there might not necessarily be any significant broad scale adverse effects associated with a high building in the right context with a good design. We did not try to evaluate more localised potentially significant effects (such as shading, wind etc) associated with these higher buildings.
- [103] We also looked at existing building heights from outside the Petone West area.
- [104] In Nelson Street (between Jackson Street and The Esplanade) the rear of the industrial buildings in Sydney Street often appeared to form a high wall on the western boundaries of these residential properties. (We were subsequently told that the Sydney Street buildings are in fact all set back from the boundaries of the residential properties on Nelson Street).
- [105] Viewed from Korokoro, the buildings in Petone West (with the exception of the three mentioned in [99]) tend to be more distinctive for their size than their height. From that altitude it is difficult to finely distinguish the vertical scale of most buildings.
- [106] Viewed from the SH2 approach to the Hutt Valley (and again excluding the three buildings noted in [99], Petone West looks to be a low/medium rise commercial area, and different to the predominantly low rise and residential area to its east.
- [107] Generally the concerns about building height in PC29 are related to the potential for many new higher buildings to adversely alter the existing character of Petone, rather than a concern about the status quo.
- [108] Before we turn to PC29, we note that the existing building height controls in Petone West are as follows:
- on the sites currently zoned Petone Commercial Activity Area 2, 30m maximum height, subject to a recession plane from Jackson Street;
  - on sites currently zoned Petone Commercial Activity Area 2 adjoining residential areas, 10m maximum height with an 8m rear yard;
  - on sites currently zoned General Business Activity (Esplanade West) Area (Appendix General Business 2) 30m maximum height, subject to a recession plane adjoining residential areas; and
  - on sites currently zoned General Business Activity (Petone western and southern business area) (Appendix General Business 2) 12m maximum height, subject to a recession plane adjoining residential areas.
- [109] The operative District Plan does not contain any specific rationale for these height controls. Mr Baily, as part of the Officer's right-of-reply, told us that the former Petone Borough District Scheme (which became part of the Hutt City District Plan) did not have any height limits and the Council set 30m in recognition of existing development.

**PC29 as Notified**

- [110] PC29 proposed a range of height controls as follows:
- Amendment 7 proposed a new Objective and Policy (c) for Area 2 within the Petone Mixed Use Area;
  - Amendment 11 proposed a general permitted height limit of 30m, but a height limit of 15m at the 'road front boundary' on Jackson Street, Hutt Road and The Esplanade 'with a recession plane of 45° sloping inwards up to 30m in height';<sup>8</sup>
  - Amendment 14 proposed a maximum building height of 10m for any site abutting a Residential Activity Area; and
  - Amendments 21-26 proposed that (with minor exceptions) any new building on Jackson Street, Hutt Road or The Esplanade, and new building above 12m, should be a restricted discretionary activity. The matters for discretion could indirectly include building height.
- [111] The small block of land on Victoria Street and Campbell Terrace to be rezoned Petone Commercial Activity Area 1 would have a 10m height limit under existing Rule 5B 2.1.1.1 (b).
- [112] Although we will refer to 'permitted' heights standards, it should be noted that, for all practical purposes, most new building in the Petone West Area would not be a permitted activity under PC29 as notified.

**Submissions**

- [113] A substantial majority of submissions opposed the height limits proposed by PC29. A number of submissions supported the proposed height limits, but none requested greater height limits.
- [114] Because so many submissions requested lower height limits, to assist our analysis of this issue we have tried to identify the range of reasons for that opposition. We believe that the reasons for opposition to the PC29 proposals on height can be summarised as follows:
- Petone is a generally low/medium rise area, and enabling an enclave of high buildings (30m being perceived as high rise) would both diminish that character and 'split' Petone West into a different and distinct area, rather than enhance Petone as a whole;
  - that the special Petone character is not just visual but there is also a social and economic aspect in balance between old and new, and a proliferation of intensive mixed use development would inevitably have consequences for the established 'heart' of the community; and
  - the Petone Vision Statement (which is explicitly a starting point for PC29) includes 'recognising the nature and scale of the urban fabric around Petone'.
- [115] Leaving aside the issue of height limits for any new buildings adjoining either the residential area on Nelson Street or the urupa on Te Puni Street, most submitters favoured a 'medium' rise area though, understandably, there were different views as to how this concept is to be converted to an exact limit. When asked, a majority seem to put a preferred limit in the 12-15m range, though others wanted a lower limit, and others were willing to accept up to 20m.
- [116] Preferences for limits on sites adjoining the rear of residential properties on Nelson Street and the urupa on Te Puni Street were lower.

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<sup>8</sup> However, building above 12m, or on roads referred to above, is generally not a permitted activity - see Amendments 21-26.

- [117] We note that many submissions appeared to treat proposed height limits as an absolute maximum: in other words, there was (and not just on this issue) possibly an assumed 'permitted or prohibited' dichotomy. We also note that while a number of submissions saw height limits in the context of a wider range of building controls, many also saw height as an issue in its own right.

#### **Pre-Hearing Meeting**

- [118] The notes (see Appendix 1) of the PC29 pre-hearing meeting held on 21 February to discuss 'built form issues' records the following in relation to proposed height limits:

*The meeting agreed that the height provision of 15-30m at the western end of Jackson Street was excessive. Concerns included:*

- *lack of context/scale with the heritage precinct*
- *views to and from the hills*
- *the bulk and height of new buildings dominating the heritage precinct.*

*The meeting discussed possible remedies noting that they might include setbacks, lower height, design guide requirements. There was no consensus on suitable amendments.*

- [119] The pre-hearing meeting facilitator, Sue Piper, records in her notes that '22 people attended representing c.15 submitters'. The notes also include the comment that those at the meeting thought that:

*" ... the proposed plan provision for a 15m height at the road frontage with a setback was an improvement on the current plan".*

#### **Changes to PC29 Recommended by Council Officers**

- [120] The Council advisors recommended a number of changes to the PC29 height provisions. These recommendations were made first in the s42A Report, and then subsequently in the right-of-reply at the end of the hearing. In some instances earlier recommendations have been overtaken by later ones. For simplicity we have merged these recommendations. We recognise (and, for the submitters, emphasise) that these are simply recommendations based on the relevant professional opinions - they are not a change of Council views on PC29.

- [121] In relation to height provisions, the Officer's recommendations were:

- Amendment 7: more detailed policies 5B 1.2.3 (d)-(f) recommended;
- Amendment 11: 30m maximum height to be replaced by 20m maximum height for land west of Victoria Street; for Jackson Street, Hutt Road and The Esplanade (road front heights) 15m to be replaced by 12m (maintaining the same recession plane); for all other areas east of Victoria Street, except those abutting Residential Activity Areas, a maximum height of 14m;
- Amendment 14: for sites abutting Residential Activity Areas maximum building height of 10m to be replaced by 12m (maintaining recession plane) but rear yard minimum depth of 3m to be required; for sites abutting Community Iwi Activity Area a maximum building height of 8m and a recession plane; and
- Amendment 26: a 'bonus' provision is recommended under which floor area above the 20m height limit can be allowed on a 1:1 ratio where open space or street connections are provide to a maximum height of 30m.

[122] The rationale for and effect of these recommendations needs to be assessed in the context of other controls on building design, and, in particular, the effectiveness of integrated design rules or guidelines.

#### **Overview of Evidence and Main Issues**

[123] Most of the evidence we heard addressed the issue of height limits either directly or indirectly.

[124] We begin by making the point that the Council officers and consultants who advised us did not support the general 30m height limit and, as noted above, made a number of recommendations for significant changes.

[125] The following key points were made:

- there is no evidence of market interest in development of buildings at 8-9 storeys (which equates to 30m) only 3 such buildings having been developed in the past 20-30 years;
- setting height limits should take account of 'alignment of change with existing values (e.g. heritage, views, Jackson Street character and vibrancy and viability), development economics, the nature of the existing urban pattern/form, Petone Vision Statement, natural hazards, the conditions required for good quality medium density residential development and recognised principles in urban design';
- taking these factors into account, the current and proposed heights are not the most efficient or effective means in achieving the transition of the Petone West area through redevelopment;
- a 14m height is appropriate east of Victoria Street to enable 4-storey development (recommended as a minimum for viable residential apartment development), and to achieve a transition between the residential areas and the larger sites and higher buildings west of Victoria Street; and
- a 12m height adjoining residential areas will enable more economic redevelopment and, with a rear yard setback, will achieve the same amenity protection as the proposed 10m height limit.

[126] All the submitters who spoke opposed the proposed 'package' of height limits. For the most part, they acknowledged the recommendations in the s42A Report as an improvement over the proposed provisions.

[127] The following references to their evidence are intended to record a sample of the diversity of views within that general opposition, rather than to indicate that we think that what these submitters said was more important than the points made by those submitters we have not specifically referred to:

- Ruth Fletcher (submitter 135) supported the recommended change from a 30m to 20m maximum building height. However she thought that the recommended 1:1 bonus allowing increased height when open space is provided is unlikely to work as an economic incentive.
- The Petone Planning Action Group (submitter 199) thought that the recommended height limits were excessive, and preferred an overall height limit across the area of 10m 'as the norm with only a few higher buildings allowed, and where they will be allowed and why identified in the Plan Change and in the Design Guide'.
- Merran Bakker (submitter 99) supported the recommended change from a 30m to 20m maximum building height, but opposed the recommended height of 14m east of Victoria Street. She 'would prefer to see a 12 metre limit with recession planes to better preserve the interface with the residential areas to the east in terms of the visual impact and shading in particular'.

- Stephen Shadwell (submitter 149) had prepared detailed shading diagrams showing the effect of development under the proposed height limits, particularly on Nelson Street. He acknowledged that most of his concerns had been addressed by the recommendations. However he thought that the recommended 12m maximum building height for sites adjoining residential areas would still result in significant dominance and shading along Nelson Street.
- Richard Te One (submitter 174) was concerned that the proposed height limits would allow the development of a 'wall of buildings along each street and on the eastern boundary'. He favoured 'grading back the height of buildings around the perimeter of the Plan Change area'. He also recommended a reduction in maximum height at the boundaries of the urupa.
- David Hunter (further submitter 13 and 19) was concerned that the recommendations in relation to sites adjoining the residential area would worsen the impact of new development on the Nelson Street properties, and was concerned that the owners of these properties were largely unaware of this. The major concerns are the potential development of apartments with balconies overlooking Nelson Street residences and consequential loss of appeal and value. He sought the confirmation of proposed yard and height limits.

[128] The main issues for us to resolve on building heights are as follows:

- a. Should there be a differentiation among specific areas within the Petone West area for setting maximum building heights?
- b. Are the policies proposed by PC29 an appropriate basis for managing the height issue?
- c. What should the maximum building heights be (in any specific area)?
- d. Should there be a height 'bonus' incentive rule so that building height above a certain level is conditional on the provision of open space around the building?
- e. What activity classification should be given to a building proposal which exceeds the relevant permitted maximum?
- f. What criteria or standards should be attached to any such classification?

#### **Evaluation of Evidence and Findings**

[129] We begin by considering whether and why it is necessary to control building height in this area. Given that all the parties involved in PC29 agree that there should be controls on building height, we may do this briefly. However, it is essential to identify just what District Plan objective(s) controls on building height seek to achieve (section 32(3)).

[130] We conclude that two proposed objectives could not effectively be achieved without building height controls. These two proposed objectives are (in order of significance on this issue) 5B 1.2.3 Objective - Character and Building Form and Quality, and 5B 1.1.3 Objective - Main Entrance and Gateway Routes.

[131] If building height is not subject to some form of effective control, then 'the character, amenity values and quality of the environment' might not be maintained or enhanced by new development, and the values and features of adjoining areas might not be recognised and protected.

[132] For present purposes we need to consider the issue of height and other building controls within the general range of provisions proposed by PC29 and the submissions on it.

- [133] As with all evaluations under the RMA, we also need to recognise that every control on new building has a cost - whether it be a constraint on development potential and/or a potential effect on persons in neighbouring properties or areas. In other words, it is important that in achieving one objective we do not compromise the achievement of another objective.
- [134] A related issue arises from the proposal to set a site coverage limit at 100%. There may be cases in which such a development is appropriate and a good use of the land resource. However, we think that keeping this provision would signal that 100% is expected. This should not be the case. Such an expectation would make assessment of both height effects and open space provision more difficult. We recommend the deletion of the site coverage provision.
- [135] We generally endorse the recommendations in the Officer's right-of-reply in relation to maximum building heights of 12m, 14m and 20m in specified parts of the Area. The lower heights reflect a transition from the scale of development in adjoining areas, and the smaller block widths. We think that the recommended heights are generally consistent with the character of Petone, and, as we have noted previously, the concept of 'permitted' height is limited by the classification of most new development as restricted discretionary allowing a range of design and amenity factors to be considered on any given application.
- [136] The use of an incentive mechanism was proposed by the Officers for building height between 20m to 30m. Under such a system extra floor area above 20m would be conditional on the provision of an acceptable quality of open space of at least the same area. Thus, this is primarily a method to achieve open space rather than control height as such, though open space would undoubtedly have at least the potential to mitigate the effect of a high building. We do not recommend this provision.<sup>9</sup> Because buildings of this scale will all be in the restricted discretionary category, a wide range of design and amenity issues can be considered in assessing applications. There may be situations where a higher building can create public amenity in other ways, rather being limited by a formulaic open space incentive. We are also not persuaded that the incentive as proposed is actually viable.
- [137] In conjunction with the rejection of this incentive, we recommend that buildings above 20m be a discretionary activity.
- [138] The building heights in the block between Sydney Street and Nelson Street (i.e. on the east side of Sydney Street) should be those recommended in the Officer's right-of-reply with the recession plane and the rear yard. In other words, maximum building height will be 12m, but there will also be a 3m rear yard and a recession plane at 2.5m above the eastern boundary running at 45°.
- [139] In response to a specific point raised by Stephen Shadwell (submitter 149) regarding the height of the block abutting the residential activity area in Campbell Terrace, we have concluded that the permitted height should be 14m and not 20m as proposed. This block essentially establishes a 'transition' between both the residential activity area and with the Jackson Street Historic Retail Precinct (Area 1). To the west, i.e. west of Gear Street, the height steps up to 20m.

### Summary of Recommendations

- [140] In relation to the 'building form / building height, bulk and location' provisions our recommendations are:
- a. the building height in the Petone Mixed Use Area should be 20m with the following exceptions:
    - on sites fronting Jackson Street, Hutt Road and The Esplanade 12m with a recession plane of 45° sloping inwards to 20m
    - on sites east of Victoria Street 14m, except for those sites that abut the General Residential Activity Area;

<sup>9</sup> If Council adopts this recommendation it will be necessary to delete the reference to the bonus height in the Design Guide (at page 27).

- on sites between Sydney Street and Nelson Street abutting the General Residential Activity Area, 12m plus compliance with the recession plane requirement of the abutting General Residential Activity Area
  - on sites between Victoria Street and Gear Street (on the north side of Jackson Street) 14m
  - on sites abutting the Te Puni Urupa 8m (also refer section 10.9 "Cultural Heritage")
- b. the deletion of the 100 percent site coverage standard
- c. the removal of the provision of additional 'bonus' building height between 20m and 30m.

#### Reasons

[141] Our assessment and conclusion is that the heights now recommended will strike an appropriate balance between providing for an appropriate scale of development, while also protecting the amenities of the Mixed Use Activity Area and the adjacent Historic Retail Precinct and the General Residential Activity Area. We consider that the resultant 'urban form' will be generally consistent with the character of Petone.

#### [10.5] DESIGN GUIDE

##### Existing Environment

[142] The Petone West area has accommodated large-scale industrial and commercial development for well over a century. It has been, and largely remains, the industrial and working heart of Petone. In the past 20 or so years large format retail or service activities have been developed on previously industrial sites. One of the last major industries, the Colgate factory, closed in 2006 and this large site remains in transition, currently serving as a storage facility.

[143] To the west of Victoria Street newer development is characterised by the 'box' architecture of supermarkets and NZ Post's Te Puni Mail Centre, together with their associated carparks. East of Victoria Street the smaller sites have precluded this kind of development, and most of the newer development has either been on the same scale as the existing, or a renewal of it.

[144] Overall, the area appears to have no public open spaces (save for the extensive areas of carparking), and very low street amenity for pedestrians. The only open space of any significance is the urupa on Te Puni Street.

[145] In noting the absence of open space we are mindful that the area adjoins the Petone foreshore - but the safe connections to it are infrequent. The Esplanade itself offers no incentives for pedestrians to walk along its northern side.

[146] Before turning to the way in which PC29 addresses urban design factors, we consider the existing planning provisions together with the Council's general approach to these factors. To put the current Plan into context we begin with the latter point.

[147] The Council is a signatory to the NZ Urban Design Protocol. The following extract from this Protocol illustrates the breadth of the factors that need to be considered:

*Urban design is concerned with the design of the buildings, places, spaces and networks that make up our towns and cities, and the ways people use them. It ranges in scale from a metropolitan region, city or town down to a street, public space or even a single building. Urban design is concerned not just with appearances and built form but with the environmental, economic, social and cultural consequences of design.*

*Quality urban design values and protects the cultural identity and heritage of our towns and cities and provides for creativity. It reinforces New Zealand's distinctive identity. Quality urban design also adds social, environmental and cultural benefits by creating well connected, inclusive and accessible places, and by delivering the mix of houses, uses and facilities that we need. It can enhance safety, reduce crime and fear of crime and enhance energy efficiency.*

- [148] For local government there are a variety of ways in which the Protocol can be achieved. The Protocol refers to the seven "Cs" as the 'essential design qualities that together create quality urban design'.<sup>10</sup> The adoption of design principles, rules or guidance within a district plan is one such way. If this option is chosen, then the existing developed environment will often necessarily be both a starting point and a constraint on the gradual implementation of good design principles. On occasion the local authority's own work on streets and public places may serve as a catalyst to better development or redevelopment on private land.
- [149] The current Plan provisions (for Petone Commercial Activity Area - Area 2 and General Business Activity Area) do not include objectives and policies for good urban design, though the Petone Commercial Activity Area - Area 1 does contain some of the elements in relation to heritage character. The current provisions could be described as a mix of development and building controls within a conventional zoning framework.

#### **PC29 as Notified**

- [150] The proposed policies under 5B 1.1.2 and 5B 1.1.3 are a significant shift towards some of the qualitative elements envisaged by the Protocol. They are also in general accord with the Petone Vision Statement which served as a starting point for PC29.
- [151] On the whole, however, these policies do not appear to be implemented by effective rules to achieve a high standard of urban design. A Design Guide was included with PC29, but is merely one of a number of considerations on the assessment of new building, and in this context it may not have the desired effect.
- [152] We have stated this conclusion without setting out a detailed analysis of the gaps between policies and methods of implementation because no contrary view was expressed. In particular, the substantial amendments recommended by the Council Officers and consultants implicitly accept that PC29 as notified was not adequate in this respect.

#### **Submissions**

- [153] Many of the submissions addressed urban design issues either holistically or in aspects of detail. Most submissions which considered the issue supported design guidance or control, particularly to integrate Petone West into the rest of Petone, and wanted any such guidance or control to be effective in shaping future development. There were no submissions opposing design guidance or control.

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<sup>10</sup>Context: seeing buildings, places and spaces as part of whole towns and cities  
 Character: reflecting and enhancing the distinctive character, heritage and identity of our urban environment  
 Choice: ensuring diversity and choice for people  
 Connections: enhancing how different networks link together for people  
 Creativity: encouraging innovative and imaginative solutions  
 Custodianship: ensuring design is environmentally sustainable, safe and healthy  
 Collaboration: communicating and sharing knowledge across sectors, professions and with communities.



