

**IN THE ENVIRONMENT COURT
TE KŌTI TAIAO O AOTEAROA
WELLINGTON
TE WHANGANUI-Ā-TARA**

ENV-

IN THE MATTER of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER of Clause 14(1) of Schedule 1 of the RMA

BETWEEN **WOOLWORTHS NEW ZEALAND LIMITED**

Appellant

AND **HUTT CITY COUNCIL**

Respondent

**NOTICE OF APPEAL TO THE ENVIRONMENT COURT AGAINST DECISIONS
ON PROPOSED DISTRICT PLAN CHANGE 43**

18 DECEMBER 2019

**Russell
McAugh**

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TO: the Registrar
The Environment Court
WELLINGTON

WOOLWORTHS NEW ZEALAND LIMITED ("**Woolworths**") appeals against parts of the decision of Hutt City Council ("**Council**") in respect of Proposed District Plan Change 43: Residential and Suburban Mixed Use to the City of Lower Hutt District Plan ("**PC43**").

Background and decision appealed

1. Woolworths made a submission on PC43 on 29 March 2018.
2. Woolworths received notice of the Council's decision on PC43 on 6 November 2019 ("**Decision**").
3. Woolworths is not a trade competitor for the purposes of section 308D of the RMA.
4. The parts of the Decision that Woolworths appeals relate to the rejection of the matters raised in Woolworths' submission regarding the Suburban Mixed Use Activity Area zone. Specifically, this appeal relates to the Decision to:
 - (a) retain the default rule that all activities not provided for in the Suburban Mixed Use Activity Area are non-complying activities; and
 - (b) restrict residential development to above ground level.

General reasons for appeal

5. PC43, in its present form:
 - (a) will not promote the sustainable management of resources, and is therefore contrary to or inconsistent with Part 2 and other provisions of the RMA;
 - (b) will not meet the reasonably foreseeable needs of future generations;
 - (c) will not enable the social, economic and cultural wellbeing of the people of the Wainuiomata area;
 - (d) does not avoid, remedy or mitigate actual and potential adverse effects on the environment; and

(e) is not the most appropriate way to achieve the objectives of PC43 in terms of section 32 of the RMA.

6. In addition to the general reasons outlined above, Woolworths appeals parts of the Decision for the specific reasons set out below.

Specific reasons for appeal

Activities not provided for in the Suburban Mixed Use Activity Area

7. Rule 5E 4.1.8 provides all activities in the Suburban Mixed Use Activity Area zone not specifically provided for to be non-complying activities. This zone includes the site owned by Woolworths, located at 10 – 18 The Strand, Wainuiomata.
8. The purpose of the zone is to provide for the needs of surrounding residential areas including local retail, commercial services, and offices. Zone Statement 5E 1 provides that the Suburban Mixed Use Activity Area zone is designed to enable intensification of activities. Woolworths considers that a default non-complying activity status in this zone is unduly restrictive.
9. Woolworths considers that activities not otherwise provided for should default to discretionary status in this zone. Discretionary activity status will ensure that a range of development outcomes will not be unreasonably constrained or impact on PC43's aims for increased intensification and providing for the needs of surrounding residents, while also enabling the Council to have an appropriate level of control over the type of activities that establish in the zone.

Residential activities on the ground floor

10. Rule 5E 4.1.4 provides that residential activities are permitted only if located above the ground floor, or on the ground floor but without frontage to public open spaces. Policy 5E 3.2 provides that residential activities should be discouraged at ground level.
11. These provisions will unreasonably deter developers from meeting the housing demand in the area, and contradict the stated aim of PC43 to "provide housing

capacity and variety that meets the needs of existing and future residents of Lower Hutt City" as per the Decision.¹

12. Flexibility in residential development should be encouraged in the Suburban Mixed Use Activity Area zone, and a wide range of residential housing models should be enabled, including those at ground level.
13. Woolworths seeks that Rule 5E 4.1.4 and Policy 5E 3.2 be amended to allow residential development on the ground floor.

Relief sought

14. Woolworths seeks the following relief (shown in track with additions underlined and deletions with ~~striketrough~~):
 - (a) amend Rule 5E 4.1.8 as follows:

Activities not specifically provided for as permitted or restricted discretionary activities are ~~non-complying~~ discretionary activities.
 - (b) amend Rule 5E 4.1.4(a) as follows:

Residential activities are **permitted** activities ~~if~~

 - ~~(i) The dwelling is located above the ground floor; or~~
 - ~~(ii) The dwelling is located on the ground floor but has no frontage to public open spaces including streets except for access.~~
 - (c) delete Policy 5E 3.2 as follows:

~~Discourage residential activities at ground level which enabling residential activities above ground floor.~~
15. Woolworths seeks such further other orders, relief or consequential amendments as considered appropriate to address Woolworths' concerns, as well as costs of and incidental to this appeal.

¹ Decision of the Hearing Panel on Proposed District Plan Change 43 dated 27 October 2019 at [1].

Attachments

16. The following documents are attached to this notice:
- (a) a copy of Woolworths' submission;
 - (b) a copy of the relevant part of the decision; and
 - (c) a list of names and addresses of persons to be served with a copy of this notice.

