

Before the Hearings Panel  
Appointed by Hutt City  
Council

**IN THE MATTER OF**

the Resource Management  
Act 1991

**AND**

**IN THE MATTER OF**

Hutt City Plan Change 56

---

**STATEMENT OF EVIDENCE OF DAVID BATCHELOR ON BEHALF OF RLW HOLDINGS**

**HUTT CITY PROPOSED PLAN CHANGE 56**

**HERITAGE AND URBAN DESIGN STATEMENT**

---

## **EXECUTIVE SUMMARY**

1. RLW Holdings submitted on Plan Change 56 seeking clarification how properties within the Petone Commercial Area 1 but outside the Jackson Street Heritage Precinct would be impacted under the plan change with specific regard to building height.
2. I agree with RLW Holdings and the Council Officer that further clarification is necessary in the district plan and design guide to safeguard the minimum building heights required by the intensive planning instrument and to ensure efficient decision making in future resource consent determinations within the Petone Commercial Area 1 but outside the Jackson Street Heritage Precinct.
3. While the design guide is out of date and requires revision, rewriting the design guide or altering its guidance for matters that do not meet the statutory tests in the legalisation, i.e., enable the six-storey height minimum and are not consequential nor necessary for this purpose, is beyond the remit of the plan change and risks the holistic approach to design for the Jackson Street Heritage Precinct.
4. Amendments to the Petone Commercial Area 1 and its design guide should be restricted to enabling the statutory height and density in the zone per the legalisation and sustain the existing wording and outcomes in the design guide as much as possible to avoid introducing new design standards, discretion, or values that are not part of the technical document's vision for the Jackson Street Heritage Precinct.

## **QUALIFICATIONS AND EXPERIENCE**

5. My name is David Batchelor, and I am an urban planner, urban designer, and heritage consultant operating under the business name Wellington Resource Consents.

6. I hold a Doctor of Philosophy in Architecture, a Graduate Diploma in Arts (History), and a Graduate Certificate in Commerce (Public Management) from Victoria University of Wellington. I also hold a Master of Urban Planning and a Bachelor of Arts (Geography and Sociology) from The University of Auckland, and a Post-Graduate Certificate in Urban Design from the University of Westminster.
7. I have over eight years of experience in resource management planning, specialising the land development, urban design, and heritage management in the Wellington region. I led the consultation and initial drafting of the Heritage Policy 2021 for Hutt City Council as a consultant, was the founder and director of the Wellington Heritage Week Trust, and I am an academic researcher on matters regarding local government policy and operations, heritage, and urban design governance.
8. I have read and adhere to the Code of Conduct for Expert Witnesses prescribed by the Environment Court.

### **SCOPE OF EVIDENCE**

9. RLW Holdings, submission reference 238, sought clarification in the district plan on how properties within the Petone Commercial Area 1 but outside the Jackson Street Heritage Precinct would be impacted under the plan change. They proposed that the plan change should safeguard the provision of buildings up to six storeys tall on these properties and sought objective and policies that enable buildings of more than six storeys on these properties where they are compatible with the amenity levels of the Jackson Street Heritage Precinct. The submission highlights that the Petone Commercial Activity Area 1 design guide in the district plan is applicable to these properties but does not include tangible guidance for these sites.

10. This evidence supports the RLW Holdings submission through a discussion of the following points:

- a. The purpose of the Plan Change 56;
- b. Responses to the *Council Officer Report* regarding Submission 238; and
- c. Responses to *Appendix 1: Officers' recommended amendments to Plan Change 56* regarding Submission 238.

### **THE PURPOSE OF THE PLAN CHANGE 56**

11. Defining the purpose of Plan Change 56 is important to ensure that the amendments have the statutory grounds for adoption by Hutt City Council under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Act). The exceptional purpose of the Act in relation to other plan changes introduces the risk that decisions could move beyond what is allowed under the Act. It is recognised that some submissions seek amendments that are beyond the statutory scope of the Act and paragraphs in the council reports could be interpreted as inviting a broader discussion of matters that are not able to be adopted under this plan change. Due to this exceptional statutory context, clarifying the purpose of the plan change is vital to establish the statutory grounds for the evidence.

12. Section 80E (1) clause (a) of the Act requires tier 1 territorial authorities, including Hutt City Council, to give effect to policies 3 and 4 of the National Policy Statement on Urban Development 2020 (Updated May 2022) (the NPS-UD).

13. Policy 3 clause (b) in the NPS-UD states that “in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys.” This clause

directs amendments regarding: 1) building height, and 2) density of urban form. The Petone Commercial Activity Area 1 is to be in the Metropolitan Centre Zone.