[154] The following submitters reflect a diversity of views on this issue:

- Colin Partington (submitter 161) saw the issue in terms of a loss of neighbourhood character, and a resulting 'lack of community feel and connection'. He was particularly concerned about the absence of parks or recreational areas within Petone West
- Roger Thackery (late submitter) noted a lack of 'teeth' in design guides
- Tui Lewis (submitter 169) thought that PC29 'in its current form will allow the development of another place within Petone'
- Stephen Shadwell (submitter 149) thought that the recommended Design Guide 'is quite inadequate, especially as it relates to built form and residential uses'
- The Petone Planning Action Group (submitter 199) was similarly critical of the absence of design guidance specifically addressing the issues that are likely to arise in Petone West
- Ruth Mansell (submitter 76) addressed both urban form (particularly the place-defining views) and the need for higher residential amenity if mixed use is to be achieved
- James Beban (on behalf of Cuttriss Consultants - submitter 121) pointed to a number of areas in the Design Guide which needed clarification
- Wendy Saunders (submitter 81) reinforced the Protocol principle that 'quality urban design sees buildings, places and spaces not as isolated elements but as part of the whole town'.

[155] Overall, we thought that most submitters felt that the recommended Design Guide was an improvement on PC29 as notified, but a common concern was its effectiveness in ensuring that new development actively addresses urban design principles.

#### **Pre-Hearing Meeting**

[156] The facilitator's notes of a pre-hearing meeting (refer Appendix 1) attended by 22 persons, representing 15 submitters, records the following discussion on the PC29 Design Guide:

*There was considerable comment about the design guide proposed. These included:*

- *did not meet the standard set in the New Zealand Urban Design Protocol, published by the Ministry for the Environment, which Hutt City is a signatory*
- *does not apply to the entire area covered by the plan change*
- *does not protect views from Korokoro nor views of hills when driving west*
- *does not promote good residential amenity - e.g. outdoor space, sunlight*
- *applies only to developments along main street frontages*
- *less robust than design guide used for Lower Hutt CBD (Central Commercial Activity Area).*

#### **Changes to PC29 Recommended by Council Officers**

[157] The s42A Report recommended a revised Design Guide for Petone West. During the course of the hearing we asked whether various parties were satisfied both with the content of the recommended Design Guide and the weight to be given to it in the assessment of any proposed new development. At the end of the hearing the Officers and consultants proposed that further work should be undertaken on the Design Guide to address some of these matters.

[158] Accordingly, we advised submitters that we were providing the Officers with an opportunity to re-evaluate the Design Guide in light of submitter comments, and also in response our own observations. We requested that submitters be given an opportunity to review the amended Design Guide and provide their written feedback. We set a date of 20 June 2013 for the receipt of submitter feedback.

[159] Written comment was subsequently received from seven submitters: GNS Science (submitter 108), John Donnelly (submitter 221), Steve Shadwell (submitter 149), Ruth Fletcher (submitter 135), Kiri and Tony Waldegrave (submitter 133), Jackson Street Programme (submitter 218) and Petone Planning Action Group (submitter 199), the latter being supported by 60 other submitters).

#### **Overview of Evidence and Main Issues**

[160] There are two primary issues. First, is the Design Guide appropriate and adequate for the type of development which is to be enabled by PC29? Second, what force should the Design Guide have?

[161] It is not necessary to review in detail the evidence on the first issue. The Design Guide now proposed is the third iteration, following the first proposal in PC29 as notified and the subsequent revision in the s42A Report. Each of the subsequent iterations has attempted to address perceived shortcomings in previous proposals.

[162] A starting point for reviewing the appropriateness and adequacy of the latest Design Guide is the list provided in the Officer's right-of-reply (at 71), which was to be the basis of further recommended refinement:

- Designing to address The Esplanade;
- Designing to address Jackson Street and adjoining heritage area;
- Managing adaptations and alterations;
- Large format retail;
- Solar access;
- Managing noise;
- Further tailoring the overall Design Guide specifically for the Petone West Mixed Use Area; and
- Residential amenity, particularly quality of internal spaces.

[163] The revised Design Guide addresses all these matters to some degree. Appendix 3 relates the content of the Design Guide to the broader Petone Vision Statement.

[164] The submissions on the revised Design Guide generally accept that it is an improvement on the previous version, but a number of concerns remain:

- Jackson Street Programme: requests that new development (particularly around Jackson Street) is sympathetic to and reinforces the heritage look of Jackson Street;
- Stephen Shadwell: suggests that each guideline should have a stated objective; that more use be made of negative examples; that specific consideration of designing to address the Harbour; and that 'encouraged' guidelines become 'full strength'. He also queries the use of mandatory language such 'required to be provided for' as incompatible with the concept of guidance;
- GNS Science: recommends specific and strong guidelines for natural hazard identification and design; and

- Petone Planning Action Group: requests an improved and clear statement of objectives; improved relevance of content to Petone; and improved relationship of the guidelines with the heritage area. PPAG provided examples of other design guides which were thought useful or superior in approach.

[165] On the second issue (the 'force' given to the Design Guide) the strong preference of those who spoke at the hearing was that guidelines should have 'some teeth'.

#### **Officer's Reply**

[166] In their reply, the Officers advised that they accepted that the Design Guide could be further 'refined'. They also supported adding a reference requiring that any resource consent application should be accompanied by a design statement demonstrating how the proposed design responds to and is consistent with the Design Guide.

#### **Evaluation of Evidence and Findings**

[167] The fundamental purpose of design guidance is to identify the elements of good design in a particular context. The guidelines serve as reference points for designers so that Plan provisions which require a consideration of the effects of new development can be successfully addressed in the design of that development. Guidelines should not be seen as (or expected to be) either a design 'code' or a concept plan for a redeveloped area. In the resource management context what we should expect of good design guidance is that, if it is generally followed, then the objectives and policies for the area will be more likely to be achieved.

[168] It is not realistic to expect that design guidance can cover every contingency, particularly when the area is large, ownership is diversified, future subdivision potential exists, and the future mix of uses in any given part of the area is unknown. In this context guidance must necessarily be more concerned with principle than with specific 'fit' criteria. It is almost inherent in any design guidance that a perfect model is unattainable.

[169] In looking at the appropriateness and adequacy of the proposed Design Guide, our primary reference point is the policies of PC29 as now recommended.

[170] In our view the Design Guide is an appropriate response to those policies. Overall it sets out guidance on matters which are particularly important to new design in the Petone West area. We acknowledge criticisms that the Design Guide is too similar to other design guides, in other words that it is not sufficiently tailored to this area. However, good urban design principles apply across a range of areas and need not be specifically crafted for this area to achieve their purpose. We see no need to 'reinvent the wheel' on the use of supporting diagrams either: the issue is whether the guidelines are helpful here, and it is not necessary to have exclusively local illustrations to achieve this.

[171] Some submissions also raise issues about the use of specific numbers in some guidelines. It needs to be emphasised that the guidelines are simply that: where specific dimensions are used to illustrate a particular guideline or principle that does not give those dimensions a mandatory or permitted status.

[172] The Design Guide does not include design for natural hazards. That does not diminish the importance of the issue where a specific hazard exists. However, the recognition of a specific hazard will (if the development is to proceed) be more likely to involve engineering solutions than urban design ones. As we have recommended elsewhere, there should be strong obligations to identify and consider natural hazards in planning new development.

- [173] On the issue of adequacy, we are also satisfied that the Design Guide is, with the modifications recommended below, a good starting point for PC29. It is by no means the last word on a number of the issues covered, and we recommend some specific changes below. Time, experience and changing circumstances will require the Design Guide to be reappraised at some stage, potentially well before the statutory review period of 10 years. In our view this should ideally occur when the Council adopts an open space strategy for the area. This will create an important reference point for the design guidelines. A future revision will also ideally incorporate ideas and perspectives from within the community.
- [174] On the issue of the force given to the Design Guide, we think that this is more a matter for consideration under the relevant policies and rules rather than the language or the principles of the design guidelines. The recommended rule is that any building is a restricted discretionary activity, with matters of discretion including design, external appearance and siting, the Design Guide, amenity and landscape design. We think that this is sufficient. A development proposal which has not addressed the principles of good design to fit its context is unlikely to be approved, unless it is extraordinarily compelling in some other way.

#### **Summary of Recommendations**

- [175] We think that the Design Guide could be improved with some changes as follows:
- in 1.1 Objectives of the Design Guide: the second sentence needs to refer to the implementation of District Plan policies for the Area. In our view that should be its primary purpose: the other stated objectives are important, but are aspects of the primary purpose;
  - in 1.2 How the Design Guide Relates to the District Plan: we do not regard a two tier guidance as appropriate and recommend that the last two sentences of the first paragraph be deleted and that the 'recommended' notations also be deleted where they appear. We think that it is already implicit that not all guidelines have equal importance or relevance in any particular case. And, to take one example which is currently 'recommended', the control of noise effects by good design may be an important factor in the success of a transition to mixed use; and
  - in 1.2 also: we also recommend that the last sentence in paragraph 3 be reworded by inserting 'principles' after 'Design Guide'. This will remove the potential for the sentence to be understood as requiring compliance with specific guidelines.
  - In 1.6 Ruth Fletcher raised a question about the accuracy of the legend (i.e. the 'definition' of the area). The legend refers to the "Petone Commercial Activity Area - Area 2" whereas the title of the Design Guide is "Petone Mixed Use Activity Area". This is something that we noted during the course of the hearing, namely that many people refer to the Petone Mixed Use Area whereas PC29 rezones the area "Petone Commercial Activity Area - Area 2" and sometimes adds in brackets ("Petone Mixed Use"). We recommend that the legend on the Map at 1.6 be: "Petone Commercial Activity Area - Area 2 (Petone Mixed Use)". Indeed, we recommend this nomenclature be adopted throughout the final Plan Change provisions. In this way it will clearly distinguish it from the other 'half' of the Petone Commercial Activity Area, namely Area 1 (Jackson Street Historic Retail Precinct).

We therefore recommend that the Design Guide be adopted with the modifications above. We discuss the matter further in [491] to [496].<sup>11</sup>

### Reasons

[176] With the further amendments / refinements now recommended we consider that the Design Guide is 'fit for purpose'. We have, however, also recommended (refer Section 10.8 "Open Space Provision") that the Design Guide should be reviewed following the completion of an 'open space strategy' for the Petone Mixed Use Area.

## [10.6] TRAFFIC AND PARKING

### Existing Environment

[177] As previously noted, Petone West is currently used for larger format retailing, servicing, industrial, and commercial activities. Historically there were significant numbers of larger industrial activities such as vehicle assembly plants, railway workshops, and meat processing plants.

[178] Traffic links to and from have included the road to Wellington (completed in 1841), the Petone Wharf (1884, for the Gear Meat Company), and the railway to Wellington (completed in 1874).

[179] Successive District Plans and traffic engineering inputs have established the City's requirements for parking provisions and for scheduling of future roading developments. Specific elements are:

- at the time of promulgating PC29 significant improvements to State Highway 2 (SH2) had been achieved by providing two lanes of 80 and 100 kph for through traffic, and grade separating Korokoro traffic with an overbridge, and the new overbridge linking SH2 with the Hutt Road further to the north;
- the other major road is The Esplanade that serves Petone West but is also a major 'through route' between the Seaview industrial area, Wainuiomata, Eastbourne, Days Bay, and Wellington City, and other places west and north; and
- the Petone Railway Station which is well located to serve Petone West.

[180] Petone West is considered to be well placed to be served by existing transport systems, (particularly public transport), and hence the potential for the development of new housing with potential minimal impact on additional private vehicle road traffic.

[181] However, in the "Hutt Corridor Plan" (GWRC) it is noted that:

- there is severe congestion on The Esplanade at peak times;
- there is an expectation of traffic growth in the future (doubling in the next few decades);
- rail services are expected to reach their peak capacity in the next 5 years (although additional trains are a practical proposition);
- many park and ride facilities are nearing their capacity;
- SH 2 experiences very heavy traffic volumes with severe congestion at times; and
- there are limited east/west connections.

[182] As a consequence, future traffic management is reliant on proposals for a new road link between Petone and Grenada, a further "Cross Valley Link", and other local roading improvements identified by the Hutt City Council and Road Transport NZ.

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<sup>11</sup> Also refer Footnote 9 at page 28.

**PC29 as Notified**

[183] PC29 as notified included the following amendments that relate specifically to traffic and parking matters:<sup>12</sup>

- require that car parking is managed to enhance streetscapes and visual amenity values of the Petone Mixed Use Area [Amendment 8];
- service stations fronting Jackson Street, Hutt Road, and The Esplanade to be “discretionary”. (elsewhere service stations are ‘permitted’) [Amendments 10 & 30];
- require that adverse traffic effects on the roading network generated by emergency facilities are suitably managed, by classifying them as ‘restricted discretionary’ [Amendment 20];
- ensure that traffic effects, (including effects on the transport network), and suitability of site access and servicing, of all development proposals are considered for the 3 major roads (Hutt Road, The Esplanade, and Jackson Street) [Amendment 21];
- require provision of adequate parking both in Jackson Street Historic Precinct and in new development in the Petone Mixed Use Area [Amendments 55 & 56];
- set minimum parking for residential properties at 1 space per 2 units [Amendment 57]; and
- set safe and adequate provision for servicing [Amendment 58].

**Submissions**

[184] The principal issues arising from PC29 that were raised in submissions were:

- a. the parking requirement for residential units to be a minimum of 1 space per 2 units;
- b. the need for better provision for pedestrians and cyclists; and
- c. the need to manage the parking and traffic consequences of the increased activity of development.

[185] Parking: some responses to the proposal that the minimum parking requirement be 1 parking space per residential unit were clear. For example, Laura Skilton (submitter 55) stated “*I disagree with the reduced parking provision of 1 space per 2 residential units ... should be 1 space per unit*”. Katherine Clarke (submitter 157) submitted that “*1 space per 2 apartments is not adequate*”. Others sought more attention to the lack of parking provision generally in PC29.

[186] New Zealand Transport Agency (NZTA), (submitter 163), was concerned about the provision of residential parking, and sought “*no minimum parking requirement*”. NZTA suggested a number of word changes with emphasis on minimising parking provision requirements in general, on the basis that a reduction in off-street parking provision would increase the use of public transport and thereby reduce road congestion.

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<sup>12</sup> It is accepted that some other amendments can have some other, perhaps more indirect traffic ‘implications’. For example: “*encourage residential development in order to take advantage of local employment, regional transport facilities, and the recreational opportunities offered by the Petone Foreshore*”. [Amendment 3 & 4]

- [187] Roy Hewson (submitter 30) noted that: *“Future buyers have many options and will not buy in a poorly designed area. They will want parking, open space, and small parks for recreation”*.
- [188] Angela Corrigan (submitter 35) is of the opinion that owners of residential units will own 1 or 2 cars, and will need parking for these and space for visitors to park.
- [189] Pedestrians and cyclists: there was widespread support to make better provision for pedestrians and cyclists. For example, Marion Freigard (submitter 10) stated *“we need a good, safe, cycle lane with pedestrian friendly areas”*.
- [190] Such requests were mostly non-specific. For example, the Petone Planning Action Group (submitter 199) noted that *“no management of associated traffic and parking issues is apparent”*, and requested attention to the provision of pedestrian and cycle routes, accessways, and facilities.
- [191] There was a mixed reaction to the proposal that pedestrian canopies over the public footpaths be required of property owners developing along Jackson Street between Victoria Street and the Hutt Road. There is a concern about the practicality of this, and Ruth Fletcher (submitter 135) was one of those who thought the Hutt City Council should provide such shelters, not the developers.
- [192] Managing parking and traffic: managing the parking and traffic consequences of the increase in activity was a widespread concern. For example, Mark and Anne Godfrey (submitters 175) say *“traffic and parking issues have been a major concern to Petone residents ... and this Plan Change does not adequately address them”*.
- [193] Mike Fisher (submitter 176) was concerned at the lack of parking provision and the impacts of more traffic and pedestrian pressures on local roads (especially The Esplanade).
- [194] A number of submitters gave emphasis to The Esplanade. For example, Julia Forsyth, (submitter 123), said *“there is no discussion of traffic issues for The Esplanade ...”* and *“because of considerable increase in development potential facilitated by PC29, the traffic issues need to be considered ...”*. A similar submission was received from Andy Christofferson (submitter 150).
- [195] C Bakker (submitter 153) said: *“no retail should be permitted on The Esplanade due to parking difficulties”*. At the hearing, Mr Bakker confirmed that it is the access to and from The Esplanade that is his concern.
- [196] The Greater Wellington Regional Council (submitter 151) recommended the use of *“controlled activity status ... so that appropriate conditions can be included in a Resource Consent application to manage impacts of extra traffic on the existing transport network”*.

#### **Pre-Hearing Meeting**

- [197] A pre-hearing meeting was held to discuss traffic and parking issues - refer attached notes (Appendix 1).
- [198] Discussion topics reflected the submissions and can be summarised as:
- a. parking on-street is now limited and, as most people will have a car, the proposed residential parking requirements are seen to be insufficient. Concern was expressed that increased commuter and retail parking will increase demand for on-street parking;

- b. that the Plan gives no encouragement to cycling and pedestrians, and that landscaping requirements are necessary to prevent negative impact on the visual amenity. That there should be provision for (cycling/pedestrian) connections across the area;
- c. traffic management concerns related to a perceived lack of allowance for traffic impacts on the wider traffic environment, including The Esplanade, the foreshore, SH2 connections, arising from increased traffic volumes in the mixed use area; and
- d. concern that PC29 might lead to increased traffic management costs to the Council, rather than to the developers.

#### **Changes to PC29 Recommended by Officers**

[199] With reference to the "PC29 as Notified" section above at [183], the following further changes were recommended in relation to specific traffic and parking matters:

- a. added reference to management of car parking to avoid adverse effects on the transport network. (Noting that 'Providing a high level of on-site car parking can encourage the use of private vehicles and discourage the use of more sustainable forms of transport') [Amendment 8];
- b. all service stations (not just those fronting Hutt Road, Jackson Street, and The Esplanade) are to be a discretionary activity [Amendment 10 & 30];
- c. extended application of traffic effects rules re buildings and structures from The Esplanade, Hutt Road and Jackson Street to all streets in the mixed use area [Amendment 21];
- d. a 'transportation impact assessment' (TIA) is anticipated to accompany all resource consent applications for proposals expected to generate either 50 vehicle movements/hour, or 200 vehicle movements/day [Amendment 21];
- e. additional comment requiring '... parking demands by workforce and shoppers need to be managed to prevent increases in traffic volumes on the wider road network being generated by increased car parking provision' ... [Amendment 55]; and
- f. that small-scale commercial activities (i.e. <500sqm) require no parking to be provided (as for small-scale retail) [Amendment 55].