WOOLWORTHS NEW ZEALAND LIMITED by its solicitors and authorised agents Russell McVeagh:



Signature: Allison Arthur-Young / Paige Coulter

Date: 18 December 2019

Address for Service: C/- Paige Coulter
Russell McVeagh
Barristers and Solicitors
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AUCKLAND 1140

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Advice to recipients of copy of notice of appeal*How to become party to proceedings*

1. You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.
2. To become a party to the appeal, you must,—
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
3. Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

5. If you have any questions about this notice, contact the Environment Court in Wellington.

ATTACHMENT A

Woolworths' submission

29 March 2018

Hutt City
Corinna Tessendorf – Senior Environmental Policy Analyst
Private Bag 31-912
Lower Hutt, 5040

The Property Group Limited
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86 - 96 Victoria Street
Wellington
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By email: PC43consultation@huttcity.govt.nz

**SUBMISSION OF PROGRESSIVE ENTERPRISES LIMITED ON PROPOSED PLAN CHANGE 43 –
RESIDENTIAL AND SUBURBAN MIXED USE**

The Property Group Limited has been engaged by Progressive Enterprises Limited ("**Progressive**") in respect of Proposed Plan Change 43 to the City of Lower Hutt District Plan ("**Plan Change**").

As foreshadowed by Matthew Grainger's email of 26 March 2018, please find enclosed Progressive's submission on the Plan Change.

Progressive acknowledges that this submission is filed late, but requests that the Council accept the submission. As noted in Mr Grainger's email, the reason that the submission is late is that Progressive was not notified of the Proposed Plan Change, as the notification letter was sent to the wrong address. Given that the summary of submissions has not been notified, Progressive considers that no other submitter will be unduly prejudiced by the Council accepting Progressive's late submission. If Progressive's submission is not accepted, it would be severely prejudiced, given the direct impact of the Plan Change on its land in Wainuiomata.

Progressive is grateful for Ms Parvati Rotherham's email of 27 March 2018, which notes that you will be recommending that Progressive's submission be accepted. We look forward to receiving confirmation of this.

You will see that Progressive's submission proposes changes to the Suburban Mixed Use Activity Area, but also seeks alternative relief. Progressive would welcome the opportunity to discuss its submission with the Council, in particular how the Plan Change might accommodate Progressive's future redevelopment aspirations for its site.

Please let us know if you have any questions or would like to discuss the above.



Andrew Macleod
Director - Planning
The Property Group Limited

Copy to: Matthew Grainger - Progressive Enterprises Limited
Mike Doesburg - Russell McVeagh

29 March 2018

Hutt City
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By email: PC43consultation@huttcity.govt.nz

SUBMISSION OF PROGRESSIVE ENTERPRISES LIMITED ON PROPOSED PLAN CHANGE 43 – RESIDENTIAL AND SUBURBAN MIXED USE

1 Submission details

Submitter details: Progressive Enterprises Limited

Submitter contact: Matthew Grainger – National Development Manager

Submitter postal address: Progressive Enterprises Limited
Private Bag 93306, Otahuhu
Manukau, Auckland

Address for service: The Property Group
Level 10, 86-96 Victoria St
PO Box 2874
Wellington
Attention: Andrew Macleod – Director – Planning
Phone: 021 598 511
Email: amacleod@propertygroup.co.nz

2 Introduction

Progressive Enterprises Limited ("Progressive") is one of New Zealand's leading supermarket operators. Progressive's substantial operations include over 180 Countdown supermarkets across New Zealand, as well as distribution centres, meat processing plants, warehouse operations and support offices. In addition, Progressive is the franchisor for both the Freshchoice and Supervalu supermarket brands across New Zealand.

Through its wholly owned subsidiary, General Distributors Limited ("GDL"), Progressive owns an interest in approximately 3.3 hectares of land in Wainuiomata that is subject to Proposed Plan

Change 43 (“PC43”). GDL's land is located at 10-18 The Strand, Wainuiomata. GDL's site is comprised of an existing mall, which is largely vacant but still includes a supermarket, bakery, discount store and Work and Income NZ office. The site has considerable potential for redevelopment and represents a unique opportunity for a comprehensively designed mixed-use development to revitalise the Wainuiomata town centre. Progressive is in the design phase of a proposed redevelopment.

This site is zoned Suburban Commercial under the operative District Plan. PC43 proposes to rezone this land Suburban Mixed Use Activity Area.

Progressive supports some aspects of PC43, however, overall PC43 is not well designed to respond to sites like GDL's Wainuiomata site. Progressive's concerns are detailed in its submission below.

