Reporting Officers' Written Response to Hearing – District Plan Change 56

To:	Independent Hearing Commissioners: Stephen Daysh (Chair), Elizabeth Burge, David McMahon
Subject:	Hutt City Council Proposed District Plan Change 56: Enabling Intensification in Residential and Commercial Areas
Prepared By:	Stephen Davis, Intermediate Policy Planner, Hutt City Council Hamish Wesney, Partner/Planner, Boffa Miskell (for Hutt City Council) Erica Wheatley, Senior Planner, Boffa Miskell (for Hutt City Council)
Dated:	9 June 2023

1 Executive Summary

1. This document contains the Council reporting officers' right of reply to the oral and written evidence presented by submitters at the hearing. It also contains our response to specific questions from the hearing panel directed to us during the hearing. For all other submissions or evidence not specifically addressed in this response, we maintain the position set out in the officers' report.

2. This document broadly mirrors the structure of issues as presented in our officers' report of 7 March 2023. Attached to this document is supplementary legal and technical advice, as well as documents referred to in this reply or requested by the hearing panel.

3. In order to distinguish between the recommendations made in the original officers' report and our revised recommendations contained in Appendix 1 of this document:

   - Original officers' report recommendations are shown in red text (with red underline for new text and ~~strikethrough~~ for deleted text); and
   - Recommendations from this report are shown in blue text (with blue underline for new text and ~~strikethrough~~ for deleted text).

4. A s32AA assessment for all changes recommended in addition to the officers' report is included at the end of each section of this right of reply.

5. Having considered the evidence presented by submitters, we recommend a number of amendments to PC56. The recommended amendments are set out in Appendix 1 to this report. In summary, the key recommended amendments are:

   - Zoning changes:
     - The High Density Residential Activity Areas (HDRAA) around central Wainuiomata, Eastbourne, and Stokes Valley be rezoned to Medium Density Residential Activity Areas (MDRAA) with a height overlay of 18m enabling 4-5 storeys and a more permissive height-in-relation-to-boundary plane of 6m + 60º
     - Small pockets of HDRAA-zoned sites on the northwest side of State Highway 2 to revert back to MDRAA or Hill Residential Activity Area zoning (depending on their previous zoning in the Operative District Plan) due to accessibility restrictions and the efficiency of encouraging additional height and density around the city centre
     - Small amendments to the boundary between HDRAA and MDRAA zones in Moera and Naenae to expand the HDRAA.
   - Residential provision changes:
     - Applying a 36m (10 storey) height overlay to HDRAA areas around the Lower Hutt city centre
     - Applying an 8m + 60º height-in-relation-to-boundary plane in the HDRAA for the first 21.5m of a site (measured from the road boundary), with the 4m + 60º plane applying for the remainder of the site, and where a boundary adjoins another residential zone, site or area of significance to Māori, or a site containing a heritage building
     - Amending objectives and policies and refining rules and matters of discretion for clarity, better distinguishment between the HDRAA and MDRAA, and to improve built urban design outcomes

    - Introducing notification preclusions to improve efficiency of consent processes where breach of a standard is not likely to disadvantage any potentially affected persons
    - Minor wording amendments for clarity.
- Commercial and Non-Residential Activity Area provisions?
    - Rewording part of the Petone Commercial 1 design guide to reflect that 22 metres is the anticipated height outside the heritage area
- Amendments to the financial contributions to clarify their calculation and implementation.
- Slight change to the Riddlers Crescent Heritage Precinct boundary
- Amendment the spatial extent of the Medium Coastal Hazard Area – Coastal Inundation to reflect scenario 5 (SSP5-8.5H+) in the NIWA assessment;
- Change the number of permitted residential units in the High Coastal Hazard Area from two to one;
- Some small amendments for clarity and to correct errors.

2 Contents

3 Introduction

6. This written right of reply is prepared by Stephen Davis, Erica Wheatley, and Hamish Wesney, the three of the four co-authors of the Officers Report on Proposed Plan Change 56 (PC56) present at the hearing. This document responds to the written and oral evidence presented by submitters at the hearing. We have also responded to specific questions from the hearing panel. This document presents our updated recommendations to the hearing panel on the decisions requested by the proposed plan change.