#### **Overview of Evidence and Main Issues**

[200] The traffic and parking issues that were given emphasis at the hearing can be grouped under five main headings:

- Residential Parking
- Traffic Impact Assessment
- Retail along The Esplanade
- Cross Valley Link Road
- Financial Issues
- Other Matters

[201] Residential Parking: although he supported the requirement to set a minimum of 1 car parking space per 2 residential units, (noting that quality developers will choose to provide more because this makes commercial sense), Tim Kelly was 'luke warm' about the philosophy that restricting residential parking



- provision encouraged use of other transport modes. He acknowledged that there is no evidence to demonstrate that reducing car parking provisions increases the use of public transport.
- [202] NZTA (submitter 163) support the theory that oversupply of car parking can encourage greater use of private vehicles thereby contributing to traffic congestion (see Amendment 8). However, NZTA concede that there is insufficient evidence of behavioural change to support the imposition of a maximum parking regime.
- [203] Colin Partington (submitter 161) supports development in this area, but is of the opinion that proximity to the Petone Station and the rail link to Wellington, such that people will live in Petone and use the train to get to work in Wellington, are not big attractions for residential development. He believes roads will always be important. Residential car parking needs to be provided and traffic planning is vital.
- [204] Laura Skilton, (submitter 55 - a resident and professional transport planner), personally surveyed kerbside parking in the proposed mixed use area, and found few available spaces. Although she accepts that more residents will probably use public transport, she nevertheless believes developers need to provide more on-site parking spaces, and advocates a minimum of 1 space per residential unit.
- [205] Norman Wilkins (submitter 8) advocates garaging rather than just off-street spaces to achieve a good quality development, recognising that Petone's salt laden air can be corrosive.
- [206] Traffic Impact Assessment: the NZTA was a major contributor to the PC29 process, and although they support the concept of the mixed use area, due to its proximity to key transport modes, nevertheless held concerns that the Plan provisions as notified were too permissive. NZTA believes that the primary tool to manage traffic will be a transport impact assessment (TIA) and that the information to be provided should be specified in the District Plan. We do note that Laura Skilton expressed the view that because a TIA will be prepared by professionals, and each TIA will be different, there is no need for detail to be stipulated in the District Plan.
- [207] NZTA seeks a requirement that enables appropriate consideration to be given to the actual and potential effects of a proposal on the transport network, and in particular on SH2 and The Esplanade. NZTA notes that its interest in PC29 is the potential impact on the total network including the consequences for the Petone/Grenada Link Road project, the reconstruction of the Petone Interchange, and the connections to Seaview (i.e. upgrading of The Esplanade, or perhaps the Cross Valley Link).
- [208] Hence, the NZTA's interest is in managing the type and level of development in the Petone West area, which it noted was not just concerned with development fronting state highways, but with any large scale development that would impact on the traffic network.
- [209] NZTA support the requirement for a TIA based on the generation of vehicle movements per hour or per day, but greater compulsion is sought in the (current) wording. In support of that we note that the Petone Planning Action Group believes that a TIA should be required (i.e. "will" and not "may") for retail developments over 3,000sq metres.
- [210] The NZTA suggests that TIA requirements could be based on the NZTA Planning Policy Manual, 2007. However, as noted above, Laura Skilton does not favour prescription in the District Plan because professionals preparing TIAs will know what the required content is.
- [211] GWRC (submitter 151) expressed concern at the additional traffic that will be generated by the development in the proposed mixed use area. Policy 7 of the Regional Policy Statements (RPS) seeks that district plans have rules and policies that protect regionally significant infrastructure from

- development adjacent to that infrastructure. The concern is that The Esplanade and the Hutt Road that feed onto the SH2 should not adversely affect the efficient operation of SH2. Concern is also held for congestion on The Esplanade.
- [212] GWRC seeks that larger building developments are at least controlled activities with a control measure added around traffic effects. This will allow appropriate conditions to be included on a resource consent to manage the effects of extra traffic on the existing transport network.
- [213] Retail along The Esplanade: there has been widespread opposition to establishment of retail off The Esplanade. When questioned, however, it was clear that residents perceive 'development of retail' to equate to access/egress movement and the 'friction' between local and through vehicle movements, and hence more congestion, rather than a concern about retailing per se.
- [214] The large number of the initial submissions that opposed retailing along The Esplanade, are assumed to relate to the traffic 'friction' that could occur, particularly at peak flows. This is well illustrated by the Petone Planning Action Group submission that advocated "*no retail along The Esplanade*", because of entry/exit to and from those sites thereby interfering with the through traffic. They note that there is already a significant amount of traffic that diverts off and joins onto The Esplanade, including heavy vehicle flows that cannot be effectively diverted to other routes.
- [215] Tim Kelly advises that good management of access/egress would allow for retail growth adjacent to The Esplanade, especially where access/egress is confined to left in and left out. In his opinion this would also include service stations on Hutt Road and Jackson Street.
- [216] Julia Forsyth (submitter 123) is concerned at the traffic volume on The Esplanade, and that some policy directive is required to balance the through traffic with the local traffic.
- [217] The submission by John Weeds (submitter 39), and his presentation at the hearing delivered by Tui Lewis, is opposed to PC29. He sees the future of Petone best served by the current zoning. In particular he advocates no retail on The Esplanade because this would lead to traffic congestion, parking difficulties, and potential to undermine Jackson Street.
- [218] Cross Valley Link: the proposed Cross Valley link (CVL) is seen to be the means by which traffic on The Esplanade will be reduced in the future. Tim Kelly is of the opinion that, although the CVL will reduce traffic on The Esplanade, the degree of reduction will depend on detailing and the scheme is still being considered by the NZTA in conjunction with the Petone/Grenada Link Road. NZTA advised that the CVL is still being included as part of the Petone/Grenada link, and that no decisions have been made about the CVL by the NZTA because it needs to be considered as part of the wider proposals. The interaction with Transmission Gully is also being looked at. If the CVL were to be implemented, The Esplanade would still carry significant traffic volumes, as this is the most direct traffic route between Wellington and Seaview and Eastbourne.
- [219] The Petone/Grenada Link Road is the only major investment being considered by the NZTA in the vicinity at present. We were told that the CVL economics and 'strategy fit' are not very convincing. Modelling shows that if the Petone/Grenada link was provided without the CVL, traffic on The Esplanade would increase. This is not an acceptable consequence.
- [220] Financial Issues: NZTA asked that Plan provisions enable consideration of whether financial contributions should be taken from the developers. The RMA empowers a consent authority (i.e. the Council) to require a financial contribution which is intended to be used to mitigate adverse impacts on the environment. NZTA advised that no robust contribution methodology has been established in

New Zealand to date in respect of financial contributions. However, NZTA said they were keen to talk with the Hutt City Council on the matter.

- [221] Other Matters: in respect of the proposed mixed use area being very suitably placed to make the most of major transportation routes and public bus and train services, Wendy Saunders makes the point that the Central Commercial Activity Area (CBD) is similarly located. Dr Saunders has preference for focussing on the Central Commercial Activity Area so that the Petone West mixed use area does not compete with the “Making Places” proposals for the CBD.
- [222] Colin Partington (submitter 161) recommends that a co-ordinated Traffic Plan, encompassing the entire area, be developed.
- [223] Richard Te One (submitter 174) sought a pedestrian connection by way of an overbridge across The Esplanade to the foreshore, giving access to the proposed gateway development at the ski club/rowing club area. Mr Te One accepts that there can be difficulties getting people to use overbridges, but from his own experience trying to cross The Esplanade, there needs to be a better connection to the foreshore.

#### **Officer’s Reply**

- [224] In their reply the Officer’s noted that two primary issues were raised by submitters on traffic and parking, being the minimum on-site parking standards for residential activities and greater recognition and provision for parking and cycling.
- [225] In relation to the minimum on-site parking standards for residential activities, the Officers noted that while there was differing expert opinion and submitter evidence, two options were effectively put forward:
- a. 1 carpark per 2 residential units; and
  - b. 1 carpark per 1 residential unit.

The Officer’s advised that based on the evidence presented that considered that the minimum on-site parking standard should be 1 carpark per 1 residential unit.

- [226] The Officer’s also recommended a minimum on-site parking standard for visitor parking.
- [227] In relation to greater recognition and provision for pedestrian and cycling, although confirming their support for enhanced pedestrian and cycling facilities, the Officers noted, however, that the provision of these facilities (i.e. planning and constructing physical works) is largely outside the scope of the District Plan.

#### **Evaluation of Evidence and Findings**

- [228] In this section it is intended to break down the major topics above and to consider some of the lesser elements. Topics covered are:
- Residential parking
  - Traffic and the roading network
  - Traffic generated by large retail
  - Traffic accessing/exiting The Esplanade
  - External roading developments
  - Financial contributions

- Service stations
- Provision for pedestrians and cyclists

- [229] Residential Parking: the debate over the provision for residential car parking related to the initial proposal to require 1 car parking space to be provided for each 2 residential units built.
- [230] The initial proposed plan change documents were influenced by the philosophy that by restricting the number of car spaces provided, there is better incentive for residents to use public transport. The concept was that a minimum of 1 car parking space for every 2 residential units would achieve this, at least to some degree. This carried the assumption that developers seeking to create quality accommodation would choose to, and would be permitted to, provide a greater number than the minimum number required.
- [231] The opposing philosophy is that a developer would provide for only the minimum of car parking for economic reasons, and the consequence would be lesser quality developments, and an increasing demand for parking spaces to occupy on-street parking spaces.
- [232] The principal supporter for the lesser standard was the NZTA with the objective of reducing vehicular movements on the roading network, particularly at peak times. Residents and business owners who commented were wary of the consequences of under-providing, and universally sought the 1 car park per residential unit as a minimum.
- [233] The Officers right-of-reply recommendation was for a minimum provision of 1 car space per residential unit.
- [234] The other parking issue raised at the hearing related to the provision of visitor parking. There was little evidence presented or debate on the issue, but in closing Mr Wesley recommended that for any development greater than 7 residential units a minimum on-site parking standard be adopted. That standard goes on to require 1 visitor space for every 4 residential units.
- [235] We agree with those recommendations.
- [236] Traffic on the Roding Network: it is generally accepted that the mixed use designation will result in an increase in vehicular activity, (relating to residential and retail development), compared to the current situation. Mr Kelly's advice is that assessment of the effects of PC29 would be difficult because the mixed use designation allows for many different use options. Managing those traffic volumes in a location where the adjacent major roads already experience some congestion, is of concern. The development of residential in this mixed use area, close to the rail link and bus services, and in proximity to employment opportunities (e.g. new and existing retail, and existing commercial), is intentional. Accordingly, it can be anticipated that the increase in private vehicle commuter traffic relating to new residential units will be less than if such residential were located elsewhere.
- [237] Nevertheless, traffic growth will continue and some strategies are essential to manage the roading congestion that will occur if no steps are taken to anticipate that growth.
- [238] The NZTA supports the mixed use zoning but is concerned that the Plan provisions are too permissive. In particular NZTA sought some means that would enable consideration to be given to the potential effects of a proposal on the transport network, (in particular SH2 and The Esplanade), and whether financial contributions should be taken.

- [239] Other submitters acknowledged the potential for traffic congestion on the wider roading network, but most of that concern was in respect of The Esplanade where the introduction of retail was seen to be a major issue.
- [240] We accept that some traffic growth will occur as a consequence of mixed use development within Petone West, although this cannot be readily quantified. It is inevitable (with or without PC29), that the congestion on the main routes will increase in the future, and the main issues are discussed below.
- [241] Traffic Generated by Large-Scale Retail: in seeking to assess and manage traffic flow increases it is agreed that large-scale retail is a key element. By setting a floor area limit on retail development that otherwise qualifies as a permitted activity, there can be some controls exercised over the traffic impacts of larger proposals. There has been considerable discussion as to the appropriate size but we agree with Mr Wesley's conclusion that a 3,000m<sup>2</sup> threshold be set, above which a retail development becomes a discretionary activity. We note advice obtained by Mr Kelly *"that the 3,000m<sup>2</sup> threshold was effectively a policy judgement on a 'reasonable' level which balanced provision for motor vehicle movements within the existing network and potential increased traffic movements from larger-scale development"*.
- [242] As a discretionary activity the development of retail greater than 3,000m<sup>2</sup> will be assessed by Council as potentially in need of a Traffic Impact Assessment (TIA). By this means the impact of the traffic generated by the proposal on the adjacent roading network will be appraised and measures to mitigate any adverse effects appropriately identified and, if necessary, actioned.
- [243] We note that a number of submitters were of the opinion that the requirement of a TIA for larger scale retail developments should be mandatory. NZTA records its support for the requirement of a TIA from developers expected to generate 50 vehicle movements/hour, or 200 vehicle movements/day, and also prefers the TIA to be mandatory, not at the discretion of Council.
- [244] Mr Wesley, guided by Mr Kelly, recommended that such a requirement be at the discretion of the Council, because such a decision should not be solely based on traffic numbers. There are a number of factors to be considered such as the nature of the proposal, the existing site use, local traffic context, and site access/exit arrangements that might confirm the need (or otherwise) for a TIA.
- [245] We agree that PC29 incorporate a requirement that a TIA be considered in the event of a retail development expected to generate more than either 50 vehicle movements/hour or 200 vehicle movements/day [refer Amendment 35]. We also agree that such a requirement be at the discretion of the Council.
- [246] Traffic Accessing/Exiting The Esplanade: there is widespread opinion among submitters that retail development should not be associated with The Esplanade. This is not a surprising advocacy in light of the traffic volumes already using The Esplanade, and the potential to disrupt that flow with entry and exit points.
- [247] Discussion with those who raised this matter at the hearing clarified that the perception is indeed that the 'friction' to traffic flow created by merging and exiting vehicles will be undesirable. Considering the potential for disruption in some detail, however, we find a number of mitigating factors. New rules (see proposed Amendment 21) mean that new buildings are a restricted discretionary activity, with traffic effects, ('including effects on the transport network'), being a matter over which Council has discretion. That is in addition to the opportunity for the Council to require a TIA in the event of a retail proposal generating more than either 50 vehicle movements/hour or 200 vehicle movements/day.

- [248] Because The Esplanade already carries high traffic flows, significant traffic increases are unlikely. The access to or from new retail development may be via the existing local roads, but in any event will be “left in/ left out” which will minimise traffic disruption.
- [249] We are of the opinion that adverse effects of traffic on The Esplanade can be managed by the operative District Plan provisions and the changes proposed by PC29.
- [250] External Rooding Developments: the PC29 hearing has no direct ability to initiate, require, or amend any proposals for improvements to the rooding network beyond the defined PC29 area. It is acknowledged that development in the mixed use area may in time result in increases to traffic flows, probably related to the introduction of residential development and to additional retail outlets. However, there is no evidence that this will be rapid or particularly significant when compared with current traffic flow numbers and other potential developments in the Hutt Valley.
- [251] The NZTA have the major role in planning and funding, and in particular is the road controlling authority for SH2. NZTA recognises that SH2, The Esplanade, and Hutt Road are high volume roads that presently experience pressure during peak periods. It is apparent that the most relevant rooding improvements to the external network are the upgrading of The Esplanade, provision of the Petone/Grenada Link, the Cross Valley Link, and the Petone Interchange. None of the latter three are yet scheduled with any certainty and hence the NZTA requests that: *“the Plan Change proposal enables an assessment of a proposed activity’s effects on the transport network”*.
- [252] The earliest prospect of mitigation of traffic congestion on the network is the proposal to investigate upgrading of The Esplanade. [Council has included this in the Draft 2012/13 - 2015/16 National Land Transport Programme].
- [253] NZTA is of the opinion that PC29, with intensification of land use, would result in increased traffic demand on the proposed Petone/Grenada Link, and The Esplanade, and on the functioning of the new Petone Interchange. Consequently, the NZTA has an interest in management of traffic generating development in the Petone West area.
- [254] While it is clear that this PC29 hearing requires no direct decision in regard to major transportation network improvements, the ability to control sources of traffic generation is noted in the NZTA submission.
- [255] We are of the opinion that while improvements to the transportation network around the PC29 area are very important to minimise the future traffic flow constraints, PC29 itself has limited ability to mitigate such constraints. The requirement for developers to provide TIAs in relevant circumstances is the appropriate contribution to the wider issues.
- [256] Financial Consequences/Contributions: the subject of financial contributions arose with the NZTA presentation. The NZTA noted that the RMA consent authority (the Council) can require a financial contribution, but that it is difficult to calculate the financial implications arising from a specific/individual construction proposal to a major traffic network improvement (e.g. the Petone/Grenada Link).
- [257] Mr Kelly had earlier raised the matter of financial contributions and commented that:

*An opportunity needs to be provided to identify whether a development triggers or brings forward the need for transport infrastructural improvements and hence the appropriateness of a contribution (physical works or financial) towards the necessary works.*

On the subject of financial contributions it is apparent to us that the current legislation covers the matter and no direct reference in PC29 is required.

- [258] Service Stations: in the initial draft of PC29 it was proposed that service stations be a 'permitted activity' except for sites with road frontage to The Esplanade, Hutt Road, and Jackson Street. Service stations with such frontages were to be a discretionary activity.
- [259] Following receipt and consideration of submissions, service stations throughout the PC29 area were proposed to be a discretionary activity, with traffic effects the most relevant assessment factor.
- [260] It was apparent from presentations and discussion at the hearing that service stations were most unlikely to establish on other than major routes, and, if they did so, the traffic impacts on local (minor) streets might well be adverse and significant.
- [261] Tim Kelly established that a well-planned service station would not generally be a significant traffic impediment. Service stations do not generate traffic as such as potential customer vehicles are generally passing anyway. The design of traffic flows is important and a 'left/in-left/out route', which is the only option on The Esplanade, would minimise interference with adjacent traffic flows.
- [262] We agree with the current recommendation by the Officers that within the proposed mixed use area service stations should be a discretionary activity, with traffic effects being an assessment matter.
- [263] Provision for Pedestrians and Cyclists: a number of submitters sought reference in PC29 to improving the lot of pedestrians and cyclists. Most of these were in general terms, and we acknowledged the value of providing/improving facilities for people.
- [264] In the s42A report the desirability of improving pedestrian and cycling facilities is noted, but also that the planning of and confirming the physical works to be done does lie outside the scope of PC29. The principal effect of PC29 for pedestrians and cyclists is that the creation of a mixed use area will reduce the need to travel because an increased range of activities are located close to one another.
- [265] It is possible that improvements for pedestrians and cyclists will be achieved by the successful application of the Design Guide and initiatives by the Council in harmony with that development as it occurs.
- [266] There were two other specific matters raised:
- a. Canopies along Jackson Street from Victoria Street to Hutt Road: the proposal for provision of verandahs in Jackson Street between Victoria Street and Hutt Road was intended to provide a sheltered pedestrian route along Jackson Street to and from the Petone railway station. Although the extension westward of small-scale retail (i.e. below 500m<sup>2</sup> as a permitted activity) is not now proposed, the requirement to provide shelter, and the benefits of that provision, remain.
  - b. Pedestrian connection across The Esplanade to the foreshore: although outside the scope of PC29 we anticipate that the future upgrading of The Esplanade will cater for dedicated walkways and cycleways and consideration of a pedestrian overbridge or other pedestrian facility will be an element of that work.

### Summary of Recommendations

- [267] Carparking: having considered the evidence presented, we now consider the minimum on-site parking of 1 carpark per 1 residential unit is the most effective and efficient standard for achieving the objectives of the District Plan. The reason for this conclusion and recommendation are:
- a. Hutt City central commercial activity area (CBD) is not a precedent in this regard because it has a number of differences to the Petone West mixed use area that support a lower parking standard, including large areas of public parking and a highly controlled and enforced on-street parking system;
  - b. this ratio is consistent with the multi-unit residential development in residential areas and has been applied to recent multi-unit residential developments in the Jackson Street historic retail Precinct (Area 1);
  - c. it recognises the likely demand for on-site parking for different types of residential accommodation (e.g. student accommodation, studios, and one bedroom units, through to larger units which may be used on a temporary basis - i.e. during the week);
  - d. it minimises pressure on on-street parking and provides for its availability for other users, noting a system for managing on-street parking may be required in the future irrespective of this requirement; and
  - e. it provides a degree of support for the use of public transport and other modes of transport (walking and cycling).
- [268] Some submitters also sought minimum on-site parking standards for visitor parking for residential developments. We believe this issue belongs to large-scale residential development where multiple people may be visiting at the same time. We consider the provision for on-site visitor parking is appropriate for similar reasons to those listed above. Accordingly, we recommend a minimum on-site parking standard for visitor parking for larger-scale residential developments (i.e. more than 7 residential units) be adopted.
- [269] Traffic Impact Assessments: in response to evidence presented seeking incorporation of Traffic Impact Assessments for developments in the mixed use area, Mr Wesley noted that the existing Rule (5B 2.2.2.1(a)) for retail developments exceeding 3,000m<sup>2</sup> has a sole matter of discretion relating to the 'effects on the transport network'. Mr Wesley places reliance on the expert opinion of Mr Bill Barclay (who has advised Council for a number of years on District Plan traffic matters) conveyed by Mr Kelly, that the 3,000m<sup>2</sup> threshold was effectively a policy judgement on a 'reasonable' level, which balanced provision for vehicle movements within the existing network and potential increased traffic movements from larger-scale development. We note this 3,000m<sup>2</sup> threshold is consistent with the 'traffic impact fee' threshold in Chapter 12: "Financial Contributions of the District Plan". Earlier comments from Council's traffic engineers supported the retention of the 3,000m<sup>2</sup> floor space limit, in that it provided the ability to effectively assess, and if required mitigate, traffic impacts. Officers now recommend further assessment criteria be added to the Plan Change to provide more explicit guidance on the matters to be assessed in any resource consent process.
- [270] Mr Wesley also noted that a few submitters sought the requirement for Traffic Impact Assessments for larger-scale retail activities be mandatory (i.e. "will") rather than at the discretion of Council (i.e. "may"). He concurs with the comments from Mr Kelly that this matter should be at the discretion of Council as there are a number of factors that would influence whether such a technical assessment



should be required, rather than purely based on a specific traffic movement threshold. These factors include the nature of the proposed activity/development, the nature, size and size of existing development on the site, the local traffic context, existing site access, and other traffic arrangements.