3 The specific provisions of PC43 that Progressive's submission relates to are listed below

ID	Proposed Plan Provision	Support/ Oppose	Reasons for Submission	Relief Sought Strike = deletion Underline = insertion
5E3	Policy 5E 3.2	Oppose	Progressive supports the provision of residential units in this zone, however discouraging residential activity at ground level is too restrictive for GDL's Wainuiomata site and limits potential redevelopment opportunities.	That Policy 5E 3.2 be removed: Discourage residential activities at ground level while enabling residential activities above ground floor.
5E3	Policy 5E 3.4	Support	Progressive supports this policy, which will allow consideration of broader functional and operational requirements of development.	Retain Policy 5E 3.4 as notified.
5E3	Policy 5E 3.6	Oppose in part	GDL supports the need for quality medium density built development, but the proposed Medium Density Design Guide is overly prescriptive and is also ambiguous and open to interpretation. In particular, the Design Guide does not provide for the development of larger sites, such as GDL's Wainuiomata site. The policy should be amended to encourage good quality	That Policy 5E 3.6 be amended as follows: Encourage <u>good quality</u> medium density built development, to be in general accordance with the Medium Density Design Guide.

			development, without requiring strict compliance with the Design Guide.	
5E3	Policy 5E 3.8	Oppose in part	GDL supports PC43 encouraging high quality built development. However, providing active street frontage and/or requiring buildings right up to the road boundary is unreasonable in all circumstances, particularly in the context of GDL's Wainuiomata site. Other options are available to ensure high quality built development.	That Policy 5E 3.8 be amended as follows: Encourage high quality built development that positively contributes to the visual quality and interest of streets and public space, through active street frontages and buildings right on the road boundary.
5E3	Policy 5E 3.9	Oppose	Commercial and mixed-use development necessarily requires large amounts of impervious area. In such circumstances, requiring stormwater neutrality is unreasonable.	That Policy 5E 3.9 be amended as follows: Encourage development to be storm water neutral. <u>Development must ensure that the effects of land use activities on stormwater are appropriately managed.</u>
5E4	Rule 5E 4.1.1	Oppose in part	GDL supports the provision of offices, commercial services, retail and entertainment within this activity area. However, given the size of its site Progressive considers that the proposed gross floor area limit is too restrictive and does not adequately respond to the specific context of the Wainuiomata commercial area. A larger limit of 3,500m ² should be provided, either generally or for GDL's Wainuiomata site.	Amend Rule 5E 4.1.1 as follows: a) Offices, Commercial Services, Retail and Entertainment Facilities are permitted activities if: (i) The gross floor area of the activity does not exceed 500 <u>3,500</u> m ² .
5E4	Rule 5E 4.1.4	Oppose	In general, the enablement of residential activities in this zone is supported. However, the rule as it stands is too restrictive, particularly for a large site that presents opportunities for well-designed detached housing. Lower Hutt has a recognised shortfall of dwellings (particularly one and two bedroom dwellings). Restrictive rules will discourage developers reacting to that shortfall.	Amend Rule 5E 4.1.4 as follows: (a) Residential Activities are permitted activities if: (i) The dwelling is located above ground floor; or (ii) The dwelling is located on the ground floor but has no frontage to public open spaces including streets except for access.
5E4	Rule 5E 4.1.8	Oppose in	In general, Progressive supports	Amend Rule 5E 4.1.8 as follows:

		part	providing a "catch all" activity status for activities not otherwise provided for. However, non-complying activity status is unduly restrictive. The requirement to pass one of the section 104D "gateway tests" may result in otherwise deserving applications being declined. Discretionary activity status enables all relevant matters to be taken into account, without having that same risk.	All other activities not listed above are non-complying <u>discretionary</u> activities.
5E4	Rule 5E 4.2.1	Support	Progressive supports the building height standard.	Retain Standard 5E 4.2.1 as notified
5E4	Rule 5E 4.2.3	Support	Progressive supports the yard standard.	Retain Standard 5E 4.2.3 as notified
5E4	Rule 5E 4.2.5	Oppose	Progressive considers that this standard is generally too restrictive for any future development of GDL's Wainuiomata site. Given the size, layout and limited frontage along The Strand, the requirement to construct buildings up to the front boundary would result in poor development outcomes. Furthermore, the requirement for at least 50% of the ground floor frontage of buildings to be display windows is not feasible for large sites or buildings like supermarkets.	Amend Standard 5E 4.2.5 to exclude GDL's Wainuiomata site, or to otherwise address Progressive's concerns (for example, by removing the frontage and glazing requirements).
5E4	Rule 5E 4.2.6	Oppose	This standard is not appropriate for large sites like GDL's Wainuiomata site. Supermarket and mall developments require flexibility to determine where parking will be provided. While the standard may be appropriate for small, high street retail areas, it is not practicable for larger sites.	Amend Standard 5E 4.2.6 to exclude GDL's Wainuiomata site, or to otherwise address Progressive's concerns (for example, to remove restrictions on the location of parking areas for larger sites).
	Medium Density Design Guide	Oppose	Progressive considers that the Design Guide is overly prescriptive and does not respond to activities that might	Delete or amend the Medium Density Design Guide, either generally or as it applies to GDL's site in Wainuiomata.

			<p>be undertaken in the Suburban Mixed Use Activity Area. In particular, the Design Guide does not address larger retail or commercial developments, or detached housing. If the Design Guide is to be retained, it should be amended to provide high-level guidance, rather than prescriptive requirements.</p>	
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4 Alternative relief

In addition to the specific relief detailed above, Progressive seeks the following alternative relief, or other such consequential relief as may be required to give effect to its submission:

- that GDL’s site at 10-18 The Strand, Wainuiomata be removed from PC43 and remains under the operative zoning of Suburban Commercial Activity Area; or
- that GDL's site is otherwise rezoned to a more appropriate zone (or zones) to allow for larger commercial / retail development, along with mixed-use and residential activities.