14. Policy 4 in the NPS-UD clarifies that 'to give effect' under Policy 3 relates to the necessary changes for achieving the six storeys or density requirements only. As such, any amendments must be essential to achieving the six-storey height and density and the intensive planning instrument does not instruct non-necessary changes to district plans.
15. Section 80E (1) (b) provides scope for amendments to related provisions in district plans, including those for historic heritage as a qualifying matter. However, amendments must be consequential for achieving the clause (a), which relates to building heights and density of urban form. Section 80E (1) (b) does not provide statutory scope for amendments to district plans that address matters beyond enabling the prescribed building heights and density.
16. Section 80G of the Act prohibits changes to the district plan that are beyond those that address building height, density of urban form, and consequential and necessary amendments. It states that "territorial authorities must not use the intensive planning instrument for any purpose other than the uses specified in section 80E."
17. It is recognised that Section 77N of the Act provides the council with the discretion to modify the requirements of policy 3 in the NPS-UD where there are qualifying matters.
18. Therefore, amendments under Plan Change 56 must satisfy the following statutory tests: 1) enable building heights and density of urban form up to a height of six storeys, 2) be consequential of this building height and density, and 2) be necessary to achieve this building height and density.

19. Amendments that do not meet the statutory tests should not be accepted under Plan Change 56. For example, amendments that restrict building height to below six storeys in height and its associated density or impose new standards, matters of discretion, values or make more restrictive existing matters of discretion would fail the first test due to their prevention purpose. Such amendments may also fail the subsequent statutory tests if they do not relate to building heights or density, such as requiring specific building materiality, signage, or architectural details.
20. Matters that are beyond the prescribed scope of the Act should not inform decision making under Plan Change 56. It is acknowledged that a review of the district plan is scheduled for a later date. Clear separation between the hearing and decision-making for this plan change and those for the district plan review should be evident and made clear to those at the hearing.

#### **RESPONSES TO THE COUNCIL OFFICER REPORT REGARDING SUBMISSION 238**

21. I agree with the statement in Paragraphs (715) and (716) that Appendix Petone Commercial 1 does not provide direction to properties within Petone Commercial Area 1 but outside the Jackson Street Heritage Precinct and that direction would be desirable due to the relationship between these properties and the valuable townscape along and seen from Jackson Street.
22. I support the recommendation in Paragraphs (717)–(719) and (759) that a comprehensive rewrite of Appendix Petone Commercial 1 is not practical under Plan Change 56. However, I disagree with the primary reasoning for the recommendation, which is that the revising the design guide would not be practical due to requiring a high amount of time and expertise.

23. A comprehensive rewrite of Appendix Petone Commercial 1 would not be practical due to it failing the statutory tests of Section 80E under the Act. It would require character assessments, development urban tissue studies, and reconsiderations of signage, materials, verandas, and other matters that are not relevant to enabling six storey development nor consequential and necessary to achieving this development capacity. Such considerations would also be contrary to Section 80G, which prohibits consideration of matters not provided for under Section 80E. The Act does not provide local authorities with the discretion to determine the scope of the intensive planning instrument amendments to district plans based on time and expertise considerations.
24. I support not adopting the wording proposed by RLW Holdings for the Appendix Petone Commercial 1 in Paragraph (720). This support is on the grounds that it discusses 'building scale' and imposes new preventative matters of discretion that are contrary to the statutory purpose and limitations of the plan change under Section 80E and 80G of the Act. I also support the consequential changes to Appendix Petone Commercial 1 but recommend further clarifications the design guide and Chapter 5B Petone Commercial Activity Area in the following section of this evidence to make explicit the consideration of building height and density in the matters of consideration for the zone.
25. I support the final point in Paragraph (720) which states that properties within Petone Commercial Area 1 but outside the Jackson Street Heritage Precinct present a low development capacity within the overall context of the city. It emphasises that placing additional matters of discretion or reduced development capacity on these few properties would not satisfy Policy 3 in the NPS-UD, resulting in little or no statutory grounds for revising Appendix Petone Commercial 1.

26. I support the sentiment of the statement in Paragraph (759) of the Council Officer Report that welcomes “clarification about how building scale should be considered” but request revision of the consideration wording.
27. The sentiment is to enable building height and density up to six storeys, rather than a consideration of building scale. Building scale is the relationship between a building and its surroundings. In the instance of Jackson Street, building scale could be problematic where a proposed four storey building would be double the scale of an existing two storey building, creating unintentional grounds to determine that the proposed building is not sympathetic to the existing scale. However, building height and density are objective measures, such as 22 metres and the number of residential units per hectare, respectively. Therefore, clarification should clarify building height and density as the relevant considerations to support clear decision making in the resource consent process.
28. I support Paragraph (760) in not altering the substance of the design guidance in Appendix Petone Commercial 1 under this plan change, rather withholding its revision until the full district plan review. An additional reason for withholding this work is that design guides are holistic documents where all design standards and values contribute to a greater value than the sum of its constitute parts. Individual design standards, such as building lines, fenestration rhythm, signage, etc., cannot and should not be amended in isolation to the other design standards or evaluated in isolation to the existing and desired townscape character value. Such changes risk disrupting architectural patterns, inter-building relationships, and amenity across the conservation area. Instead, any amendments or review of design guides should

undergo thorough investigation into how the constitute design standards and values relate to each other and the form a cherished townscape.