- [271] Retail along The Esplanade: Mr Wesley noted that with regard to retail activities on The Esplanade, and in response to our questions, that Mr Kelly was of the opinion that there was a difference between 'fast' and 'slow' retail activities from a traffic perspective. Given The Esplanade is already a high traffic volume road, any additional traffic generation from the retail activity is unlikely to change the number of movements (on a percentage basis). The key matter is managing safe entry/exit for vehicles so this does not result in safety or efficiency issues for The Esplanade. As vehicle entry/exit to any site on the Plan Change frontages to The Esplanade is eastward only (due to a median strip), a scenario of left turn in and left turn out could work effectively.
- [272] Mr Wesley is of the opinion that the existing rules, (i.e. the requirement for a resource consent as a restricted discretionary activity with traffic effects with being one of the matters of discretion), the trigger for a discretionary activity consent for larger-scale retail activities which may have significant vehicle movements, along with the standards for vehicle access in Chapter 14A of the District Plan, would be effective and efficient in managing the traffic effects of retail activities on The Esplanade to ensure its safe and efficient operation.
- [273] Cross Valley Link: Mr Wesley made no specific mention of the CVL in his closing statement, and it is apparent that he sees no place for the dependence of the proposed mixed use area on that project, or the inclusion of any reference in the PC29 documentation.
- [274] Financial: Mr Wesley made no specific mention in his closing statements of financial contributions by developers to roading projects. We note that there is no appropriate inclusion in the PC29 documents for such material.
- [275] Other Matters: in addition to the above topics, Mr Wesley commented that: 'in relation to greater recognition and provision for pedestrian and cycling, we support the intent and reasons for this relief sought. However, as discussed in the s42A report, we consider the provision of these facilities (i.e. planning or constructing physical works) is largely outside the scope of the District Plan. We envisage incremental changes would be made to the streets and roads over time as the area transforms to a mixed use area.
- [276] In summary, based on our assessment of the changes proposed under PC29 relating to 'traffic and parking', our recommendations are:
- a. residential activity parking should 1 car park per 1 residential unit;
  - b. visitor parking should be provided for larger residential developments (developments providing 7 or more residential units) at 1 visitor car park for every 4 residential units; and
  - c. traffic impact assessments should be discretionary rather than mandatory.

## [10.7] RESIDENTIAL AMENITIES

### Existing Environment

- [277] At present there is essentially no residential activity in Petone West as the current zoning does not allow for it as a permitted activity in either of the current areas that make up the new mixed use area.

The proposed mixed use area (in Sydney Street) does however abut the Residential Activity Area (residential sites fronting Nelson Street).

#### **Proposed Change as Notified**

- [278] PC29 provides for residential activity as a permitted activity throughout the area, subject to compliance with the permitted activity conditions, including outdoor living areas, and noise insulation and ventilation standards.
- [279] Under the proposed rules it was envisaged that both medium density townhouse type development and medium rise apartment developments (up to 30m) could occur. Car parking was set at 1 space per 2 residential units (refer Section 10.6 of this report for a discussion on car parking).
- [280] For sites abutting Residential Activity Areas the following 'bulk and location' controls would apply:
- maximum building height of 10m
  - side yard 3m
  - rear yard 8m

#### **Submissions**

- [281] As noted in the s42A report a significant number of submitters sought additional controls on residential development to achieve a higher standard of residential design, in terms of: (a) external appearance; and (b) ensuring a reasonable degree of amenity for future occupants. There was also concern expressed about the controls for sites abutting the Residential Activity Area.

#### **Pre-Hearing Meeting**

- [282] A pre-hearing meeting specifically focusing on residential activities and amenities was not held.

#### **Changes to PC29 Recommended by Council Officers**

- [283] Based on their review of the submissions the Officers recommended some changes in the form of additional controls that they considered would be necessary to ensure that residential development was consistent with the Council's intention of providing an attractive, vibrant and functional mixed use area. The additional controls recommended by the Officers were:
- requirement for all new buildings, including residential buildings, to apply for resource consent for a restricted discretionary activity (at a minimum) with the matters for consideration to be those contained in the Petone Mixed Use Design Guide; and
  - a requirement for provision of outdoor living areas.

- [284] In relation to sites abutting Residential Activity Areas, the recommended height was increased to 12m and the 3m side yard and 8m rear yard were removed. Buildings would still need to comply with the recession plane requirements of the abutting Residential Activity Area (2.5m + 45°).

#### **Overview of Evidence and Main Issues**

- [285] Principal issues of concern drawn to our attention by submitters were in relation to:
- [286] 'In Zone' issues that were before us were:

- 'quality' of residential development and not just building design but also internal residential amenities (including a call for a minimum apartment size to be set);
- outdoor open space provision; and
- car parking provision.

[287] 'Out of Zone' issues that were before us were:

- effects of developments in the mixed use area on residential amenity in adjoining Residential Activity Areas (building heights, and setbacks etc).

[288] In relation to 'in zone issues' many submitters expressed concern at the lack of design guidance in relation to residential buildings, contending that buildings could be 'substandard' as a result. The Petone Planning Action Group (submitter 199) submitted that 'clear and much more detailed design guidelines' were required.

[289] On the issue of minimum size of apartments, the Petone Planning Action Group recommended that a minimum size of at least 50m<sup>2</sup> should be set per unit.

[290] We have commented on the matter of parking provision in Section [10.6] above, and particularly in paragraphs 201-205 and 229-235. We do not intend to repeat the discussion.

[291] Many submitters both in written submissions and at the hearing expressed the view that a key 'ingredient' in establishing a quality residential environment is access to private outdoor open space. We agree with this view. In the Officer's s42A Report the addition of a permitted activity standard requiring provision of open space for each residential unit was recommended [Amendment 17]. The requirement was for:

*A minimum area of 20m<sup>2</sup> per residential unit shall be provided as either private or shared outdoor amenity space. Of this area, a minimum of 2.5m<sup>2</sup> shall be private outdoor space which is contiguous with the main living area of the unit.*

[292] Whilst a number of submitters considered that the areas recommended were small (there was comment about 'Juliet only' balconies for example - 'where art thou Romeo'!!), we consider that for the more 'medium density' form of development envisaged for the mixed use area the minimum areas are generally acceptable. We consider that it is more about the 'quality' rather than the 'quantum', and here the Design Guide will have a role to play. We do anticipate that many developments will provide more open space than the minimum standards.

[293] In relation to 'out of zone' issues Stephen Shadwell (submitter 149), a Nelson street resident and registered architect, confirmed that he was generally supportive of the intention to introduce a mix of uses into west Petone but had concerns relating to building height; when assessment is required against the Design Guide; and the Design Guide content. In relation to building height, noting the Officer's recommendation that buildings abutting the General Residential Activity Area could be increased to 12m from the originally intended 10m, Mr Shadwell submitted that the "*dominating and shading effects on the west side of Nelson Street properties will be significant and that 10 metres, with a height recession plane, is more appropriate*". We record that we found Mr Shadwell's expert evidence in relation to shading effects to be particularly helpful.

[294] Mr James Beban (on behalf of Cuttriss Consultants, submitter 121) referring to the 'residential interface' advised that he did not support the removal of the rear yard requirement. He told us that he considered that "yard setbacks are an important mitigation measure to ensure that a residential property boundary is not dominated by large walls. Yard space also assists with creating a sense of

openness and can be used for amenity planting and outdoor living area". He advised that he agreed with the Officer's recommendation that an 8m rear yard would limit the development potential of the properties on the interface of the proposed plan change area. He recommended a 3m setback which he considered would be appropriate and would strike a better balance between development potential and the amenity values of adjoining residential properties.

- [295] Mr David Hunter (further submitter 013 and 019) and a resident of Nelson Street said that he was 'extremely concerned' to read of the Officer's recommendations to increase building height to 12m and remove the rear and side yards. Mr Hunter then said:

*After meeting with other property owners on Nelson Street over the past two days who have not made submissions based on the proposed Plan Change not affecting the rear and side yards, it is apparent that there is a genuine concern that the process is flawed as there has been inadequate notification to property owners in the transition zone that the Council officers now recommend the afore mentioned changes.*

- [296] Mr Graham Wigley (submitter 94) a registered surveyor who has worked in Lower Hutt since 1972, advised that he initially submitted in opposition to the proposed 8m rear yard, but now finds that he has to oppose the recommended zero rear yard. Noting that buildings in the mixed use zone adjacent to the Residential Activity Area could be 12m high, Mr Wigley said that a 3m rear yard was "essential" and would allow for landscaping and screen planting, while the recession plane would in most cases allow a reasonable level of sunlight.

#### **Officer's Reply**

- [297] In relation to the issue of 'minimum floor area' requirements for residential units raised by some submitters, the Officers advised that they considered that additional design guidance on residential amenity, including internal spaces, would be the more effective method for achieving the desired outcomes (i.e. quality of internal residential spaces sought by some submitters), rather than setting some minimum/arbitrary apartment size.

- [298] In relation to the provision of open space the Officers reaffirmed their recommendation for a minimum outdoor living area for each residential unit of 20m<sup>2</sup>.

- [299] As noted above, refer Section [10.6] Traffic and Parking, the Officers revised their recommendation on car parking provisions to require one parking space per residential unit.

- [300] After considering the 'mixed views' expressed by submitters relating to the development standards for development immediately adjoining the residential areas, the Officers advised that:

*" ... the option of a 10m height limit which would reduce the development opportunities and economically sustainable form of development, but would provide a greater level of protection of the amenity values of the adjoining residential areas. On balance we consider it is appropriate to provide for slightly taller development in this location given the objective for the Petone Mixed Use Area and to provide for more intensive development than provided for in residential areas.*

- [301] In regard to the setback from the residential boundary Officers advised that they were now recommending that a 3m setback should apply, adding that this would provide for a:

*" ... softer interface between existing residential properties and the higher density mixed use building forms.*

The Officers also noted that they were recommending that the Design Guide should be 'strengthened' to ensure that the nature and design of this setback space was carefully considered to ensure that the setback uses were compatible with the adjoining residential area.

### Summary of Recommendations

[302] In summary, our recommendations in relation to the 'bulk and location' controls on buildings abutting a Residential Activity Area are:

- a. building height of 12m; and
- b. a 3m rear yard (Note: the 2.5m + 45° recession plane also applies on the boundary with the General Residential Activity Area).

[303] We also note that other controls that were not the specific focus of any submission would also apply, including control on servicing activities (servicing must not occur between 10.00pm and 7.00am) and outdoor storage, car parking and servicing areas (which must be screened).

[304] For residential development within the Mixed Use Area (Area 2), the principal recommendations are:

- a. on-site provision of outdoor living space (a minimum area of 20m<sup>2</sup> per residential unit as either private or shared outdoor amenity space. Of this area, a minimum of 2.5m<sup>2</sup> shall be private outdoor space which is continuous with the main living area of the unit); and
- b. application of noise insulation and ventilation standards.

Note: residential activities are a permitted activity in the Mixed Use Area (Area 2) with the exception of ground floor level on Jackson Street, where they are a Discretionary Activity; as are 'housing for the elderly' and 'residential facilities' (refer Section 10.10 "Natural Hazards").

### Reasons

[305] We consider the controls now recommended achieve an appropriate level of residential amenity for residential activities establishing in the Mixed Use Area (Area 2). Also, the standards applying to new buildings on sites abutting the General Residential Activity Area will provide for a reasonable level of protection for residential amenities on adjacent residential properties.

## [10.8] OPEN SPACE PROVISION

### Existing Environment

[306] For the purpose of this issue we use 'open space' to mean areas which are accessible to the public and have a distinct amenity value. Such areas need not be in public ownership, nor need they be accessible at all times - but the underlying intent and design must be amenity.

[307] Open space which is available only to the owners or tenants of the land has been considered as an aspect of residential amenity, and ultimately as part of the assessment of a proposed residential development. The minimum standards for private open space with residential development are referred to in the previous section. However, this kind of private open space does not offer any broad

community benefit. Similarly 'open' land which is accessible to the public but provides no amenity (carparking areas for example) is not 'open space' in this context.

- [308] In this context, the area currently has no open space of any significance, with the possible exception of the privately owned Te Puni urupa. It can be acknowledged that there is the adjoining foreshore reserve, and also that the roads can also be a form of open space particularly with good 'furniture' such as seating and sheltered areas. However, neither of these factors contribute significantly to current open space amenity in this area.

#### **PC29 as Notified**

- [309] PC29 does not explicitly require the provision of any open space in connection with development. However the provision of open space in connection with development would be relevant to the Council's discretion in considering a new building which is a restricted discretionary activity.

#### **Pre-Hearing Meeting**

- [310] There was no specific pre-hearing meeting held to discuss public open space provision.

#### **Submissions**

- [311] A number of submissions made the point that good quality open space is an essential element of mixed use development. There is no real argument about this. The issue is whether, and how, the District Plan can require or enable such space to be provided.

#### **Changes to PC29 Recommended by Council Officers**

- [312] The s42A Report 'only' addressed the issue of public open space by reference to the proposed 'bonus' of additional height in return for the provision of ground level publicly accessible open space /and/or new street connections]; along with guidelines in the proposed Design Guide.

#### **Officer's Reply**

- [313] The Officer's right-of-reply addresses the issue in of open space in two ways:
- a. first there is reference to the draft Urban Growth Strategy which may encompass 'Developing and investing in urban upgrade programme for Petone West to form the basis of future streetscape upgrades, beautification and parks provision...'. This Strategy is still at the draft stage and has a 20-year horizon; and
  - b. second, there is reference to the incentive scheme under which there would a 1:1 increase in building floor area (extra floors) where open space is provided. We have decided that there is insufficient evidence that the incentive scheme is likely to work in a consistent or predictable way to deliver good open space, and recommend that it not be implemented. However, the reply notes (at para.55) that an open space strategy should be developed for the area, and (at para.56) that the Council may use financial or development contributions to acquire and develop land to implement this recommended strategy.

### Evaluation of Evidence and Findings

- [314] We consider that the most effective way of achieving amenity open space through the District Plan is to include it as a factor in the Design Guide. As the Design Guide will be a necessary reference point on larger development, this will ensure that opportunities to create open space that may arise in redevelopment can be considered. Typically, under PC29 as recommended, all new development will be a restricted discretionary activity, and the aspects of discretion will allow full assessment of the adequacy of open space to be provided with particular development. There is no reason why proposals that involve both open space and greater height could not be considered under this type of assessment without the need for formulaic trade-offs.
- [315] However, in the absence of ‘master planning’ (which is not a realistic option because of the many different owners of land in the area),<sup>13</sup> the District Plan will not be a sufficient means of ensuring the provision of the type and level of open space that is desirable for Petone West to achieve its potential as a mixed use area. There will need to be Council involvement both in the preparation of an overall open space strategy and its implementation. We endorse the Officer’s recommendation that the Council develop such a strategy, a matter we discuss further at [486-409].

### Summary of Recommendations

- [316] In relation to PC29 we have concluded that the incentive height bonus in return for provision of public open space should be deleted. We have nevertheless recommended that the Council prepare an ‘open space strategy’ for Petone West (refer Section 12 “Other Matters” and in particular paragraphs [485] to [490]), which should explore the best location/s for public open space and the methods for achieving it.
- [317] In the meantime, if a proposal for a discretionary activity for additional height above 20m was received, one of the ‘outcomes’ that might justify the additional height would be the provision of publicly accessible open space. In this situation, the specific ‘open space guidelines’ of the Design Guide would apply.

### Reasons

- [318] At this point in time we consider it premature to make provision for a bonus height incentive as the mechanism for achieving the provision of publicly accessible open space.

## [10.9] CULTURAL HERITAGE

### Existing Environment

- [319] The Te Puni urupa, part of the former Pito-one Pa, is a significant cultural heritage resource. Although it is within the area covered by the proposed mixed use zone, it has its own “Community Iwi” ‘zoning’, which is not intended to change. The urupa which fronts Te Puni Street is otherwise surrounded by commercial buildings on each of its three sides.

### Proposed Plan Change as Notified

- [320] The Plan Change did not amend the provisions applying to development abutting the urupa. Thus, the only control was the existing 3m setback (Rule 5.22.1.1(c)).

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<sup>13</sup> We note that one submitter (Nick Leko, submitter 164) in his presentation at the hearing referred us to some very interesting case studies of ‘master planning exercises’, thus drawing our attention to what he considered were the benefits of such an approach.. We felt, however, that the PC29 ‘exercise’ is well past the point where it could be guided by master planning.

### Submissions

[321] Morris Te Whiti Love as a Trustee of Te Tatau o te Po Marae and a Trustee of Te Puni Urupa (Submitter 119) confirmed the “*enormous historical and cultural significance*” of the urupa. In relation to the plan change as notified, the submitter requested that:

- (a) the Petone Commercial Activity Area 2 - Mixed Use Area be amended to exclude the area between the Te Puni urupa and The Esplanade;
- (b) the Te Puni Urupa should be surrounded by a recession plane which extends from 2.5m above ground level and thence at 45° on the east, north and west sides. To the south, the maximum building height should be 8 metres.

Additionally the submitter requested that “*the ‘old Maori urupa’ as shown in the Pito-one Town Board Map of 1886 of around 1 acre be designated as a heritage area which would preclude building over the site*”. We discuss this matter further in Section 12 “Other Matters” and in particular at paragraphs [478] to [481].

[322] Other submitters also expressed concern at the lack of respect for the cultural history of the area. Robert Commane (Submitter 69) requested that “*the urupa be provided with more protection from future developments on its boundaries*”, a view shared by Kiri and Tony Waldergrave (Submitter 133), Rowan Pollock (Submitter 143) and Hone Ridley (Submitter 156).

[323] Submitter 121 (Cuttriss Consultants) submitted that “*under the rules proposed in the Plan Change buildings only have to be set back 3m from the Community Iwi boundary. As such, it would be possible for a 30m high building to be constructed 3m from this site*”.

[324] The Petone Community Board (Submitter 152) requested greater protection for the urupa based on a 12m height limit for buildings abutting the urupa, a recession plane requirement and an 8 metre rear yard setback and a 3m side yard setback.

[325] The Petone Planning Action Group (Submitter 199) submitted that:

*“... the urupa has to be accorded much more respect than allowing walls of 30m high buildings around it. The set back on adjoining sites should be 8m - the same as the suggested rear yard in any site abutting a residential area”.*

### Pre-Hearing Meeting

[326] No pre-hearing meeting was held to specifically discuss cultural heritage issues.