5 Conclusion

Progressive wishes to be heard in support of its submission.

Progressive will not gain an advantage in trade competition through this submission.

6 Signature of submitter



Progressive Enterprises Limited
 C\ - Andrew Macleod
 Director - Planning
 The Property Group Limited

Dated: 29 March 2018

ATTACHMENT B

Relevant parts of the decision

Proposed District Plan Change 43

Residential and Suburban Mixed Use

Decision

New Chapter 5E Suburban Mixed Use Activity Area, with recommended changes from the Hearing Panel

AMENDMENT 133 [New Chapter 5E Suburban Mixed Use Activity Area (5E 1 Introduction / Zone Statement)]
Add a new Chapter 5E Suburban Mixed Use Activity Area and a new Section 5E 1 Introduction / Zone Statement

5E Suburban Mixed Use Activity Area

5E 1 Introduction / Zone Statement

The Suburban Mixed Use Activity Area applies to selected suburban centres generally located in areas of good public transport.

The Suburban Mixed Use Activity Area primarily provides for the local convenience needs of surrounding residential areas including local retail, commercial services and offices as well as residential use above ground floor. It addresses expectations of residents of higher density housing types to have easy access to a wide range of facilities and services.

The Suburban Mixed Use Activity Area enables intensification and provides for medium densities.

New development is expected to be designed to high standards and enhance the quality of the streets and public open space in these centres. The Medium Density Design Guide assists in the development of high quality buildings and environments and provides guidance where permitted activity development standards are not met.

AMENDMENT 134 [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Add a new Section 5E 2 Objectives and new Objective 5E 2.1

5E 2 Objectives

Objective 5E 2.1

Commercial activities which primarily serve the local community coexist with residential living and provide good community access to goods, services and community facilities.

AMENDMENT 135 [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Add new Objective 5E 2.2

Objective 5E 2.2

Land is efficiently used for medium density mixed use development.

AMENDMENT 136 [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Add new Objective 5E 2.3

Objective 5E 2.3

Built development is of a scale and quality that is compatible with the amenity level of medium density mixed use development and contributes towards creating a sense of place.

AMENDMENT 137 [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Add new Objective 5E 2.4

Objective 5E 2.4

~~Built development is of a scale and quality that is compatible with~~ shall maintain the amenity levels of values of adjoining residential areas.

AMENDMENT 138 [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Add new Objective 5E 2.5

Objective 5E 2.5

Built development is adequately serviced by network infrastructure or addresses any infrastructure constraints.

AMENDMENT 138A [New Chapter 5E Suburban Mixed Use Activity Area (5E 2 Objectives)]
Introduce new Objective 5E 2.x

Objective 5E 2.x

Built development is located and designed to manage significant risk from natural hazards.

AMENDMENT 139 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add a new Section 5E 3 Policies and new Policy 5E 3.1

5E 3 Policies

Policy 5E 3.1

Provide for a range of commercial, retail and community activities with a focus on local needs.

AMENDMENT 140 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.2

Policy 5E 3.2

Discourage residential activities at ground level while enabling residential activities above ground floor.

AMENDMENT 141 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.3

Policy 5E 3.3

Discourage activities which have noxious or offensive qualities from locating within the Suburban Mixed Use Activity Area.

AMENDMENT 142 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.4

Policy 5E 3.4

Recognise the functional and operational requirements of activities and development.

AMENDMENT 143 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.5

Policy 5E 3.5

Enable the efficient use of land through medium density built development while managing any adverse effects on the environment, including effects on infrastructure and residential amenity.

AMENDMENT 144 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.6

Policy 5E 3.6

Encourage medium density built development to be designed to a high quality ~~general~~ ~~accordance with the Medium Density Design Guide.~~

AMENDMENT 145 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.7

Policy 5E 3.7

Require built development ~~adjacent~~-adjoining to Residential Activity Areas to manage the effects on the amenity ~~values~~ of those areas, having specific regard to visual dominance, privacy and shading.

AMENDMENT 146 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.8

Policy 5E 3.8

Encourage high quality built development that positively contributes to the visual quality and interest of streets and public open space through active street frontages and buildings right on the road boundary.

AMENDMENT 147 [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.9

Policy 5E 3.9

Require rainwater tanks and encourage development to be stormwater neutral.

AMENDMENT 147A [New Chapter 5E Suburban Mixed Use Activity Area (5E 3 Policies)]
Add new Policy 5E 3.9

Policy 5E 3.xx

Promote new development to have raised floor levels for new development to be above the 100 year (ARI) flood extent, where sufficient information is available.

AMENDMENT 148 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add a new Section 5E 4 Rules and new Subsection 5E 4.1 Activities and new Rule 5E 4.1.1
Offices, Commercial Services, Retail and Entertainment Facilities

5E 4 Rules

5E 4.1 Activities

Rule 5E 4.1.1 Offices, Commercial Services, Retail and Entertainment Facilities

(a) Offices, Commercial Services, Retail and Entertainment Facilities are **permitted** activities if:

(i) The gross floor area of the activity does not exceed 500m².