7. This report follows on from our oral reply on the final day of the hearing. Our speaking notes from that reply are available at https://hccpublicdocs.azurewebsites.net/api/download/7210cb015bf3423eb849e753bed7dbae/_districtplann/c9ba565928508280e4990b7a3a9b5ce1815f4

3.1 Authors

8. The authors have each written sections of this report and peer reviewed the others' sections. The author whose view is given in section is given in the table below:

Section	Author
1. Executive Summary	Joint
2. Contents	n/a
3. Introduction	Joint
4. Questions asked by the panel	Joint
5. General plan change issues	Stephen
6. MDRS and NPS-UD	
6.1 Strategic Direction	Stephen
6.2 Residential	Erica
6.3 Commercial and other non-residential activity areas	Stephen
6.4 Subdivision	Hamish
6.5 Financial contributions	Hamish
6.6 District-wide matters	Stephen
6.7 Wind	Stephen
7. Qualifying matters	
7.1 Heritage	Stephen
7.2 Natural hazards	Hamish
7.3 Sites of significance to Māori	Stephen
7.4 The National Grid	Stephen
7.5 Public open space	Stephen

7.6 Other qualifying matters	Stephen
8. Other matters	
8.1 Development trends following PC42 and PC56	Stephen
8.2 Providing for infrastructure	Stephen
8.3 Effects of vacant and underutilised properties	Stephen
8.4 Parking	Stephen
8.5 Encroachment licences and leases	Stephen
8.6 Significant Cultural and Natural Resources	Hamish
8.7 Maintaining and protecting trees and shrubs	Hamish
8.8 Additional information requirements for qualifying matter	Stephen
9. Conclusion	Joint
Appendix 1	Joint
Appendices 2+	Other relevant experts - stated within each appendix
Maps	Joint

3.2 Structure of this document

9. This document is designed to broadly mirror the structure of issues as presented in our officers' report of 7 March 2023. This document does not stand alone and will need to be read alongside Council's section 32 report and our previous report.

10. The report is structured as follows:

    a. **Section 3 Introduction**: Outlines the purpose of this report and supporting evidence.

    b. **Section 4 Panel Questions**: Outlines the questions the hearing panel asked the reporting officers respond to respond to in this right of reply.

    c. **Section 5 Response to General Plan Change Issues**: Responses to general or plan change wide issues. Includes an evaluation of the matters raised in evidence, and an officer recommendation. Matters covered in this section are:

        - Scope and validity of relief sought
        - Development capacity, and timing and staging of plan change
        - Mapping, including spatial extent of zoning and overlays
        - Definitions and interpretation matters

    d. **Section 6 Response to Specific Plan Change Issues relating to Incorporation of the MDRS and NPS-UD**: Responses to specific plan change issues incorporating

the MDRS and NPS-UD. Includes an evaluation of the matters raised in evidence, and an officer recommendation. Matters covered in this section are:

- Strategic direction
- Residential Activity Areas/Chapters
- Commercial and other non-residential Activity Areas/Chapters
- Subdivision
- Financial Contributions
- District-Wide Matters
- Wind

e. **Section 7 Response to Specific Plan Change Issues relating to Qualifying Matters**: Responses to specific plan change issues relating to qualifying matters. Includes an evaluation of the matters raised in evidence, and an officer recommendation. Matters covered in this section are:

- Heritage buildings, structures and precincts
- Natural hazards
- Sites of significance to Māori
- The National Grid
- Public Open Space

f. **Section 8 Response to Other Matters**: Responses to various other matters raised during the hearing. Matters covered in this section are:

- Development trends following PC43 and PC56
- Providing for infrastructure
- Effects of vacant and underutilised properties
- Parking
- Encroachment Licences and Leases
- Significant Cultural and Natural Resources
- Maintaining and protecting trees and shrubs
- Additional information requirements for qualifying matters – existing individual heritage listings

3.2.1 Table of attachments

11. For clarity, we have attached our final recommendations on amendments as a standalone document, marked up by reference to the plan change as notified (in black) our officers' report (in red), with our final recommendations in blue.

12. We also provide a web map viewer that includes the changes to the maps proposed in PC56 and our recommended amendments: https://maps.huttcity.govt.nz/portal/apps/webappviewer/index.html?id=c4fd8f7e7ee547919f8e1fb0ab4297b6

13. We have attached additional legal advice from counsel, and further evidence from our technical experts.

14. We have also provided several references in response to questions from the panel.

15. In some cases where the references are available on the Council's website we have linked to them there.

#	Title
Appendices	
1	Officers' recommended amendments to Plan Change 56
2	Further legal advice from DLA Piper
3	Further heritage evidence of Chessa Stevens, WSP
4	Further flood hazard evidence of Alistair Osborne, Wellington Water
5	Further coastal inundation hazard evidence of Scott Stephens, NIWA
6	Number of properties in updated natural hazard overlays
7	Chart of quarterly building consent numbers, 2015 Q1 – 2023 Q1
8	Memorandum on Resilience Considerations for Tupua Horo Nuku
Reference documents	
9	Guide to Completing the Application for Private Use of Council Land.
10	Notice of Appeal – Kāpiti Coast District Council vs Waikanae Land Company Ltd
11	Tupua Horo Nuku – Landscape and Urban Design Plan

#	Title
Other	
-	GIS viewer – "PC56 Reporting Officers' Hearing Response"[1]

1 https://maps.huttcity.govt.nz/portal/apps/webappviewer/index.html?id=c4fd8f7e7ee547919f8e1fb0ab4297b6

4 Questions asked by the panel

16. Through the course of the hearing, the panel asked reporting officers to provide further information on a number of topics. These are shown in the table below along with the response.