### Changes to PC29 Recommended by Council Officers

[327] The Officer’s s42A Report, noting the concerns that insufficient protection was afforded to the urupa, recommended a maximum permitted height for development abutting the urupa of 8m with a 2.5m + 45° recession plane (Amendment 14).<sup>14</sup>

<sup>14</sup> Note: the operative Rule 5B 2.2.1.1(c) requires that buildings and structures abutting an urupa must have a minimum setback of 3m.



### Evaluation of Evidence and Findings

- [328] The principal statement of evidence to the hearing was from Morris Te Whiti Love. Mr Love firstly set out the historical context of the urupa noting that it was still used today. He advised that it remains an important marker in the landscape.
- [329] Mr Love confirmed his support for the Officer's recommendations regarding building height and building recession plane.
- [330] Some other submitters requested the imposition of even more stringent restrictions.
- [331] From all that we heard it is clear that the main issue is ensuring appropriate protection of the urupa from 'over-bearing' development on abutting sites that would diminish the urupa's significant cultural heritage values.

### Officer's Reply

- [332] In reply, the Officers reaffirmed their initial recommendation noting that it had been supported by the urupa Trustees. They considered that the recommended provisions balance the protection of the urupa and its values whilst enabling development to occur on surrounding sites.
- [333] The Officers did however recommend a further amendment in relation to properties 'situated immediately opposite' the urupa - i.e. on the other side on Te Puni Street. The Officers confirmed that they accepted applying the full standard (i.e. 8m height plus recession plane) was unnecessary. The revised recommendation was that the maximum height limit (8m) applies only to properties immediately abutting the urupa (i.e. not over the road), and that the recession plane applies to all boundaries of the urupa, including properties on the opposite side of the road. The amended requirement would protect the urupa from excessive shading from development on all boundaries.

### Evaluation of Evidence and Findings

- [334] We have given careful consideration to the evidence, and in particularly that of Morris Te Whiti Love. We agree that the urupa is a very important cultural feature in Petone West. While it is located within the Community Iwi Activity Area, it is also clear to us that development on its boundaries has the potential to adversely affect the urupa's cultural values. We agree that specific measures need to be put in place to ensure that inappropriate development does not occur on sites abutting the urupa.

### Summary of Recommendations

- [335] We have accepted the Officer's recommendations relating to the height and recession plane controls for development immediately abutting the urupa (8m height plus 2.5m +45° recession plane) and for development opposite the urupa (2.5m + 45° recession plane only) (Amendment 14).

### Reasons

- [336] Based on the evidence and our own site inspection we have concluded that the recommended rule amendments will achieve an appropriate balance between protecting the cultural heritage values associated with the urupa and enabling appropriate development on adjacent sites. Given the support of the urupa Trustees (evidence of Morris Te Whiti Love) we also conclude that the recommended rule appropriately responds to [s.6(e) and s.7(a)] of the Act.<sup>15</sup>

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<sup>15</sup> S.6(e) as a matter of national importance, provide for:

[337] Before completing this section on Cultural Heritage we note our further recommendation in relation to wider cultural heritage issues beyond the protection of the Te Puni urupa, which we cover in Section 12 of our report under "Other Matters".

#### [10.10] NATURAL HAZARDS

##### Existing Environment

[338] In identifying potential benefits of PC29 (in respect of extending the range of activities achievable in the area), it was also recognised that there are potential risks from natural hazards.

[339] The operative District Plan identifies the Wellington Fault Special Study Area (WFSSA).

[340] The Greater Wellington Regional Council, (GWRC), "Combined Earthquake Hazard Map" shows that, in addition to the WFSSA, a large proportion of the PC29 land is at high risk of liquefaction and ground shaking. The consequences of a tsunami are less clear, but proximity to the shoreline of Wellington Harbour clearly involves some risk.

[341] While there is no specific detailed flooding identification, the potential for flooding of this area was established by the flooding of the Korokoro Stream in December 1976.

##### PC29 as Notified

[342] PC29 as notified continued the existing District Plan approach of managing natural hazards, as contained in the Chapter 14H - "Natural Hazards".

[343] In respect of natural hazards, the Officer's Section 32 Report of June 2012 notes: *"It is considered the existing Plan provisions are still the most efficient and effective approach of avoiding or mitigating the risks from natural hazards"*.

[344] In that regard it was considered that the current provision of identifying the WFSSA is effective, as this area is the most likely location to experience fault rupture during an earthquake. For other hazards, reliance on the NZ Building Code, and related engineering standards, was considered an efficient and effective approach. (Noting that ground shaking, liquefaction, tsunami and localised flooding are risks that apply city wide, and the current approach is consistent with the current operative District Plan).

[345] PC29 as notified involved few amendments relating to natural hazards. However, the following need to be considered:

- Amendment 4: that introduces new uses, including residential, that will result in an increase in the number of residents and workers in Petone
- Amendment 10: that identifies activities that do not need a resource consent
- Amendment 11: that defines building heights
- Amendment 20: that considers matters for inclusion in resource consents for emergency facilities.

##### Submissions

[346] The principal issues raised by submitters were:

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*"... the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and*  
s.7(a) as a matter to have particular regard to:  
*"kaitiakitanga"*

- a. the need for greater knowledge about the consequences of earthquakes, both in the WFSSA and beyond, and incorporation of all the matters recommended by the Royal Commission for the Christchurch Earthquake;
- b. the restriction of activities within the WFSSA to mitigate adverse effects arising from natural hazards;
- c. the increase in risk to people and property from fault line rupture;
- d. the risks to people and buildings from flooding;
- e. the risks to people and buildings from tsunami;
- f. the risks to people and buildings from rising sea levels; and
- g. the consequences of liquefaction.

[347] Greater Knowledge Needed: on behalf of the Petone Planning Action Group (submitter 199), Pam Hanna, the Chairperson suggested that: *“Hutt City Council should learn from the Christchurch experiences and develop rules that will help minimise loss of life and property in the hazard zone. This needs to include new rules which limit development in proximity to the Wellington Fault, and rules which address the liquefaction and tsunami risks”*. The Petone Urban Environmental Association expressed a similar view, as did many other submitters.

[348] Peter and Ronda Coyle (submitter 170) specifically sought *“that Council learn from the Royal Commission on Christchurch earthquake findings and hold off finalising the district plan change until this report is through”*, a point also made in many other submissions.

[349] Because of concern at the intensification of development and use facilitated by PC29, Alison Newbald (submitter 109) specifically requested that: *“This plan change should be delayed until the findings of the Royal Commission on the Canterbury earthquakes are available, and any subsequent new legislation has been introduced”*.

[350] Activities within the WFSSA: a number of submissions expressed concern at the activities permitted within the WFSSA under PC29 as publicly notified. Most recommended against allowing specific uses; a few had suggestions as to how to best use the WFSSA.

[351] In the former group are Dianne Fletcher (submitter 185), Tim and Judith Edgeler (submitters 187 and 188), Roz Thompson (submitter 189) and Angela Corrigan (submitter 35). They suggest that a building height limit of less than 30m be imposed.

[352] Francis Duncan (submitter 219), Lorraine Cresswell (submitter 213), D Flutey (submitter 200), Hazel Nesor (submitter 118) and Finn Collins (submitter 114) note that tall buildings (30m), including for residential and educational uses, can be established anywhere, including within the WFSSA. They recommend a maximum of 12m in height across the whole Plan Change area, but an 8m height, with no residential or educational activities, in the WFSSA.

[353] Annette and Norman Hickmott (submitter 186) suggest a height restriction to 10m in the WFSSA.

[354] Susie Fitzgerald (submitter 106) seeks a maximum height of 12 - 15m across the whole area.

- [355] Others including Andy Conroy (submitter 207), Richard Te One (submitter 174), and Tui Lewis (submitter 169), suggested no residential or emergency services be established within the WFSSA.
- [356] Cuttriss Consultants (submitter 121) sought a 12m maximum height and the requirement for a resource consent (including the requirement for an engineering report re liquefaction). In the event of a use change (within the WFSSA) the submitter recommended a resource consent application should be required to determine whether the number of people on site will increase; and also submitted that emergency facilities should be identified as 'discretionary' or 'non-complying' to allow assessment of natural hazards risk as part of the consenting process.
- [357] Julia Forsyth (submitter 123) suggested that new development within 20m of the Wellington Fault should be 'non-complying'.
- [358] GWRC (submitter 151) requested a height limit of 15m (as per the Hutt City Council District Plan Subcommittee Report dated 27/03/12), and that Council consider whether residential should be restricted in terms of location within the WFSSA.
- [359] Alan White (submitter 190) and Glenn Stewart (submitter 130) each recommended that the area in the vicinity of the WFSSA be used for open space or sports grounds. Mr White thought that low density activity (e.g. transport connectivity), where a limited number of people were involved, would be appropriate.
- [360] John Donnelly (submitter 221) suggested that: *"The Hutt City council should learn from the Christchurch experience and have rules that limit risky development in proximity to the Wellington Fault, and that they also address the liquefaction risks in the proposed new plan change area"*.
- [361] Nick Ursin (submitter 93) requested that building designs, and applications to build, in the WFSSA should be subject to stringent conditions.
- [362] Risks from Fault Line Rupture: submissions showed a very real awareness of the risk of fault line rupture in the PC29 area.
- [363] Roger Bagshaw (submitter 70) noted that there is a known seismic risk area in west Petone, and that the Hutt Valley has long been considered to be at much greater risk from earthquake activity than Christchurch.
- [364] James Mansell (submitter 78) suggested special requirements should be set to limit potential damage from earthquake etc for the whole area, not just limited to the WFSSA, to mitigate possible damage.
- [365] Patrick Moriarity (submitter 91) saw in PC29 *"a proposal for any number of high rise buildings in one of the highest earthquake risk areas known"*. He questions that logic.
- [366] GNS Science (submitter 108 - hereafter "GNS") provided us with an expert analysis of the source of earthquakes and the vulnerability of west Petone to earthquake hazards, and this confirmed that the Wellington region is located within one of the most seismically active areas of the country. The likelihood of a Wellington Fault earthquake (approximately 7.5, which we understand refers to the Richter Scale) occurring within the next 100 years is approximately 10%.
- [367] GWRC (submitter 151) noted that the Regional Policy Statement must be taken into account in assessing plan changes and that Policy 50 seeks that the risks and consequences of natural hazards on people, communities, property and infrastructure must be minimised when undertaking a plan change. As a consequence of the combination of landform and fault locality, the PC29 area is at high risk from amplified ground shaking (and liquefaction) during an earthquake.

- [368] GWRC made two particular requests in respect of the ground shaking element of seismic effects:
- Council reconsider the District Plan Subcommittee report DPS 2012/2/63, dated 27 March 2012, which recommended that on the basis of technical information that a maximum building height of 15m should apply to the existing WFSSA; and
  - Council reconsider whether residential activities should be managed more carefully (i.e. restricted) in terms of location within the fault area. Associated with this, Council may wish to consider commissioning a further more detailed study to ascertain more precisely the location of the fault line in order to make more appropriate planning decisions.
- [369] Risks from Flooding: the risk of flooding in the PC29 area was emphasised by the GWRC submission which draws attention to the RPS, Policy 50, seeking to minimise risk when undertaking a plan change. In respect of flooding, Policy 50 mentions: 'The need to locate habitable floor areas and access routes above the 1:100 year flood level in identified flood hazard areas'. The GWRC submission expressed concern that there has been no assessment as part of PC29 of the risk of flooding.
- [370] GWRC focussed on the potential for flooding of the Korokoro Stream and local stormwater hazard, and advocated the need for investigation of the Korokoro Stream and local stormwater flooding hazard potential to allow the flood hazard to be avoided in the first instance.
- [371] The documented and photographed flood of December 1976 was used to demonstrate the potential for flooding associated with the Korokoro Stream.
- [372] Risks from Tsunami: many submissions, in addition to drawing attention to the need to learn from the Christchurch experience, noted concern about possible tsunami.
- [373] GNS advised that the New Zealand coastline is exposed to tsunami, and noted that risk reduction measures are available to reduce the consequences of a tsunami. The GNS submission particularly explained the potential for mitigation available from 'structural', 'evacuation', and 'land use planning' measures. GNS note that there is guidance available on how to incorporate tsunami modelling into land use planning.
- [374] Cuttriss Consultants do not detail tsunami issues separately but are of the opinion that existing District Plan rules do not effectively address the natural hazards issues (including tsunami), and advocate that emergency facilities be identified as a 'restricted discretionary activity', or a 'non-complying activity' adding that *"this consent status would allow for assessment of the natural hazard risk to these facilities as part of the consenting process"*.
- [375] Wendy Saunders (submitter 81) refers to the New Zealand Coastal Policy Statement and is of the opinion that this should have been covered in the Section 32 Evaluation. In part, she quotes Policy 25 of NZCPS as *"... in areas potentially affected by coastal hazard over at least the next 100 years:*
- a. avoid increasing the risk of social, environmental, and economic harm from coastal hazards;*
  - b. avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards; and*
  - c. consider the potential effects of tsunami and how to avoid or mitigate them"*.

Dr Saunders recommends that the New Zealand Coastal Policy Statement be included in the Section 32 analysis.

- [376] Risks from Rising Sea Levels: Graeme Lyon (submitter 79) notes that in addition to learning from the Christchurch experience, the issue of *“the rising sea level needs to be addressed for this low lying land”*.
- [377] The GNS submission notes that Wellington has the highest rate of sea level rise in New Zealand (due to climate change but exacerbated by deep tectonic plate movements). Research shows that a rise of 1m in 100 years should be anticipated.
- [378] GNS recommended that Council review and reconsider PC29 with regard to that research.
- [379] Alison Newbald (submitter 109) requested that *“the rules take into account the risks posed by ground rupture and liquefaction, and ensure new development is resilient to sea level rise”*.
- [380] The GWRC agrees with the GNS figure of 1m sea level rise in 100 years as a planning guide. GWRC seeks that the Council assesses the current stormwater network within the PC29 area to ensure its long term functioning in the face of rising sea levels. This concern arises from the rising (higher) water table levels at the coast that slow the discharge of stormwater runoff to the sea, and for the potential for some outlet blockage.
- [381] James Crampton (submitter 249) commends the incorporation (into PC29) of explicit requirements for managed retreat from the coastline in western Petone. He would like to see *“the staged creation of a coastal buffer zone that is progressively cleared of buildings in order to provide societal resilience to sea level rise, co-seismic subsidence, and tsunami”*.
- [382] Liquefaction: although mentioned in a large number of submissions, liquefaction is given particular emphasis by four submitters. In considering the Christchurch experience, Angela Corrigan (submitter 35) notes *“the risk of liquefaction in Petone is surely much higher than in Christchurch, given that our aquifer is so much shallower, and may become even shallower with a rise in sea levels. The lack of green areas makes this an even greater risk”*.
- [383] GNS is of the opinion that the conditions that cause liquefaction to be a hazard are present in areas to the east of the Wellington Fault. The GNS Science submission discussed the effects of liquefaction and recommends the systematic acquisition of subsurface information specifically targeted at the liquefaction hazard.
- [384] Alison Newbald requested that the rules take into account the risks posed by the ground rupture and liquefaction.
- [385] Cuttriss Consultants note that the active fault rules only apply to fault rupture, and not liquefaction or any other earthquake related hazard. They propose that: *“All new buildings within the area require resource consent which includes a requirement for an engineering report to be submitted which details how the liquefaction risk will be addressed”*.

#### **Pre-Hearing Meeting**

- [386] At the pre-hearing meeting (refer Appendix 1 for meeting notes) both GNS and GWRC presented information about the hazards for the Plan Change area, and those present highlighted their chief concerns as being:
- that PC29 does not adequately address or assess the key natural hazards of flooding, fault rupture, liquefaction, subsidence, tsunami, and rising sea levels;
  - that PC29 does not give effect to the GWRC Policy Statement (Chapter 11, Natural Hazards); and

- that PC29 does not meet other legislative requirements to reduce risk.

[387] Those present were of the opinion that PC29 should address risk reduction and that addressing the likely impact of the changes was very difficult without an assessment of the natural hazard risks.

[388] Those present were also of the opinion that reliance on the existing rules, (e.g. WFSSA provisions), to manage risks will increase the risks to people and property. Residential development, educational, and emergency facilities were especially mentioned. The meeting agreed that the risks associated with intensification of development could not be addressed without assessment of the hazard risks.

#### **Changes to PC29 Recommended by Council Officers**

[389] Following receipt of submissions the Officers reviewed the initial Plan Change proposal. They gave careful consideration to the legislative context and the requirements of the Plan Change to avoid or mitigate risk, and of the guidance for land use planning for natural hazards.

[390] In respect of the operative District Plan it is noted that the Chapter 14H refers to a range of natural hazards affecting Hutt City, and includes specific mention of the WFSSA. However, the proposed Plan Change as notified does not amend or add any natural hazard provisions, (e.g. relating to the WFSSA), and, as Chapter 14H applies city-wide, the Officers considered that amendments to 14H would be outside the scope of PC29. Accordingly, the Officers opined that the PC29 response to seismic risks in the Petone Mixed Use Area must be contained within Section 5B of the District Plan.

[391] Following receipt of submissions, Council commissioned GHD Ltd, in association with GNS, to undertake a review of the natural hazards relative to PC29. The approach recommended by GHD, to mitigate risk from natural hazards, is based on Building Importance Categories (BIC). Officers recommended the addition of a new policy and associated rules to Section 5B based on the BIC management approach in response to seismic hazard risks.

[392] As a result, the proposed further amendments to PC29 remove some types of building from the 'permitted activity' category on the basis of seismic hazard risk. Those building categories are no longer 'permitted' (Amendment 10) but become 'discretionary' (as in Amendment 34), and are subject to assessment matters as per Amendment 35.

[393] In PC29 as notified 'emergency facilities' were listed as a restricted discretionary activity. Given the critical role of emergency facilities in a natural disaster, in particular the need to respond, the Officers recommended that such facilities be listed as non complying activities in the WFSSA (changes to Amendment 20).

[394] Many submitters expressed concern at the 30m height allowance, particularly within the WFSSA, on the basis of seismic risk. A reduction in the height of buildings would reduce the number of people on the site in the event of a damage producing seismic event. It is noted that the height of building is also recommended to be reduced to 20m on the basis of built form concerns (this is incorporated in changes to Amendment 11).

[395] The Building Act 2004 controls the construction of new buildings and additions/alterations to existing buildings. This Act sets out requirements for natural hazards in terms of seismic loading, local seismic risk assessment, and in particular foundation design to manage adverse ground conditions. However, it is considered that the Building Act does not cover all the natural hazards to which the PC29 area will be exposed, and hence Amendment 59 was proposed to ensure the relevant information is required for land use consents in areas subject to high risk from seismic activity, including WFSSA (see proposed Amendments 21 and 59).

### Evaluation of Evidence and Findings

[396] The principal categories of natural hazards raised at the hearing were:

- Wellington Fault Special Study Area (WFSSA)
- Fault line rupture (seismic hazards)
- Flooding
- Tsunami
- Sea Level Rise
- Liquefaction

[397] WFSSA: presentations at the hearing in respect of the WFSSA emphasised that the current definition of WFSSA may not precisely define the most hazardous area in respect of the Wellington Fault; and that the remaining area of the PC29 is also a hazardous area.

[398] In respect of the first point, it is noted that although the WFSSA has been widely accepted as representative of the fault zone, there is a degree of uncertainty as to where the precise limits of the WFSSA should be defined. In response to the concern that the WFSSA is not precisely defined within the PC29 area, it has been suggested that further non-intrusive investigation be undertaken by the Hutt City Council. This is seen to be more efficient and more effective than requiring each individual property owner, or developer, to investigate individually. Note: GWRC recommends that the definition of the WFSSA be updated when the Natural Hazards Chapter of the District Plan is reviewed and updated, and we were advised that the Council has a current resolution to do that. Refer Section 12 "Other Matters".