(ii) For sites ~~abutting~~ adjoining a Residential Activity Area

1. Servicing hours are limited to 7.00am to 10.00pm.

2. All outdoor storage and servicing areas are screened so they are not visible from ~~abutting~~ adjoining residential sites.

(b) Offices, Commercial Services, Retail and Entertainment Facilities that do not meet the above permitted activity standards are **restricted discretionary** activities.

For non-compliance with (a) (i) above discretion is restricted to:

(i) The effects arising from the scale and intensity of the activity.

(ii) The need to provide for the functional requirements of the activity.

For non-compliance with (a) (ii) above discretion is restricted to:

(iii) The effects on the night time amenity of ~~nearby~~ the surrounding residential areas.

(iv) The effects on the visual amenity of ~~adjacent properties~~ adjoining sites.

Links to:

Objective 5E 2.1

Policy 5E 3.1

AMENDMENT 149 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.2 Service Industries and Cottage Industries

Rule 5E 4.1.2 Service Industries and Cottage Industries

<p>(a) Service industries and cottage industries are permitted activities if:</p> <p>(i) The gross floor area of the activity does not exceed 500m².</p> <p>(ii) For sites abutting adjoining a Residential Activity Area:</p> <ol style="list-style-type: none">1. Servicing hours are limited to 7.00am to 10.00pm.2. All outdoor storage and servicing areas are screened so they are not visible from abutting adjoining residential sites.
<p>(b) Service industries and cottage industries that do not meet the above permitted activity standards are restricted discretionary activities.</p> <p><u>For non-compliance with (a) (i) above discretion is restricted to:</u></p> <p>(i) The effects arising from the scale and intensity of the activity.</p> <p>(ii) The effects on visual the amenity and of the streetscape.</p> <p>(iii) The need to provide for the functional requirements of the activity.</p> <p><u>For non-compliance with (a) (ii) above discretion is restricted to:</u></p> <p>(iv) The effects on the night time amenity of nearby the surrounding residential areas.</p> <p>(v) The effects on the visual amenity of adjacent properties adjoining sites.</p>
<p>Links to: Objective 5E 2.1 Policies 5E 3.1, 5E 3.3</p>

AMENDMENT 150 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.3 Community Activities and Health Activities incl. Libraries, Marae, Childcare Centres, Education Facilities, Places of Assembly and Health Care Services

Rule 5E 4.1.3 Health Care Services, Community Facilities, Marae, Education Facilities and Places of Assembly

<p>(a) Health Care Services, Community Facilities, Marae, Education Facilities and Places of Assembly are permitted activities if:</p> <p>(i) The gross floor area of the activity does not exceed 500m².</p> <p>(ii) For sites abutting adjoining a Residential Activity Area:</p> <ol style="list-style-type: none">1. Servicing hours are limited to 7.00am to 10.00pm.2. All outdoor storage and servicing areas are screened so they are not visible from abutting adjoining residential sites.
<p>(b) Health Care Services, Community Facilities, Marae, Education Facilities and Places of Assembly that do not meet the above permitted activity standards are restricted discretionary activities.</p> <p><u>For non-compliance with (a) (i) above discretion is restricted to:</u></p> <p>(i) The effects arising from the scale and intensity of the activity.</p> <p>(ii) The effects on visual the amenity and of the streetscape.</p>

<p>(iii) <u>The need to provide for the functional requirements of the activity.</u></p> <p><u>For non-compliance with (a) (ii) above discretion is restricted to:</u></p> <p>(i) <u>The effects on the night time amenity of nearby the surrounding residential areas.</u></p> <p>(ii) <u>The effects on the visual amenity of adjacent properties adjoining sites.</u></p>
<p>Links to: <u>Objective 5E 2.1</u> <u>Policy 5E 3.1</u></p>

AMENDMENT 151 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.4 Residential Activities

Rule 5E 4.1.4 Residential Activities

<p>(a) Residential Activities are permitted activities if</p> <p>(i) <u>The dwelling is located above the ground floor; or</u></p> <p>(ii) <u>The dwelling is located on the ground floor but has no frontage to public open spaces including streets except for access.</u></p>
<p>(b) Residential Activities that do not meet the above permitted activity standards are restricted discretionary activities.</p> <p><u>Discretion is restricted to:</u></p> <p>(i) <u>The effects on the continuity of the design and appearance of the frontage of buildings including display windows and verandahs.</u></p> <p>(ii) <u>The effects on the amenity of the streetscape and public open space.</u></p> <p>(iii) <u>The effects on the privacy and amenity of the residents of the site.</u></p> <p>(iv) <u>Consistency with the Medium Density Design Guide.The following mixed use and medium density residential development design elements:</u></p> <p>a) <u>Building height</u></p> <p>b) <u>Recession planes and setbacks</u></p> <p>c) <u>Indoor and outdoor living spaces</u></p> <p>d) <u>Open space and boundary treatments</u></p> <p>e) <u>Entrances, carparking and garages</u></p> <p>f) <u>On-site stormwater management</u></p> <p>g) <u>End / side wall treatment</u></p> <p>h) <u>Building materials</u></p> <p>i) <u>Bike parking, storage and service areas</u></p> <p>j) <u>Privacy and safety</u></p> <p>k) <u>Landscaping</u></p> <p><u>When considering the matters in (iv), the Council will be principally guided by its Medium Density Design Guide.</u></p>
<p>Links to: <u>Objective 5E 2.1</u> <u>Policies 5E 3.1, 5E 3.2</u></p>