29. Any amendments to the design guide to achieve the statutory, consequential, and necessary requirements under the Act should adopt the wording and outcomes of the current design guide as much as possible to avoid introducing new standards and values to the document that are contrary to the technical input of its author(s).

## **RESPONSE TO APPENDIX 1: OFFICERS' RECOMMENDED AMENDMENTS TO PLAN CHANGE 56**

### **REGARDING SUBMISSION 238**

30. The following pages detail the relief sought to address the matters raised in the above section.

## **KEY**

### **EXISTING**

*Black text:* Existing text in the district plan

*Red italic text:* Reference text from the *Appendix 1: Officers' recommended amendments to Plan Change 56*

Red underlined text: Text recommended for insertion in the *Appendix 1: Officers' recommended amendments to Plan Change 56*

~~Red struck through text:~~ Text recommended for deletion in the *Appendix 1: Officers' recommended amendments to Plan Change 56*

### **PROPOSED**

*Black italic text:* Explanation text not proposed for adoption

Green underlined text: Text proposed for insertion by David Batchelor

~~Green struck through text:~~ Text proposed for deletion by David Batchelor

EXISTING TEXT	PROPOSED TEXT
<b>5B PETONE COMMERCIAL ACTIVITY AREA</b>	
<p><b>5B 2.1.2.1 Matters in which Council has Restricted its Discretion and Standards and Terms</b></p> <p>The matters that Council has restricted its discretion are specified in Appendix Petone Commercial 1. These relate to the following matters:</p> <ul style="list-style-type: none"> <li>i. Building shape;</li> <li>ii. Buildings on corner sites;</li> <li>iii. Building modulation;</li> <li>iv. Wall materials and openings;</li> <li>v. Silhouette, parapets and cornices;</li> <li>vi. Decoration and colour;</li> <li>vii. Verandahs;</li> <li>viii. Under verandahs; and</li> <li>ix. Signs and lighting.</li> </ul> <p>All resource consent applications will be assessed in accordance with the Standards and Terms specified in Appendix Petone Commercial 1.</p>	<p>Amend with the following:</p> <p>The matters that Council has restricted its discretion are specified in Appendix Petone Commercial 1, <u>precluding any effects of building heights and density of urban form up to six storeys</u>. These relate to the following matters:</p> <ul style="list-style-type: none"> <li>i. Building shape <u>above six storeys</u>;</li> <li>ii. Buildings on corner sites;</li> <li>iii. Building modulation;</li> <li>iv. Wall materials and openings;</li> <li>v. Silhouette, parapets and cornices;</li> <li>vi. Decoration and colour;</li> <li>vii. Verandahs;</li> <li>viii. Under verandahs; and</li> <li>ix. Signs and lighting.</li> </ul> <p>All resource consent applications will be assessed in accordance with the Standards and Terms specified in Appendix Petone Commercial 1.</p> <p><i>Reasoning:</i>  <i>The proposed amendment makes explicit in the district plan text that building heights up to six storeys tall are not subject to the council's discretionary; the council must enable buildings of at least six storeys per Policy 3 in the NPS-UD.</i></p>
<b>PETONE COMMERCIAL ACTIVITY AREA</b>	
<p>Part 1: Building Shape</p> <p><i>AMENDMENT 284 - Amend section 1.1 Background of Appendix Petone Commercial 1</i></p> <p>1.1 Background</p>	<p>Support.</p>

<p>Given the quality of old building stock <u>fronting Jackson Street within the Jackson Street Heritage Precinct</u>, refurbishments or new developments should reinforce the visual cohesion of the existing facades. Refurbishment or renovation of existing buildings should relate to the historical design traditions within the street.</p>	
<p>4. <u>For buildings within the Jackson Street Heritage Precinct itself</u>, the extent to which the new building is compatible with adjacent building heights.</p>	<p>Support.</p>
<p>5. <u>For buildings within Area 1 outside the Jackson Street Heritage Precinct, building heights may be up to six storeys, but should be designed to mitigate visual dominance and provide a coherent and definite transition in height occurring outside the boundaries of the Heritage Precinct.</u></p>	<p>Amend with the following:</p> <p><u>For buildings within Area 1 outside the Jackson Street Heritage Precinct, building heights are permitted to be up to six storeys, but should be designed to maintain the compatibility of cornice lines, floor to floor heights, and the street frontage and other façade elements where these are strongly expressed in adjacent buildings, and, on those storeys that exceed six storeys in height, provide a sympathetic built form and facade detail in favour of the properties within the Heritage Precinct.</u></p> <p><i>Reasoning:</i>  <i>The above amendment makes explicit that buildings up to six storeys are acceptable and that the matters of discretion are restricted to architectural styles rather than the development capacity or form per Policy 3 in the NPS-UD. It provides the council with discretion over the height above this statutory threshold. In this instance, the council may determine that no additional height is acceptable or that a setback or transition in height is necessary for additional storeys above six storeys tall.</i></p>