[399] With respect to the concern that the PC29 area beyond the WFSSA should also be treated as an area subject to the effects of natural hazards, several submitters noted that Petone is subject to a number of natural hazards, (fault rupture, flooding, tsunami, sea level rise, and liquefaction), and that the consequences could be/would be cumulative. Clearly it is essential that the potential for natural hazards to occur outside the WFSSA be acknowledged.

[400] Wendy Saunders opined that PC29 area is the most hazardous site in the Hutt Valley; and a number of other submitters recommended that a 'restricted discretionary' status be applied to the whole of the mixed use area, not just the WFSSA.

[401] Fault Line Rupture: GNS explained the mechanism that exists at a fault line, and confirmed that the chances of a seismic event of 7.5 Richter magnitude is 10% in 100 years.

[402] Building height reduction was sought by several submitters on the grounds that a lesser number of people reduces the consequence of a natural hazard event

[403] A number of submitters, both in their initial earlier submissions and in their comments at the hearing, requested that the findings of the Royal Commission into the Christchurch earthquake be considered before finalising PC29. However, GNS noted that the Royal Commission has limited relevance to the PC29 change and residential housing, as the Royal Commission was primarily focussed on why the Christchurch buildings collapsed.

[404] There is agreement that development in the WFSSA must be limited. Further than that, GNS suggests that child care, emergency services, educational, training, marae, and cultural uses should be neither 'Permitted' nor 'Discretionary' in the PC29 area. Wendy Saunders is concerned particularly about child care centres, because parents will (Dr Saunders' emphasis) come to the site in an emergency, and of emergency facilities being located in the mixed use PC29 area.



- [405] GHD recommend a revision of Section 14H of the operative District Plan. Specifically GHD is of the opinion that the words 'or that necessary engineering precautions have been taken', in Rule 14H 2.1.1(i) is a loophole and should be deleted. We are of the opinion that this should be considered as an element of the proposed review of Section 14H, separate from the PC29 exercise - refer Section 12 "Other Matters".
- [406] Finally in this section, it is noted that the Building Act does not cover all natural hazards that could potentially affect the PC29 area. GNS advises that that Act is focussed on ground shaking, wind, and snow. Accordingly, some measures must be incorporated to ensure the matter of natural hazards is considered when building consent is being issued. GWRC seeks that all land use and subdivision should require resource consents, and agrees with the Officer's suggestions for new assessment matters for both discretionary and restricted discretionary consents.
- [407] Flooding: the GWRC was the only presenter with a focus on the hazard of flooding affecting the PC29 area.
- [408] GWRC accept that the potential for flooding of the PC29 area from the Hutt River (overtopping its banks) is assessed at a 1 in 440 year event, and need not be further considered in this discussion. However, material was presented by GWRC in respect of the flooding of the low lying area of west Petone from the Korokoro Stream. GWRC state in respect of land flooding: *"this could include avoiding inappropriate development in areas at high risk of flooding, and in other areas that a minimum of a 1 in 100 year flood building level is applied"*.
- [409] GWRC advocated the preparation of a flooding risk assessment on a community, rather than on an individual property developer basis. However, the GWRC did not specify which community body should initiate that work, but it is understood GWRC 'look to' the Hutt City Council. We were told that Council has programmed a study for 2022/23 and action (as appropriate) for 2031/32. The GWRC's position is for this flood hazard assessment and the related risk assessment to be completed, and appropriate provision made in the District Plan, before PC29 is approved.
- [410] Tsunami: there is a widespread awareness of the tsunami risk to Petone; not only to the PC29 area. GNS advise that a surge of 1-2 metres is possible even though there would be some reduction because of the constraint of the harbour entrance. Conversely, GNS advise that the harbour entrance could, in some circumstances, intensify the effects of an approaching tsunami surge.
- [411] It is also possible that, in the circumstance of movement on the Wellington Fault, that a tsunami could be generated within the harbour without influence of the harbour entrance.
- [412] Sea Level Rise: GNS advised in their initial submission that a combination of climate change and dipping of the tectonic plate at Petone could result in a 1m sea level rise in 100 years, (Wellington having the highest rate of sea level rise in New Zealand), and that was confirmed in their presentation. We were told that there is no doubt that Petone will be affected by sea level rise.
- [413] It was noted by one submitter that to a degree a coastal buffer exists in the form of The Esplanade and the foreshore.
- [414] It is also clear that the risks from this natural hazard extend outside the PC29 area. GNS, in acknowledging that, recommend that Council employs an expert to assess sea level rise effects.
- [415] We are of the opinion that sea level rise should be an element of the review of Section 14H, ("Natural Hazards"), of the District Plan, that is proposed by the Council in the next triennium.

- [416] Liquefaction: GNS advises that the PC29 area is susceptible to liquefaction and provided a map “Liquefaction Potential” that differentiates areas according to their likelihood of liquefaction occurring. Liquefaction potential for most of the PC29 area is rated as ‘very high’.

#### **Officer’s Reply**

- [417] Presenting the Officer’s reply, Mr Wesley acknowledged that the PC29 area is at risk from different natural hazards, although this is not unique to Petone. Mr Wesley also acknowledged that, while these risks exist today, PC29 allows different types and scale of activities which change the consequences in the event of a natural hazard event.
- [418] Very relevant to this section is the Hutt City Council commitment to undertake a full review of Section 14H (“Natural Hazards”) of the operative District Plan in the next triennium. The natural hazard issues raised in this hearing on PC29 will then be considered in the context of the whole of Hutt City such that a connected and consistent approach to natural hazard planning is taken. Similarly, any RMA or other directives issued by Central Government relating to natural hazards will be considered in the process.
- [419] Accordingly, we limit our considerations to natural hazard risks and consequences in relation to Petone West - i.e. the PC29 area.
- [420] Arising from the evidence presented at the hearing Mr Wesley evaluated two options for considering the mitigation of natural hazards risk in the PC29 area. He concluded that provision for land use change and development, provided that the necessary precautions are taken, is the best way forward. He acknowledged the information provided by GNS, and the advice of GHD towards understanding the different mitigation measures and their application.
- [421] Mr Wesley agreed with the material that had been presented showing Petone to be highly susceptible to natural hazards, but noted that other areas in Wellington, similarly developed, also have vulnerability to natural hazard risk. He supports PC29 because this area has existing infrastructure, community facilities, and other physical resources, and mixed use will be an efficient use of resources, including land.
- [422] As a further revision of the proposed PC29 amendments, subsequent to the amendments covered in the s42A Report, the Officers identified the following, (additional), matters to consider:
- the need to add a new Issue, Objective, Policies, and Explanation and Reasons, specifically addressing natural hazards in the Petone Mixed Use Area. This is introduced as Section 5B 1.1.2B, and expresses in general terms the restriction of certain activities, and a requirement for particular investigations and consents in response to specific development proposals. The detail arising therefrom is introduced into the Plan Change document amendments at the appropriate places;
  - a further requirement is for resource consents to be required for all new buildings, and for some additions to new buildings, in order to assess the natural hazard risks and consequences. These requirements are particularly achieved by further additions to Amendment 31, classifying Places of Assembly, Childcare Facilities, Education and Training Facilities, certain Commercial Activities, Community Activities/Facilities, Housing for the Elderly, and Residential Facilities to be ‘Discretionary’. (Rendering the proposed Amendment 59 unnecessary);
  - further to the above, Mr Wesley recommends that emergency facilities be ‘Non Complying’ in the entire Petone Mixed Use Area. This is consistent with material presented to the hearing;

- additional references to tsunami and sea level rise have been made to Amendments 21 and 35; and
- In respect of flooding, and in light of the material presented at the Hearing, Mr Wesley confirmed the recommendation from his s42A report, that the issue of flooding is properly dealt with by the proposed review of Chapter 14A (“Natural Hazards”) of the operative District Plan. This will provide the opportunity to consider the flood hazard in the context of other areas of Hutt City.

#### **Evaluation of Evidence and Findings**

[423] We accept that further changes should be made to the PC29 provisions to reflect the risk from natural hazards, especially in relation to the WFSAA and the activities that can establish within the WFSAA and the wider PC29 area.

[424] We also accept that our jurisdiction in dealing with PC29 does not enable us to make changes that may be deemed necessary to Chapter 14H “Natural Hazards” of the operative District Plan.

#### **Recommendations**

[425] Our recommendations on Natural Hazards are:

- a. the addition of a new Issue, Objective, Policies and related Explanation and Reasons section (5B 1.1.2B);
- b. making the following activities a discretionary activity in the PC29 area, with one of the assessment matters being ‘natural hazards’:
  - childcare facility
  - places of assembly
  - community activities/facilities
  - education and training facilities
  - commercial activities anticipated to accommodate more than 300 persons at any one time
  - housing for the elderly
  - residential facility; and
- c. making emergency facilities a non-complying activity throughout the PC29 area.

[426] We also strongly endorse the Council’s commitment to undertake a comprehensive review of Chapter 14H “Natural Hazards” of the operative District Plan.

#### **Reasons**

[427] The reasons for our recommendations as above, for changes to PC29 as publicly notified, is to ensure that appropriate provisions are in place for the proposed mixed use area to ‘avoid, remedy or mitigate’ risk from natural hazard events, to the extent that we are able given our jurisdiction is limited the sections of the District Plan subject to change under PC29.

### **[10.11] INFRASTRUCTURE**

#### **Existing Environment**

[428] Normal utility services currently exist in the PC29 area, including electricity, gas, telecommunications, water supply, sewage disposal and stormwater disposal. Such utilities as exist supply essential life support elements while mitigating any adverse effects of discharges (waste water) on the receiving environment.

[429] The Section 32 Report notes that: 'The area is well served by existing infrastructure which can be upgraded over time to meet future needs'.

[430] It is noted that PC29 area is characterised by a very high proportion of hard surfaces with (as a consequence) a high percentage of surface water runoff.<sup>16</sup>

#### **PC29 as Notified**

[431] PC29 provides for a greater mixture of land uses than the operative District Plan provisions, and must consider potential adverse effects.

[432] Amendment 4 notes (see 5B 1.1.2, Explanations and Reasons, (c)), that the area is well situated in terms of public and community infrastructure and services.

[433] Amendments 10 and 11 allow for an increased range of activities, and define bulk and location standards.

[434] There are no specific provisions which directly relate to infrastructure or stormwater management. From the s42A Report it is noted that PC29 is expected to result in more efficient use of the existing infrastructure in the surrounding area. However, it is necessary to consider infrastructure constraints.

#### **Submissions**

[435] While some 12 submissions expressed concern that additional development will adversely affect 'supporting infrastructure', there were 15 specific references to 'drainage' or 'stormwater' infrastructure and/or management.

[436] Merran Bakker (submitter 99) encourages a range of soft infrastructure to increase rainfall infiltration/capture. This would help fulfil the claim that "*Council ... has an important role in leading best practice for stormwater management*".

[437] Alan White (submitter 190) notes that the existing stormwater network has limited capacity for peak events, and seeks that surface water management be addressed far more strongly.

[438] The Petone Planning Action Group (submitter 199) suggests that the new development as proposed will only exacerbate stormwater problems at the western end of Petone.

[439] David Hunter (further submitter 19) and Amy Xiao (further submitter 12) assert that Petone's infrastructure is struggling as is, and will not cope with the increase.

[440] No specific evidence was given about the limitations of the stormwater system, and it is likely that such opinions are influenced by the photographic record of the December 1976 flooding.

[441] GWRC specifically sought a review of the stormwater network to ensure its long term functioning in the face of rising sea levels.

#### **Pre-Hearing Meeting**

[442] In the course of the meeting concerning natural hazard risks, the concern that PC29 did not adequately address the stormwater issue was expressed.

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<sup>16</sup> Note: related to the stormwater system capacity is the risk of flooding of the area. This issue is dealt with in the section on Natural Hazards - Section [10.10] above.

**Changes to PC29 Recommended by Council Officers**

- [443] It is relevant to infrastructural issues to note that the operative District Plan requires developers or subdividers to meet all utility services' costs within the site, and to pay the full and actual cost of upgrading services' facilities where this is necessary as a consequence of their development.
- [444] The Local Government Act requires local authorities to meet current and future needs of their communities for good quality local infrastructure.
- [445] The Hutt City Council Stormwater Plan (October 2012) refers to stormwater capacity issues in relation to climate change, and to impervious surfaces.
- [446] Capacity was commissioned by Council and they advise that stormwater runoff characteristics under PC29 would not change from the current situation. They also note that while much of the sewer system would manage the (increased) demand of a mixed use area, some localised improvements to pumps and reticulation may be required. Water supply capacity is adequate to serve a mixed use area.
- [447] Stormwater management recommendations included the possible benefits of porous parking area surfaces to reduce runoff to the stormwater network, and reduce the flow of pollutants to the harbour.

**Overview of Evidence and Findings**

- [448] There was no evidence or new material at the hearing directly related to the subject of infrastructural issues, and it is reasonable to conclude that the proposed additions to the amendments of the initial notified plan change met the essential concerns of submitters. It is acknowledged that GWRC remain of the opinion that in the event of sea level rise the capacity of the stormwater utilities system will reduce, and that surface flooding could therefore increase. This could arise because of sand blockage of outlets and from a decreased pressure head of flow within the pipes leading to the harbour.

**Officer's Reply**

- [449] No further changes to Amendments as presented at the beginning of the hearing in the s42A report are proposed in respect of infrastructural issues.
- [450] Accordingly, the Officers made no further comment in their right-of-reply in respect of infrastructural issues.

**Evaluation of Evidence and Findings**

- [451] The possibility of issues arising from the Council's responsibility to meet the current and future needs of its communities for good quality local infrastructure appears to be little affected by the content of PC29. We are told that there will be capacity matters relating to the sewage system when volumes increase in the event of natural growth, or because of intensification of use arising from PC29. That is manageable and requires no specific mitigation within the Plan Change.
- [452] In respect of stormwater, there is the added sensitivity to the sea level rise phenomenon, with decreased 'head' of gravity flow and possible obstruction of outlets. This is mitigated by the proposal (see the Design Guide) to encourage pervious surfaces to car parking areas and thereby minimise the surface water runoff to the stormwater system, and the associated pollution of the harbour, at times of heavy rainfall.

[453] More broadly, Amendments 21 and 35 allow consideration of a development's consequences for the capacity of the City's relevant infrastructure as a condition of discretion in the event of issue of a resource consent.

#### **Recommendations**

[454] We are of the opinion that the additions to Amendments 4, 8, 21, and 35, are appropriate to mitigate the potential adverse effects of PC29 on infrastructural services.

#### **[10.12] MISCELLANEOUS**

[455] Under this heading we comment on two matters raised in the submission of McDonald's Restaurants (NZ) Limited (submitter 112), namely 'reverse sensitivity' and 'drive-thru retail'.

[456] In its submission McDonalds stated that it considered that insufficient attention had been paid to potential reverse sensitivity effects associated with existing businesses. In particular, the concern was that:

*The potential establishment of residential activities adjacent and opposite the site could have reverse sensitivity effects with respect to the drive-through component and 24/7 operation of the restaurant.*

[457] McDonalds requested various amended and additional provisions to address the issue and that 'drive-through retail' be specifically afforded permitted activity status, rather than be 'assumed' to be included within the definition of 'retail'.

[458] In the s42A Report, addressing the issue of reverse sensitivity more generally, the Officers commented that:

*It is recognised that mixed use areas inevitably increase the risk of incompatible land uses. Nevertheless, this risk is considered to be outweighed by the benefits arising from this type of development ... In addition a range of measures are available to reduce these risks including:*

- *the use of mitigation measures (such as noise insulation) incorporated into new residential development;*
- *the ability to require mitigation measures on new potentially disturbing activities through the resource consent process;*
- *the use of permitted activity conditions or standards which limit the effects of new activities; and*
- *the ability to require resource consent for new residential development, which allows for the consideration of whether a reasonable degree of amenity is likely to be experienced by future occupiers.*

[459] In a statement of evidence to the hearing, McDonalds' witness, Ms Joanne Sunde, a resource management planner, told us that she supported the additional wording to the Issue statement at Issue 5B.1.1.2 which acknowledges reverse sensitivity effects and 'incompatibility effects' between activities in the mixed use area as a key issue to be addressed. However, she also told us that she disagreed with the Officer's approach to reverse sensitivity in the corresponding policies, which she considered unreasonably placed the onus on McDonalds and other non-residential activities to mitigate their own effects on vulnerable activities, including residential activities. Her principal request was that a new clause be added to Policy 5B.1.1.2 to address reverse sensitivity. Ms Sunde also requested the deletion of clause (f) to Policy 5B.1.1.2:

*(f) Restrict activities, including heavy industries or late-night activities which may be incompatible with residential and other activities and/or degrade the character and amenity values of the Petone Mixed Use Area.*

[460] Ms Sunde was particularly concerned about the reference to 'late-night activities', adding that the approach showed 'a lack of understanding of reverse sensitivity'. She said that as a general observation it was her view that:

*" a mixed use environment is one where various non-residential and residential activities occur mutually, and together create a particular vibrancy, vitality and character".*

We can say that we share that view. Nevertheless, the issue of reverse sensitivity needs to be addressed.

[461] In their right-of-reply the Officers told us that:

*The evidence presented on behalf of McDonalds raised concern about reference to restricting late night activity (i.e. Policy 5B 1.1.2(f)). In particular, the evidence sought to clarify the basis of mixed use areas with complementary and compatible activities, the issue of reverse sensitivity and the reference to late-night activities. We support the intent of this evidence and recommend that further text be added to the explanation and reasons section to clarify these matters.*

[462] We have reviewed the additional text to be incorporated in the explanation and reasons section and consider it appropriate. The additional text is as follows:

*For mixed use areas with a business and residential activity mix to work well, compatibility issues need to be managed. These issues arise between different forms of development (bulk/scale) and also in relation to the effects of certain activities (including noise, glare, odour and parking). Provisions for the mixed use area are designed to manage these issues, while recognising that a mixed use area offers a different type of amenity and lifestyle opportunity, than that found in predominantly residential or business areas.*

...

*Late-night activities could also have an effect on the amenity of the surrounding area in terms of both adding to the vitality and vibrancy of areas in the evening, as well as possible disturbance to adjacent land uses. The establishment of new late-night activities such as licensed premises needs to be managed to reduce the potential for incompatibility between a range of land uses.*

[463] In relation to the request that 'drive-through retail' be specifically listed as a permitted activity in Rule 5B.2.2.1, the Officers clarified and Ms Sunde accepted that 'drive-through retail' comes within the definition of general 'retail' (i.e. it is not excluded) and therefore does not need to be specifically referenced in the activity list under Rule 5B.2.2.1.

[464] We agree that 'drive-through retail' does come within the definition of 'retail' and therefore is a permitted activity.

#### **Recommendation**

[465] That the additional text referred to in [462] above be inserted in the explanation and reasons section of 5B1.1.2A.

**Reason**

[466] The additional text is required to appropriately address/draw attention to the issue of 'reverse sensitivity'.

**[11] FURTHER EVALUATION UNDER SECTION 32**

[467] As we noted at paragraph 31 above, the Council must carry out a further evaluation under section 32 before making a decision on the matters raised in submissions (i.e. a decision under Clause 10 Schedule 1). The framework for that further evaluation is the same as for the first evaluation and covers the matters referred to in paragraph 32 above. The further evaluation may rely on the initial evaluation, particularly in relation to any matters which are not challenged by submissions.

[468] The essence of the evaluation is to ensure that before it makes a decision, the Council has satisfied itself on two issues:

- Is any new objective the most appropriate way of achieving the purpose of sustainable management of natural and physical resources?
- Is any new policy, rule or other method the most appropriate way of achieving the relevant objective?