AMENDMENT 152 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.5 Care Facilities, Residential Facilities, Boarding Houses, Hostels and Visitor Accommodation

Rule 5E 4.1.5 Care Facilities, Residential Facilities, Boarding Houses, Hostels and Visitor Accommodation

(a) Care Facilities, Residential Facilities, Boarding Houses, Hostels and Visitor Accommodation are **permitted** activities if

- (i) Any habitable rooms are located above ground floor; or
- (ii) Any habitable rooms located on the ground floor have no frontage to public open spaces including streets.

(b) Care Facilities, Residential Facilities, Boarding Houses, Hostels and Visitor Accommodation that do not meet the above permitted activity standards are **restricted discretionary** activities.

Discretion is restricted to:

- (i) The effects on the continuity of the design and appearance of the frontage of buildings including display windows and verandahs.
- (ii) The effects on the amenity of the streetscape and public open space.
- (iii) The effects on the privacy and amenity of ~~the~~ residents of the site.
- (iv) ~~Consistency with the Medium Density Design Guide.~~The following mixed use and medium density residential development design elements:
 - a) Building height
 - b) Recession planes and setbacks
 - c) Indoor and outdoor living spaces
 - d) Open space and boundary treatments
 - e) Entrances, carparking and garages
 - f) On-site stormwater management
 - g) End / side wall treatment
 - h) Building materials
 - i) Bike parking, storage and service areas
 - j) Privacy and safety
 - k) Landscaping

When considering the matters in (iv), the Council will be principally guided by its Medium Density Design Guide.

Links to:
Objective 5E 2.1
Policy 5E 3.1

AMENDMENT 153 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.6 Emergency Facilities

Rule 5E 4.1.6 Emergency Facilities

(a) Emergency Facilities are **restricted discretionary** activities.

Discretion is restricted to:

(i) The effects on the amenity of ~~nearby~~ the surrounding residential areas.

Links to:

Objective 5E 2.1

Policy 5E 3.1

AMENDMENT 154 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.7 Commercial Garages and Service Stations

Rule 5E 4.1.7 Commercial Garages and Service Stations

(a) Commercial Garages and Service Stations are **restricted discretionary** activities

Discretion is restricted to:

(i) The effects of the activity on the amenity of the surrounding areas.

(ii) The effects on the streetscape and on pedestrian amenity.

Links to:

Objective 5E 2.1

Policies 5E 3.1, 5E 3.3

AMENDMENT 155 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.8 All other Activities

Rule 5E 4.1.8 ~~All~~ Other Activities

(a) ~~All other activities not listed above are non-complying activities. Activities not specifically provided for as permitted, or restricted discretionary activities are non-complying activities.~~

Links to:

Objective 5E 2.1

Policies 5E 3.1, 5E 3.3

AMENDMENT 156 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.1.9 Light Spill

Rule 5E 4.1.9 Light Spill

(a) Activities are **permitted** activities if:

(i) Artificial light does not result in added illuminance in excess of 8 lux measured at the window of any dwelling.

(ii) Light spill is avoided beyond the boundary of the site.

(b) Activities that do not meet the above permitted activity development standards are **restricted discretionary** activities.

Discretion is restricted to:

- (i) The effects on the amenity values of the surrounding area.

Links to:

Objectives 5E 2.1, 5E 2.3

Policies 5E 3.1, 5E 3.4, 5E 3.5, 5E 3.7, 5E 3.8

AMENDMENT 156A [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Introduce a new Rule 5E 4.1.x Vegetation Removal

Rule 4F 4.1.x Vegetation Removal

- (a) The removal of vegetation (whether indigenous or exotic) is a **permitted** activity.

AMENDMENT 157 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Subsection 5E 4.2 Development Standards and new Rule 5E 4.2.1 Building Height

5E 4.2 Development Standards

Rule 5E 4.2.1 Building Height

- (a) Construction or alteration of a building is a **permitted** activity if:

- (i) The building does not exceed a maximum height of ~~1240m~~.

- (b) Construction or alteration of a building that exceeds the maximum height of ~~1240m~~ is a **restricted discretionary** activity.

Discretion is restricted to:

- (i) The effects on the amenity of ~~adjacent properties~~ adjoining sites .

- (ii) The effects on the privacy of adjoining sites. ~~properties~~.

- (iii) The effects on shading of adjoining sites. ~~properties~~.

- (iv) The effects on the amenity of adjoining ~~Residential Activity Areas~~, the streetscape and adjoining public space.