**New/Amended Objectives**

[469] In evaluating new or amended objectives we look primarily at Part 2 of the Act and at the Council's functional responsibilities under section 31. Are the new objectives the most appropriate way of achieving the statutory purpose within the Council's area of responsibility?

[470] The new or amended objectives in PC29 are those shown in Amendments 4-7. This decision does not make any changes to the objectives in Amendments 5 or 7, and in respect of those proposed objectives we adopt and reaffirm the initial evaluation at pages 158-159 of the full version of PC29 including the section 32 evaluation. In respect of Amendment 6, the recommended change simply provides a better definition of the area in question, and we similarly adopt and reaffirm the initial evaluation at page 159.

[471] The recommended change to Amendment 4 is significant. The objective of complementary and supportive mixed use development has broad community support, and we endorse the initial evaluation in this respect. However, the submissions and the expert advice overwhelmingly emphasised that the achievement of a mixed use area must happen in way and at a rate which is sustainable for the wider community. The recommended change will make the objective far more specific in terms of both the nature of the mixed use and its effects on the rest of the Petone Commercial Activity Area. We think that this emphasis is important: there will be no net benefit to the community if the development of Petone West occurs at the expense of the rest of Petone, and the Historic Retail Precinct in particular.

[472] We have an entirely new recommended objective in relation to natural hazards. The consensus of expert advice was that this western part of Petone, in particular, is potentially subject to a range of natural hazards which must be recognised in the planning process. We think that the new objective is appropriate to achieve the purpose of providing for the community's health and safety when new development policies and controls are being considered.

**Policies, Rules and Guidelines**

[473] In evaluating this issue we are directed to look at matters of efficiency and effectiveness, benefits and costs, and risks where there is incomplete information.



- [474] The fundamental framework of policies, rules and other methods proposed by PC29 has not been significantly altered in our recommendations. In the context of a section 32 evaluation, our recommended changes may be seen largely as points of emphasis to respond to concerns about the effectiveness of proposed controls. We have recommended policies, rules and methods which are intended to be more effective than those proposed by PC29 in achieving the objectives relating to quality of new development and to make this transition successful. Conceptually there is a cost to match the benefit, but for the most part we have maintained the consent category of restricted discretionary which will apply to most new development.
- [475] In particular, the reduction in 'permitted' height should be seen in this discretionary context - where any new building above 20m is a restricted discretionary activity.
- [476] We are satisfied that, evaluating the policies, rules and methods as an integrated whole, they are the most appropriate way of achieving the objectives of PC29. We again substantially endorse the initial evaluation at pages 162-179 of the full version of PC29 including the section 32 evaluation.

## [12] OTHER MATTERS

- [477] During the course of the hearing there were a number of matters that were raised by submitters that fell outside the scope of PC29 but which nevertheless we wished to record and place on record our observations, and in some instances, our recommendations (where we are endorsing an existing commitment or initiative or we are making a recommendation we have **bold highlighted** the relevant passage). The matters are in relation to:

- Cultural heritage
- Natural hazards
- Open space strategy
- Design Guide

### Cultural Heritage

- [478] When presenting evidence on Day 1 of the hearing in relation to setbacks from the Te Puni urupa (refer paragraph 321 above) Morris Te Whiti Love (submitter 119) also drew our attention to the fact that there were other site(s) of significance in the Petone West area, including the old Pā site and old urupā sites at the former Gear Meat company site, in what is now the carpark associated with the IBM Petone office tower.
- [479] Mr Love requested that the current District Plan provisions should be revised to establish the extent of the old Pito-one Pā site between the Te Puni urupā and around Victoria Street. Accepting that such changes were outside the scope of our jurisdiction under PC29, Mr Love then drew our attention to the "Taranaki Whānui District Plan Project". This Project is aimed at submitting a private plan change request by the Port Nicholson Block Settlement Trust on behalf of Whānui iwi to the Hutt City Council, Upper Hutt City Council and Wellington City Council. The plan change will seek to better define sites of significance such as the Pito-one Pā site, and require a cultural impact assessment for developments likely to impact on such sites.
- [480] We were told that the Officers were aware of and supportive of the Taranaki Whānui District Plan Project. **We endorse the initiative as it is important that the District Plan appropriately recognise and provide for, as a "matter of national importance":**

*"the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga" [s.6(e) RMA]*

- [481] It was clear to us from Mr Love's evidence, that parts of the Petone West mixed use area are of considerable cultural significance to Taranaki Whānui.

#### Natural Hazards

- [482] As will be apparent from our discussion in Section [10.10] above, there were many observations made by a number of submitters, principally by the GNS, that there were other measures that needed to be put in place, not just for Petone West but across the whole of the City of Lower Hutt, to address the significant risks associated with natural hazards.

- [483] We absolutely accept the need for the District Plan to appropriately address risk from natural hazards. As we have discussed in Section [10.10], we consider that we have addressed the matter to the extent we can within the confines of the Petone West area covered by PC29.

- [484] We were advised at the hearing by Ms Bronwyn Little (Divisional Manager Environmental Policy) that Council would be undertaking a review of Section 14H of the District Plan "Natural Hazards" as a matter of priority. **We fully endorse this commitment which the Officer's in their right-of-reply recorded as follows:**

*The Council is committed to undertaking a full review of the District Plan. Chapter 14H Natural Hazards of the District Plan is expected to be reviewed in the next Council triennium and officers will ensure the Council is made aware of the importance of the issues which have been raised in this current process. This comprehensive and city-wide review enables a more connected and consistent approach to natural hazard planning to be taken. This review will also enable imminent RMA changes or other directions issued by central government on natural hazards to be considered in the review process.*

#### Open Space Strategy

- [485] There was considerable discussion around the issue of public open space, with submitters being of the opinion that there must be some readily accessible public open space within the mixed use area.

- [486] On the other hand, the 'mechanism' initially recommended by Officers as a way of achieving public open space through an incentive for additional building height in return for the provision of open space, did not gain much traction with submitters. We also had our reservations (see the discussion in Section [10.4] above). We do, however, agree with the Officer's suggestion that an open space strategy should be developed for the Petone Mixed Use Area. The strategy should establish the outcome anticipated (i.e. what form the public open space should take, where it could best be located, what actions will be necessary to achieve the outcome and in what timeframe etc). To rely on private sector development to achieve public open space outcomes seems to us to be fraught with uncertainty. In our opinion the Council should take the lead and be the primary implementation agency. **Accordingly, we recommend that Council in the financial year 2014/15 prepare an open space strategy for the Petone Mixed Use Area.**

- [487] We note the Officer's comment at paragraph 56 of their right-of-reply, namely that:

*Under the financial contributions provisions (Chapter 12) of the operative District Plan, a 'reserve impact fee' is levied on all commercial and industrial development in Commercial Activity Areas. In addition, under Council's Development Contributions Policy, a component of the development contribution on all new development includes 'community infrastructure' which includes land or development of assets by Council for public amenities, which could include open space (including*

*acquiring land). Council could use these contributions to fund the purchase of land and/or development of a new open space area.*

[488] Thus, while it appears that there is already in place a suitable financial mechanism for achieving public open space, we agree with the Officer's comment that the provision of new open space in this area would be premature, and we would add, would be premature in advance of the development and approval of a public open space strategy.

[489] We therefore record that we agree with the Officer's further comment that:

*The development of good quality open space is a major investment and with no clear understanding of the timing of market uptake in the transformation of the Petone West area, or where this development will occur, that investment could be either well in advance of the need for such space and/or ineffective due to its size and location. However, with some 'bedding in' of the Plan Change, observation of the market response and protection afforded by the Plan Change that no poor choices are made as to open space provision, Council reserves the ability to apply its resources in the future to ensure these are correctly targeted to deliver the optimum investment for the community.*

[490] In our opinion the 'first step' in the development of good quality open space is the preparation of a strategy which will guide future investment in the development of open space, hence our recommendation. **We further recommend that the development of the open space strategy should provide an opportunity for community input.**

#### **Design Guide**

[491] As will be apparent from our discussion in Section [10.5] above, many submitters focused their attention on the Design Guide. They considered it would have an important role to play in the future planning and development of Petone West, and we agree. At the end of the hearing it was apparent to us that further work was needed to bring the Design Guide up to an acceptable 'standard'. On this point the Officers agreed and they therefore recommended that an opportunity be given for further refinement of the Design Guide. Again we agreed and it was for this reason that we provided an opportunity for the Officers and submitters to bring forward further refinements. Accordingly, we set up the process outlined in Section [10.5] - see paragraphs [157-159] above.

[492] After our review of the further submissions received on the revised Design Guide - see [159] - we have recommended adoption of the Design Guide with some further minor changes - see [175].

[493] On the issue of adequacy we had this to say (at paragraph [173]):

*"... we are satisfied that the Design Guide is, with modifications recommended below, a good starting point for PC29. It is by no means the last word on a number of the issues covered, and we recommend some specific changes below".*

Then we added:

*"Time, experience and changing circumstances will require the Design Guide to be reappraised at some stage, potentially well before the statutory review period of 10 years. In our view this should ideally occur when the Council adopts an open space strategy for the area. This will create an important reference point for the design guidelines. A future revision will also ideally incorporate ideas and perspectives from within the community".*

[494] Thus, **we formally record our recommendation that the Design Guide is reviewed following the adoption of the open space strategy, and that an opportunity for community input is provided.**

[495] In the meantime, there is the issue of implementing the current Design Guide. At the hearing we asked the question of the Officers about the Council's ability to effectively implement the guidelines. In response, in their right-of-reply the Officers had this to say.

74. *Commissioners raised a question regarding the effectiveness of the Design Guide and Council's ability to administer and implement it to achieve the desired outcomes. This is recognised as particularly important given the reliance on the Design Guide to direct the quality of the change in the Petone Mixed Use Area. In response to this question, a similar question was raised during the proceedings on the Hutt City Central Area Plan Change and the Design guidelines that applied there. After two years in practice, Council's experience is that the desired early interaction between developers and their advisors with Council officers has bedded in well and is proving successful. In part, this success may be attributable to the incentive provided for the Central Area where resource consent fees are waived to recognise the extra demands placed on developing in the area and the need for consents for all development (as it will be in Petone West).*
75. *Furthermore, to assist in the assessment of proposals, we support the requirement for a design statement to be submitted as part of the resource consent application for new buildings or additions to existing buildings. We recommend this information requirement be added to Chapter 17: Information of the District Plan, subject to it being confirmed that it is within scope. If it is not considered within scope of Chapter 17, we consider this requirement could be added to the Design Guide or matters of discretion in Chapter 5B.*

[496] Picking up on the points in the above Officer comment, we recommend as follows:

- a. **That consideration be given by Council to waiving resource consent application fees for new development in the Petone West Mixed Use Area when consent is required in relation to 'design and external appearance' and a design statement is to be submitted with the application to demonstrate how the development responds to the objectives and guidelines of the Design Guide; and**
- b. **That a statement be incorporated into the relevant rules [Rule 5B 2.2.2 and Rule 5B.2.2.3.1] requiring that a Design Statement be submitted with a resource consent application when one of the matters over which Council has discretion is "matters in the Petone Mixed Use Area Design Guide".**

### [13] SUMMARY OF CHANGES

Note: all the changes referred to in this section are incorporated in the amended Plan Change Document attached as Appendix 4.

#### Background to Changes

- [1] Plan Change 29 (PC29) proposes changes to the western end of Petone to enable the transformation of the area into a mixed use environment. The Petone West area includes all the area zoned "Petone Commercial Activity Area - Area 2" and parts of the "General Business Activity Area" (including the Esplanade West Area). The area is generally bounded by Hutt Road, Petone Avenue, Campbell Terrace, Victoria Street, Sydney Street and The Esplanade.
- [2] The area is currently used for larger format retailing, servicing, industrial and commercial activities.

- [3] The intent of PC29 is to promote more diversity in the activities in the area to complement other activities in the vicinity. Providing for residential activities in particular is seen as a way to increase the population and thereby support other activities and facilities in the area.
- [4] 251 submissions, 25 further submissions and 2 late submissions were received on the Plan Change. A total of 44 submitters appeared over the course of the 5 day hearing. We have given consideration to all the matters raised in the submissions and in evidence during the course of the hearing.
- [5] The version of PC29 now recommended for adoption by Council is very different to that which was publicly notified. The changes have been significantly influenced by Officer recommendations (both in the s42A Report and in the Officer's right-of reply) and by the submissions. In turn we have made further changes.
- [6] We are now satisfied that the provisions of PC29 now recommended for adoption by Council strike an appropriate balance between facilitating mixed use development within Petone West, whilst ensuring that development enhances the amenity values of the area consistent with the intended mixed use environment.
- [7] Whilst there have been significant changes made to the Plan Change, we record that there was wide spread support for the concept of the 'mixed use area', an outcome that was first envisaged by the "Petone Vision".

#### **Recommended Changes**

- [8] In relation to the various matters raised through the submission and hearing process we recommend as follows:

[9] **Retail Activities**

[9.1] Retail Activities in Petone Commercial Activity Area - Area 2

Permitted Activities: (a) individual retail activities not less than 500m<sup>2</sup> and not more than 3,000m<sup>2</sup>

Discretionary Activities: (a) retail activities below 500m<sup>2</sup>; and

(b) retail activities with an individual or cumulative total floor space of more than 3,000m<sup>2</sup>

Non-Complying Activities: (a) integrated retail developments with a gross floor area in excess of 10,000m<sup>2</sup>

- [9.2] For retail activities less than 500m<sup>2</sup> establishing in the mixed use area an additional assessment matter is recommended as follows:

5B2.2.3.1(c): economic effect on the Jackson Street Historic Retail Precinct including:

- incremental effect of proposed store(s) on the economic vitality and viability of the Jackson Street Historic Retail Precinct
- cumulative effect of proposed store(s) of development proposed and any other small-scale retail approved in the Petone Mixed Use Area over the past five calendar years
- effect on the economic efficiency of the Jackson Street Historic Retail Precinct as a retail centre

- number of existing vacancies in the Jackson Street Historic Retail Precinct at the time of lodging resource consent
- whether a suitable location is available for the development within the Jackson Street Historic Retail Precinct.

[10] Comment: PC29 as publicly notified provided for retail activities below 500m<sup>2</sup> and up to 10,000m<sup>2</sup> as a permitted activity in the mixed use activity area. Considerable submitter concern was directed at the potential for essentially 'unfettered' retail activities establishing in the mixed use area undermining the economic vibrancy and vitality of the Petone Commercial Activity Area - Area 1 (the Jackson Street Historic Retail Precinct).

[11] To reinforce the recommended provisions, three amended policies are proposed:

Policy 5B 1.1.2A

- (a) Provide for a range of residential commercial small-scale or low intensity light-industrial, business and service activities and large format retail provided their effects are compatible with each other and the character and amenity values of the area.
- (b) Manage larger scale retail activities to ensure they do not detract from the vibrancy and vitality of the Jackson Street Historic Retail Precinct (Petone Commercial Activity Area - Area 1) and the Hutt City's Central Commercial Activity Area, and create an attractive and public focused environment.
- (c) Restrict smaller scale retail activities to ensure they do not detract from the vibrancy and vitality of the Jackson Street Historic Retail Precinct (Petone Commercial Activity Area - Area 1) and the Hutt City's Central Commercial Activity Area.

[12] The principal reasons for the recommended changes are captured in the following statements that are included in the Explanation and Reasons to Policy 5B.1.1.2A:

*Retail provisions in Petone Commercial Activity Area - Area 2 are intended to provide a complementary role to existing retail activities within the Jackson Street Historic Retail Precinct (Petone Commercial Activity Area - Area 1). Retail activities within the Petone Mixed Use Area are anticipated to be in the form of large format retail and other types of retailing (such as the sale of bulky goods) which does not directly compete with the range of retail goods and services available within the Jackson Street Historic Retail Precinct.*

...

*The Petone Mixed Use Area is not considered suitable for large-scale integrated retail developments (i.e. above 10,000m<sup>2</sup>) due to potential effects on the economic vibrancy and vitality of the Jackson Street Historic Retail Precinct and Central Commercial Activity Area, as well as potential increases in traffic volumes on the surrounding road network and natural hazard risks. This activity is considered to be more suitably located within the Hutt City's Central Commercial Activity Area (commonly referred to as Lower Hutt CBD).*

[13] **Residential Activities**

[13.1] A principal driver behind the mixed use area was to desire to facilitate the establishment of residential activities at the west end of Petone. At present they are not permitted.

- [13.2] PC29 as now amended and recommended for adoption by Council retains residential activities as a permitted activity. Some changes are however recommended in relation to the permitted activity conditions, including:
- a. outdoor living areas: requirement for a minimum of 20m<sup>2</sup> per residential unit provided as either private or shared outdoor amenity space, of which a minimum of 2.5m<sup>2</sup> must be private outdoor space which is contiguous with the main living area of the unit; and
  - b. car parking: changed from 1 space per 2 residential units (as publicly notified) to 1 space for each residential unit, plus for larger residential developments (7 residential units or more) visitor parking at 1 space for every 4 residential units.
- [13.3] A noise insulation condition applies to address reverse sensitivity effects.
- [14] Comment: many submitters, while generally supporting the intention to provide for residential activity in the mixed use area, were nevertheless concerned at the likelihood of low amenity standards and therefore 'low quality' residential development resulting under the provisions as publicly notified.
- [15] The introduction of the requirement for outdoor living areas, along with design guidance (see section below on 'Design Guide') was recommended by Officers. We support the change, along with the conditions relating to noise insulation and car parking provision.
- [16] We did not support the request of many submitters for setting a minimum size standard for residential units.
- [17] **Building Heights**
- [17.1] For most of the proposed mixed use area the maximum (permitted activity) building height is 20m (down from 30m).
- [17.2] For properties east of Victoria Street, with the exception of sites abutting the General Residential Area, the recommended height is 14m, as it is for sites between Gear Street and Victoria Street.
- [17.3] For sites abutting the General Residential Activity Area the maximum height is 12m.
- [17.4] For sites fronting Jackson Street, Hutt Road and The Esplanade building height is set at 12m with a recession plane of 45° sloping up to 20m.
- [18] Comment: a major issue raised by a large number of submitters was a concern at a proposed 30m building height applying across much of the mixed use area. Principal points made in submissions related to:
- loss of views to the foreshore and the western hills; and
  - bulk and scale of buildings being 'out-of-character' with Petone.
- [19] We consider that the reduced height limits respond to these concerns, which we consider are valid, and provide an appropriate balance between enabling development and maintaining/enhancing amenities. It is not to say that some buildings above 20m may not be appropriate on some sites, including so-called 'landmark sites'. However such development would require resource consent as a Discretionary Activity.

**[20] Recession Planes and Setbacks**

[20.1] As notified, PC29 proposed a rear yard setback of 8m (along with a 10m maximum building height) for sites abutting the General Residential Activity Area. In the s42A Report Officers recommended deletion of the rear yard setback and allowing buildings to 10m.

[20.2] The change now recommended is for a 3m rear yard setback (along with a maximum building height of 12m). Developments would also be required to comply with the 2.5m + 45° recession plane that applies in the abutting General Residential Activity Area.

[21] Comment: we consider the standards now set will achieve an appropriate level of protection for adjoining residential activities, while recognising that a residential development in the mixed use area is likely to be more intensive than that provided for in the General Residential Activity Area. We consider that this is an appropriate outcome for the mixed use area.

**[22] Te Puni Urupa**

[22.1] For sites abutting the urupa (Community Iwi Activity Area) the recommended maximum building height is 8m. A 2.5m +45° recession plane will also apply.

[22.2] For sites on the opposite side of Te Puni Street opposite the urupa, a 2.5m +45° recession plane measured from the road boundary of the urupa will apply.

[23] Comment: the recommended 8m height limit, plus the recession plane, will protect the urupa from inappropriate, potentially 'over-bearing' development.

**[24] Public Open Space**

[24.1] One of the provisions recommended by Officers was for a floor area bonus enabling building to exceed the 20m maximum building height where 'new open space and/or street connection' is created that is available for public use. The amount of bonus floor area (m<sup>2</sup>) above the maximum height should not exceed a ratio of 1:1 with the area (m<sup>2</sup>) of the new open space and/or street connection. Under this scenario building height should not exceed 30m.

[24.2] We are not recommending this proposed provision for floor area bonuses in its current form.

[25] Comment: all new building development will require consent for a Restricted Discretionary Activity and be subject to the Design Guide, which includes guidelines referring to public open space. Thus, additional discretionary height above 20m could be gained if public open space consistent with the guidelines is provided.

[26] Also, as previously noted, we consider that an open space strategy should be prepared which clearly would be an important 'guideline' for locating and establishing public open space.

**[27] Design Guide**

27.1 Two principal issues were raised in submissions: the content of the Design Guide and its application. As publicly notified the Design Guide would only apply to buildings fronting the main entrance routes: The Esplanade, Hutt Road and Jackson Street. As now proposed, the Design Guide will apply to all new buildings throughout the Petone Mixed Use Activity Area.



- [28] Comment: the Design Guide now recommended for adoption is significantly expanded on the version as publicly notified and we consider it is now generally 'fit for purpose'. We do however recommend that it should be reviewed once the open space strategy (which we are recommending) is prepared.
- [29] **The Esplanade**
- [29.1] Many submitters raised concern about retail activities establishing on The Esplanade. Other submitters requested a setback and landscaping requirement for development with frontage to The Esplanade.
- [29.2] The provisions now recommended are essentially those as publicly notified.
- [29.3] The recommendation is for a landscaping (planting) strip of a minimum width of 2.5m. Planting must include at least one specimen tree capable of growing to 5m in height within 10 years of planting for every 5m of site frontage. The planting strip should be planted so as to provide separation between on-site pedestrian and vehicle activities and pedestrian/vehicular activities taking place on the street.
- [30] In relation to the 'request' from submitters that retail activities be restricted on sites fronting The Esplanade, as we discussed in the section on Traffic and Parking, it was apparent to us that the main concern was traffic-related rather than retailing per se being inappropriate on The Esplanade. We accept the Officer's position that the requirement for resource consent for a restricted discretionary activity, with traffic effects being one of the matters for discretion, will appropriately address the situation. Also, as vehicle entry/exit to any site on The Esplanade is eastward only (i.e. left turn in and left turn out) because of the central median strip, given the various District Plan controls relating to vehicle access etc, we consider that any potential adverse effects on traffic safety and efficiently can be appropriately avoided.
- [31] **Natural Hazards**
- [31.1] Firstly we note that Council has committed to undertaking a review of the District Plan's provisions applying to 'natural hazards' - see [482- 484] above. This will inevitably result in a [re]consideration of the Plan provisions applying to the Petone Mixed Use Activity Area.
- [31.2] We are nevertheless recommending some changes to the PC29 provisions including:
- a. adding a new specific Issue, Objective, Policies and Explanation and Reasons section to specifically address natural hazards in the Petone Mixed use Activity Area;
  - b. a requirement for all new buildings to be assessed on a case-by-case assessment basis through the resource consent process to address natural hazard risks and consequences;
  - c. making "emergency facilities" a Non-Complying Activity in the entire Petone Mixed Use Area; and
  - d. making a range of other activities (including places of assembly, child care facilities, education and training facilities, housing for the elderly) a Discretionary Activity.
- [32] Comment: we consider that the changes now proposed (in advance of the wider review) appropriately address the issue of natural hazard risk in the Petone Mixed Use Area.

**[33] Miscellaneous**

[33.1] A number of other changes are proposed and now recommended for adoption by Council, including changes to:

- a. the Issue, Objective, Policies and Explanations and Reasons statement for the Petone Mixed Use Area (5B.1.1.2A). This includes insertion in the Explanations and Reasons section comment about the issue of 'reverse sensitivity'; and
- b. the list of Permitted Activities (5B 2.2.1) aside from the changes to retail activities.

**[14] RECOMMENDATION**

[34] Based on our consideration of all the material available to us, including the Plan Change as notified, the s42A Report, the submissions, further submissions, and the evidence presented at the hearing, and after our consideration of the requirements of section 32 and other relevant statutory matters, we recommend that:

1. Council accept the recommendations of the Commissioner Hearing Panel in respect of Plan Change 29 (Petone Mixed Use Area) as outlined in the Commissioner's Report dated 9 August 2013;
2. Council accept Plan Change 29 (Petone Mixed Use Area) as amended in Appendix 4 and that all submissions and further submissions on the Plan Change be accepted or rejected to the extent set out in the Report and Appendix 4; and
3. Council note the other comments and recommendations made in Section 12 of the Report under the heading "Other Matters", being matters beyond the scope of the Plan Change.

DATED AT WELLINGTON THIS 9<sup>th</sup> DAY OF AUGUST 2013

Alistair Aburn  
Commissioner (Chair)

Roger Lane  
Commissioner

Chris Mitchell  
Commissioner

**APPENDICES**

1. Pre-Hearing Meeting Reports
2. New Zealand Coastal Policy Statement - Policy 24 and Policy 25
3. List of Submitters Appearing at the Hearing
4. Plan Change 29 Incorporating Recommended Changes

**APPENDIX 1**

**PRE-HEARING MEETING REPORTS**

Notes of Plan Change 29 pre-hearing meeting to discuss retail issues held at the Thumbs UP Hall, 5 Elizabeth Street, Petone on Wednesday 20 February 2013 at 6pm.

About 30 people attended representing c 19 submitters.

Submitters identified issues raised by the plan change. These were;

- impact of large retail on small retail – the *Walmart effect*
- negative impact on property values
- impact of increased height on amenity – e.g. *making the area dark*
- negative impact on heritage precinct
- retail activity at western end permitted should only support proposed residential development
- insufficient parking provision for retail activity
- negative impact on retail in Jackson Street heritage precinct and adjoining area
- negative impact on preservation of heritage precinct
- impact of retail on The Esplanade
- credibility of underlying analysis (*Petone West Plan Change: Evaluation of Market Demand and Development Feasibility' February 2012*) leading to plan change – e.g. *Hutt population increase of 1.1%....demand for retail space in Petone increase by 75%*
- *Petone Vision Statement* not taken into account – land use planning and “gateway” function of area
- drafting inconsistencies and conflicts in plan change document.

One submitter indicated that they supported the proposed plan change because the additional retail would attract more people to the area.

The meeting agreed that the proposed plan change ignored the *Petone Vision Statement* which provides a framework for future development. Those present agreed that any planning changes should reflect the *Statement's* four elements and cited element 1 in particular.

The meeting discussed concerns about the likely impact of retail on The Esplanade. Traffic issues were a major issue and the meeting noted that work had started on a traffic study of the route. Submitters were concerned that while retail development might bring more people into the area, that may be at the expense of Jackson Street retail. Opinions differed on whether retail on The Esplanade was a good thing.

The meeting agreed that the plan change should protect the heritage values of the Petone area. The meeting agreed that the plan change provisions did not protect the heritage precinct in Petone. The removal of the maximum and minimum floor space rule for retail was cited as an example. The concern was that changes allowing development of small scale retail at the western end (Victoria Street to the Petone

Railway Station) would have the effect of retail moving westward leaving heritage buildings and the precinct empty. This would threaten the economic future of those building which may be left empty with no income for maintenance or earthquake strengthening with the cumulative effect of *destroying* the vitality and amenity values of the heritage precinct. Similarly, submitters were concerned that the removal of the maximum floor space of developments would threaten the heritage precinct given that larger buildings in the precinct would be out of scale.

The meeting agreed that impact of permitted scale of buildings at the western end was inconsistent with the amenity values that the Petone Vision Statement sought to protect. There was no agreement on what should be a maximum size limit for larger retail. The majority thought the parking provisions for new retail development were not controlled enough.

Sue Piper  
Facilitator  
21 February 2013

Note:

There was some confusion at the meeting about the permitted floor area permitted in the Plan Change. I have been advised by the Council that:

- the permitted retail floor space limit for Area 1 (Petone Historic Retail Area) is 0 to 1,000m<sup>2</sup>.
- the current permitted floor space limit for Petone Commercial Activity Area 2 is 500 to 3,000m<sup>2</sup>.
- the proposed permitted retail floor space limit for the plan change area is 0 to 10,000m<sup>2</sup>

Notes of Plan Change 29 pre-hearing meeting to discuss built form issues held at the Thumbs UP Hall, 5 Elizabeth Street, Petone on Thursday 21 February 2013 at 6pm.

22 people attended representing c 15 submitters.

The Council described the current and proposed height limits and proposed wind assessment requirements.

Submitters identified issues raised by the plan change. These were;

- Landscaping of both public and private spaces
- parking
- shading (overshadowing caused by large buildings)
- site coverage
- urban design
- impact on heritage precinct of new floor area limits at western end of Jackson Street
- permitted height
- protection of cultural identity
- Esplanade foreshore rules
- height increase at western end of Jackson Street
- Gateway function including The Esplanade
- lack of heritage and archaeological assessment
- transitional arrangements with residential area
- design guide content
- application of design guide within new zone
- privacy for residential activities
- visual pollution
- loss of natural light on public and private spaces
- nga urupara
- impact on Te Puni Reserve and gateway area
- lack of public spaces
- mixed use status leading to adverse effect on current businesses and proposed residential properties

The meeting agreed that the lack of detail about heritage and archaeological issues was of concern.

The meeting expressed concern that the 100% site coverage created a (permitted) baseline scenario that meant that shading effects could not be considered, in cases where resource consent is required. The meeting noted that shading effects of permitted development on both public and private space was a major concern.

The meeting was concerned that the plan did not allow for the creation of safe open spaces for public use.

There was considerable discussion about the possible effects of the rules for development in the “mixed area” on adjoining residential areas. The meeting noted that the plan change policy discussed the need to avoid over-dominance of new development on the existing residential area, but the rules contradicted the policy. One submitter illustrated the effects of permitted development adjacent to Sydney Street and streets to the east which showed significant shading effects on dwellings. The meeting noted that the design guide did not apply in this area.

The meeting agreed that the plan change did not reflect the existing character of Petone. Nor was it clear what the plan change was seeking to achieve. {The conversation echoed earlier comments at previous meetings about the lack of connection with the Petone Vision Statement (my comment)}.

There was considerable comment about the design guide proposed. These included

- did not meet the standard set in the New Zealand Urban Design Protocol, published by the Ministry for the Environment, which Hutt City is a signatory
- does not apply to the entire area covered by the plan change
- does not protect views from Korokoro nor views of hills when driving west
- does not promote good residential amenity – e.g. outdoor space, sunlight
- applies only to developments along main street frontages
- less robust than design guide used for Lower Hutt CBD (Central Commercial Activity Area)

The meeting agreed that the wind assessment provisions were a good idea.

Discussion about the foreshore and The Esplanade focused on the shading and other amenity effects of height and bulk rules on the foreshore and the road. The meeting noted the previous plans required setbacks and landscaping which provided some protection for important amenity values. The meeting noted that the proposed plan provision for a 15m height at the road frontage with a setback was an improvement on the current plan.

The meeting agreed that the height provision of 15-30m at the western end of Jackson Street was excessive. Concerns included:

- lack of context/scale with the heritage precinct
- views to and from the hills
- the bulk and height of neighbouring new buildings dominating the heritage precinct

The meeting discussed possible remedies noting they might include setbacks, lower height, design guide requirements. There was no consensus on suitable

amendments. The need for consistent application of the canopy rule was discussed as was the glazing of frontages (display window space).

The meeting expressed support for the Tenth Trust's concerns about nga urupara and the plan change's possible effects on Te Puni Reserve and the foreshore. The meeting noted that the plan change did not address the importance of the "gateways" (The Esplanade, foreshore and the western end of Jackson Street).

The meeting discussed the effect of potential development of the newly zoned "mixed use" area and the potential for current lanes and informal connections to adjacent streets to disappear. The meeting agreed that the design guide should address this issue.

The meeting explored the draft rules about permitted activities in the plan change. There was no conclusion but the meeting discussed the need for mixed services for residential and businesses to continue to be available in Petone.

Sue Piper  
Facilitator  
24 February 2013



Notes of Plan Change 29 pre-hearing meeting to discuss traffic and parking issues held at the Thumbs UP Hall, 5 Elizabeth Street, Petone on Monday 25 February 2013 at 6pm.

Four people attended representing five submitters.

Submitters identified issues raised by the plan change. These were;

- impact of increased traffic on local network
- changes to landscaping arrangement for car parks
- traffic on The Esplanade
- parking requirements for residential development
- parking requirements for retail development
- State Highway 2 (SH2) connections
- Lack of provisions for pedestrians and cyclists

Submitters were concerned that while the plan had statements addressing the management of traffic effects, there were no means to assess traffic effects of new developments. Nor did the plan change address the Petone Vision Statement's second element which discusses the need to *improve the movement of residential and business traffic and add amenity value to areas such as the foreshore and improve the attractiveness of walking, cycling and public transport options.*

Submitter's concerns about parking were:

- current on-street parking is very limited given narrow streets and the impact of commuter parking at the western end of Petone near the railway station
- NZ standard for retail parking is around 5 per 100m<sup>2</sup>, which overall is less than the graduated system proposed for the western end of Petone. This is expected to increase on-street parking demand
- residential parking requirements are insufficient given limited on-street parking, no encouragement of alternative modes (pedestrian and cycling) and most residents will have a car
- design guide does not address parking provision
- removal of landscaping requirements will negatively impact on streetscape and visual amenity

Submitters' concerns about traffic management were;

- no assessment of impact of new development on SH2 connections from additional traffic generated from new residential and retail activities
- lack of assessment of traffic impacts against the relevant regional policy statement
- lack of assessment of impact on narrow streets
- no reference to alternate transport modes

- intensive residential development needs provision of connections (in addition to formed streets) across area and the design guide and/or rules should address this issue
- current plan allows for financial contributions from larger retail developments (eg. Countdown Supermarket) towards traffic management works (eg. traffic lights and roundabouts. The plan change removes this opportunity for similar sized development and could lead to the transference of traffic management costs to the Council

Submitters discussed the possible impacts on The Esplanade and foreshore.

Concerns raised were:

- no assessment of impact of additional traffic from new development on the “Gateway” function of area and SH2 connections
- no assessment of effects from increased traffic on the enjoyment of the foreshore
- lack of measures to manage conflicts and increased traffic volumes for through traffic, local traffic, beach and reserve users and existing residents and businesses
- new development might lead to a reduction in on-street parking

Sue Piper  
Facilitator  
27 February 2013

Note:

The Council has advised me:

- there is no official NZ standard for parking provision, with each local authority having the ability to decide on what are appropriate levels of on-site car parking provision.
- the parking standard of 5 parking spaces per 100m<sup>2</sup> refers to the minimum parking standards contained in Appendix Transport 3 of the Operative District Plan, which applies to retail floor space outside the following centres:
  - a) Central Commercial Activity Area (Lower Hutt CBD);
  - b) Petone Commercial Activity Areas 1 and 2;
  - c) Suburban Commercial Activity Areas; and
  - d) Special Commercial Activity Areas.

Notes of Plan Change 29 pre-hearing meeting to discuss natural hazard risks held at the Thumbs UP Hall, 5 Elizabeth Street, Petone on Monday 18 February 2013 at 4pm.

Some 25 people attended representing c.15 submitters.

Submitters highlighted their chief concerns. GNS and Greater Wellington Regional Council presented information about the hazard risks for the Western Petone area.

All those at the meeting agreed that they were concerned that:

- Plan change does not adequately assess nor address the key natural hazard risks for the area being flooding (including stormwater issues), seismic activity (including fault rupture, liquefaction and subsidence), tsunamis and the impact of rising sea levels.
- Plan change does not give effect to the Wellington Regional Policy Statement (Chapter 11 Natural Hazards).

Plan change does not meet other legislative requirements to reduce risk e.g. Civil Defence Emergency Management Act 2002.

Submitters agreed a plan change needed to address risk reduction and that addressing the likely impact of the changes in the proposed plan change was very difficult without an assessment of the natural hazard risks.

The meeting acknowledged that reliance on the existing rules (e.g. Wellington Fault Special Study Area provisions) to manage risks will lead to increased risks to people and property. Residential development (e.g. apartments), education and emergency facilities were especially considered to increase the impact of those risks. The meeting agreed that the risks associated with intensification of development in the area could not be addressed without assessment of the hazard risks.

Sue Piper  
Facilitator  
19 February 2013

**APPENDIX 2****NEW ZEALAND COASTAL POLICY STATEMENT****Policy 24****Identification of Coastal Hazards**

(1) Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:

- (a) physical drivers and processes that cause coastal change including sea level rise;
- (b) short-term and long-term natural dynamic fluctuations of erosion and accretion;
- (c) geomorphological character;
- (d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;
- (e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;
- (f) influences that humans have had or are having on the coast;
- (g) the extent and permanence of built development; and
- (h) the effects of climate change on:
  - (i) matters (a) to (g) above;
  - (ii) storm frequency, intensity and surges; and
  - (iii) coastal sediment dynamics

taking into account national guidance and the best available information on the likely effects of climate change on the region or district.

**Policy 25****Subdivision, Use, and Development in Areas of Coastal Hazard Risk**

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;
- (d) encourage the location of infrastructure away from areas of hazard risk where practicable;

- (e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and
- (f) consider the potential effects of tsunami and how to avoid or mitigate them.

**APPENDIX 3****SUBMITTERS APPEARING AT THE HEARING**

008	Norman Wilkins
027	S R Torstonson
030 & 246	Roy Hewson
033	Neil Potter, Director PC Patch Ltd
054	Brett Nichols, Director Chocolate Story Ltd
055	Laura Skilton
076	Ruth Mansell
078	James Mansell
081	Wendy Saunders
093	Nick Ursin
094	Graham Wigley, on behalf of Wigley & Roberts Ltd
096	Gerry Pallo
099	Merran Bakker
108	Natural Hazards Division, GNS Science
107	Nick Miller and Jan Simmons
109	Alison Newbald
112	McDonalds Restaurants (NZ) Ltd
119	Morris Te Whiti Love, on behalf of the Trustees of Te Puni Urupa
120	John Daniels, on behalf of Historic Places Wellington Inc
121	James Beban, on behalf of Cuttriss Consultants
123	Julia Forsyth
135	Ruth Fletcher
142	Brian Boyer and Penny Dallimore
149	Stephen Shadwell
150	Greater Wellington Regional Council
152	Gerald Davidson, on behalf of the Petone Community Board
153	Carl Bakker, on behalf of the Petone Urban Environmental Association (PUEA)
161	Colin Partington
163	New Zealand Transport Agency (NZTA)
164	Nicholas Leko, on behalf of FIT Architects
168	Leonie Dobbs, Owner Style
169	Tui Lewis
172 & F020	R J Werry, on behalf of Light House Cinema Ltd
174	Richard Te One
175	Anne Godfrey
176	Mike Fisher
188	Tim Edgeler
199	Pam Hanna, on behalf of the Petone Planning Action Group (PPAG)
218	Leonie Dobbs, on behalf of the Jackson Street Programme Inc
221	John Donnelly
249	James Crampton
F/001	Ian Hawij
F/013 & F019	David Hunter (Late Submitter)
No Number	Roger Thackery (Late Submitter)

Submitter 190 (Alan White) was unable to attend the hearing but tabled a further written statement.

A full list of all submitters and further submitters was circulated with the Order Paper for the Hearing.

APPENDIX 4

PLAN CHANGE 29 INCORPORATING RECOMMENDED CHANGES [FOR COUNCIL ADOPTION]