- (v) ~~Consistency with the Medium Density Design Guide.~~The following mixed use and medium density residential development design elements:

- a) Building height
- b) Recession planes and setbacks
- c) Indoor and outdoor living spaces
- d) Open space and boundary treatments
- e) Entrances, carparking and garages
- f) On-site stormwater management
- g) End / side wall treatment
- h) Building materials
- i) Bike parking, storage and service areas
- j) Privacy and safety
- k) Landscaping

When considering the matters in (v), the Council will be principally guided by

its Medium Density Design Guide.

Links to

Objectives 5E 2.2, 5E 2.3

Policies 5E 3.4, 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 158 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.2.2 Recession Planes

Rule 5E 4.2.2 Recession Planes

(a) Construction or alteration of a building is a **permitted** activity if the following recession plane requirements are being met:

- (i) ~~For sites abutting adjoining a Residential Activity Area the recession plane requirements of the abutting adjoining Residential Activity Area shall be complied with at the shared boundary.~~

No recession planes are required from road boundaries, boundaries within the Suburban Mixed Use Activity Area and existing or proposed internal boundaries within a site.

(b) ~~Construction or alteration of a building that does not meet the recession plane requirements is a **restricted discretionary** activity.~~

Discretion is restricted to:

- (i) ~~The effects on the amenity of adjoining residential sites. properties.~~
(ii) ~~The effects on the privacy of adjoining residential sites. properties.~~
(iii) ~~The effects on shading of adjoining residential sites. properties.~~

(iv) ~~Consistency with the Medium Density Design Guide.~~ The following mixed use and medium density residential development design elements:

- a) Building height
- b) Recession planes and setbacks
- c) Indoor and outdoor living spaces
- d) Open space and boundary treatments
- e) Entrances, carparking and garages
- f) On-site stormwater management
- g) End / side wall treatment
- h) Building materials
- i) Bike parking, storage and service areas
- j) Privacy and safety
- k) Landscaping

When considering the matters in (iv), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objectives 5E 2.2, 5E 2.3

Policies 5E 3.4, 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 159 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]

Add new Rule 5E 4.2.3 Yards

Rule 5E 4.2.3 Yards

(a) Construction or alteration of a building is a **permitted** activity if the following yard requirements are being met:

(i) For sites ~~abutting~~ adjoining a residential activity area the building is not located within the following yard setbacks:

Side yards 3m along the shared side boundary

Rear yards 3m along the shared rear boundary

No yard requirements apply along road boundaries, boundaries within the Suburban Mixed Use Activity Area and existing or proposed internal boundaries within a site.

(b) Construction or alteration of a building that does not meet the yard requirements is a **restricted discretionary** activity.

Discretion is restricted to:

(i) The effects on the amenity of adjoining residential ~~sites, properties,~~

(ii) The effects on the privacy of adjoining residential ~~sites, properties,~~

(iii) ~~Consistency with the Medium Density Design Guide.~~ The following mixed use and medium density residential development design elements:

a) Building height

b) Recession planes and setbacks

c) Indoor and outdoor living spaces

d) Open space and boundary treatments

e) Entrances, carparking and garages

f) On-site stormwater management

g) End / side wall treatment

h) Building materials

i) Bike parking, storage and service areas

j) Privacy and safety

k) Landscaping

When considering the matters in (iii), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objectives 5E 2.2, 5E 2.3

Policies 5E 3.4, 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 160 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]

Add new Rule 5E 4.2.4 Outdoor Living Space

Rule 5E 4.2.4 Outdoor Living Space

(a) Construction or alteration of a building is a **permitted** activity if

(i) Each dwelling has an outdoor living space that:

1. Has a minimum area of 10m².
2. Has a minimum dimension of 2m.
3. Has direct access from the dwelling to which it relates.

For dwellings located entirely above ground floor level the outdoor living space requirement can be satisfied by providing a balcony or roof terrace with a minimum area of 5m² with a minimum dimension of 2m.

- (b) Construction or alteration of a building that does not meet the outdoor living space requirements is a **restricted discretionary** activity.

Discretion is restricted to:

- (i) The effects on the amenity for residents of the site, including access to sunlight and open space and the usability and accessibility of the outdoor living space proposed.
- (ii) The proximity of the site to communal or public open space that has the potential to mitigate any lack of private outdoor living space.
- (iii) ~~Consistency with the Medium Density Design Guide.~~The following mixed use and medium density residential development design elements:
 - a) Building height
 - b) Recession planes and setbacks
 - c) Indoor and outdoor living spaces
 - d) Open space and boundary treatments
 - e) Entrances, carparking and garages
 - f) On-site stormwater management
 - g) End / side wall treatment
 - h) Building materials
 - i) Bike parking, storage and service areas
 - j) Privacy and safety
 - k) Landscaping

When considering the matters in (iii), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objectives 5E 2.2, 5E 2.3

Policies 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 161 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.2.5 Verandahs, Building Frontage and Display Windows

Rule 5E 4.2.5 Building Frontage, Verandahs and Display Windows

- (a) Construction or alteration of a building is a **permitted** activity if the following requirements are being met:
- (i) All buildings are built to the front boundary of the site.
 - (ii) Any parts of a building fronting a pedestrian footpath have a verandah.
 - (iii) At least 50% of the ground floor frontage of a building are display windows.

(b) Construction or alteration of a building is a **restricted discretionary** activity if the above permitted activity standards are not met.

Discretion is restricted to:

- (i) The effects on the amenity of the streetscape.
- (ii) ~~Consistency with the Medium Density Design Guide.~~The following mixed use and medium density residential development design elements:
 - a) Building height
 - b) Recession planes and setbacks
 - c) Indoor and outdoor living spaces
 - d) Open space and boundary treatments
 - e) Entrances, carparking and garages
 - f) On-site stormwater management
 - g) End / side wall treatment
 - h) Building materials
 - i) Bike parking, storage and service areas
 - j) Privacy and safety
 - k) Landscaping

When considering the matters in (ii), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objective 5E 2.3

Policies 5E 3.4, 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 162 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.2.6 Parking

Rule 5E 4.2.6 Parking

(a) Provision for car parking on a site is **permitted** if:

- (i) Any parking areas are located within, under, at the rear or at the side of buildings.
- (ii) No parking areas are located between the frontage of buildings and the street.
- (iii) For sites ~~abutting~~ adjoining a Residential Activity Area all parking areas must be screened so they are not visible from the ~~abutting~~ adjoining residential site(s).

(b) Developments that do not meet the above permitted development controls are **restricted discretionary** activities.

Discretion is restricted to:

- (i) The layout and design of the parking area(s).
- (ii) The effects on the amenity of the streetscape.
- (iii) The effects on the safety of pedestrians accessing buildings on the site.
- (iv) ~~Consistency with the Medium Density Design Guide.~~The following mixed use and medium density residential development design elements:

- a) Building height
- b) Recession planes and setbacks
- c) Indoor and outdoor living spaces
- d) Open space and boundary treatments
- e) Entrances, carparking and garages
- f) On-site stormwater management
- g) End / side wall treatment
- h) Building materials
- i) Bike parking, storage and service areas
- j) Privacy and safety
- k) Landscaping

When considering the matters in (iv), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objectives 5E 2.2, 5E 2.3

Policies 5E 3.4, 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 163 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.2.7 Screening and Storage

Rule 5E 4.2.7 Screening and Storage

- (a) Construction or alteration of a building is a **permitted** activity if
- (i) All outdoor storage and servicing areas are screened so they are not visible from a road or public space.
 - (ii) All outdoor storage and servicing areas are screened so they are not visible from ~~abutting~~ adjoining residential sites.

- (b) Construction or alteration of a building that does not meet the screening and storage requirements is a **restricted discretionary** activity.

Discretion is restricted to:

- (i) The effects on the amenity of the streetscape, adjoining public space and ~~abutting~~ adjoining residential sites. ~~properties.~~
- (ii) Consistency with the Medium Density Design Guide. The following mixed use and medium density residential development design elements:
 - a) Building height
 - b) Recession planes and setbacks
 - c) Indoor and outdoor living spaces
 - d) Open space and boundary treatments
 - e) Entrances, carparking and garages
 - f) On-site stormwater management
 - g) End / side wall treatment
 - h) Building materials

i) Bike parking, storage and service areas

j) Privacy and safety

k) Landscaping

When considering the matters in (ii), the Council will be principally guided by its Medium Density Design Guide.

Links to:

Objectives 5E 2.4

Policies 5E 3.5, 5E 3.6, 5E 3.7, 5E 3.8

AMENDMENT 164 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Rule 5E 4.2.8 Demolition

Rule 5E 4.2.8 Demolition

(a) The demolition of a building is a permitted activity.

For buildings listed in Appendix Heritage 1 or 2 or in Appendix Significant Natural, Cultural and Archaeological Resources 1 the relevant rules of the Chapters 14E and 14F relating to demolition apply.

AMENDMENT 165 [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Add new Note 5E 4.3 General Rules

Note 5E 4.3 General Rules

(a) All activities must comply with the General Rules in Chapter 14

AMENDMENT 165A [New Chapter 5E Suburban Mixed Use Activity Area (5E 4 Rules)]
Introduce a new Rule 5E 4.2.x Stormwater Retention

Rule 5E 4.2.X Stormwater Retention

(a) Construction or alteration of a building is a **permitted** activity if:

(i) A rainwater tank is provided for the building that collects all rainwater from the roof of the building. The rainwater tank must have the following volumes:

Roof area of 100m² or less - 2,000 litre capacity.

Roof area of 100m² to 200m² - 3,000 litre capacity.

Roof area of more than 200m² - 5,000 litre capacity.

The tank must meet the specifications, and be installed in accordance with Acceptable Solution #1 from the Wellington Water guide *Managing Stormwater Runoff, The use of raintanks for hydraulic neutrality, Acceptable solution #1 dated June 2019* (Appendix General Residential X).

(b) Construction or alteration of a building that that does not meet the rainwater tank requirements is a **restricted discretionary** activity.

Discretion is restricted to:

(i) The effects on the stormwater system.

(ii) The potential for increased surface ponding and flooding.

(iii) The mitigation of additional stormwater runoff through other means.

Links to:
Objective 5E 2.5
Policy 5E 3.9