Date	Question from Panel	Response
13/04	analyse the Living Street Aotearoa proposal to ascertain if there are aspects that could be incorporated in the DP.	My position has not changed from the officers' report for the hearing –the relief sought by Living Streets cannot be implemented through the District Plan. It relates principally to Council's operational management of the road corridor.
13/04	report back on the notification process for the Heritage Areas and proposals, including whether there were any individual notifications. Also how other new restrictions introduced by PC56 were notified – could the public realistically know that new areas were being proposed, and the extent of these.	For heritage, this background is given in section 7.1.1 of this report. For natural hazards, this background is given in section 7.2.1 of this report.
13/04	officers are requested to respond to Bianca Tree's para 28 statement regarding there being no rules for Coastal Hazard Overlay esp in the General and Special Business Activity Areas.	Covered in section 7.2.6 of this report. 416
13/04	Amendment 402 specifies 1.5m sea level rise, but evidence yesterday was 1m rise was used for all calculations. Officers are requested to please clarify. The area of "scenario" and "risk" is fraught with interpretation issues. Need terminology to be clarified.	Covered in section 7.2.5 of this report.

Date	Question from Panel	Response
13/04	comment on wording semantics of hazard chapter and mapping overlays. Are there any implications in changing the wording?	Covered in section 7.2.5 of this report.
13/04	to comment on the [community corrections] merits (rather than scope).	Covered in section 6.3.1 of this report.
13/04	officers investigate whether PC43 does the heavy lifting for the intensification to achieve the additional thousands of houses required. Also explain what development has occurred since PC43 came operative and the general trends that are occurring. (Permitted Activities.)	Covered in sections 5.2.1 and 8.1 of this report.
13/04	to investigate p1 photo development from Peter Kirker – High Street address and confirm decision – what form of application.	No record found of this development in Lower Hutt. From an Internet search, it appears these photos are of a site and development in Christchurch[2].
13/04	to investigate how many developments have occurred since PC56 had been advertised –building consent numbers. Panel is wanting to find number of MDR developments that have been developed. Can then compare to the PC43 figures. For the right of reply documentation.	Covered in sections 5.2.1 and 8.1 of this report.
13/04	request a legal opinion on whether he still maintained there were aspects of Dept of Corrections submission that	Covered in the evidence of Mr Quinn attached to this report in Appendix 2.

[2] https://www.williamscorporation.co.nz/completed-projects/88-peverel-street/

Date	Question from Panel	Response
	were still out of scope, given Rachel Murdoch legal submission.	
13/04	to report on the level of development currently happening in the city. He advised the housing information for PC56 was based on 2019 and 2021/22 update reports. Another update is underway now… Comment on current development trends and possible forecasts to get an idea of demand/supply.	Covered in sections 5.2.1 and 8.1 of this report.
13/04	The encroachment licence process and the interaction between the transport and planning departments of HCC.	Described in section 8.5 of this report.
14/04	To investigate Building Consent issued for Hampton Court development (believed to be Kāinga Ora) to check compliance with fire safety requirements.	Not relevant to this plan change.
14/04	To report back on matters of discretion, and whether a 4 or more-unit RDA or DA development could be refused on the basis of an inappropriate height, when it met the height permitted standard, as height is a matter for discretion. Intention and Delivery.	Covered in section 6.2.2 of this report.
18/04	To delineate the parts of HRZ that implement under Policy 3c and those under 3d.	For the 3(d) areas in Eastbourne, Stokes Valley, and Wainuiomata, this is apparent from the maps as the areas are non-contiguous with the 3(c) areas and are the only areas in their respective suburbs. For Avalon and Moera, Hutt City Council did not make a distinction in preparing the notified maps. Our

Date	Question from Panel	Response
		recommendation on the maps does not require drawing a boundary between the 3(c) and 3(d) areas as there is no difference in treatment, and the treatment meets the requirement of either arm of the policy.
18/04	To report back on the policy approach to deal with significant cultural resources and what triggers a resource consent application – earthworks and possible structures?	Described in section 8.6 of this report.
18/04	With regards to Slide 26, Steve will report back on why heritage listings are not listed on this table.	The qualifying matter further information requirements for the existing individual heritage listings were not included in the section 32 report in an error on the part of the Council. As no submitter raised the omission from the section 32 report in a submission, this omission is beyond challenge per s32A of the Act. However, for completeness, I have conducted an assessment, and this is in section 8.8 of this report.
19/04	investigate the 10min walking circle maps displayed at each train station. Including how they were devised by GWRC, and whether they were relevant for the HCC Walkable Catchments.	The walking circles at railway stations are a circle, showing distances as the crow flies. These function effectively as a map scale and don't in themselves attempt to estimate walking time between any two points. They are not relevant for determining walkable catchments for the purpose of the NPS-UD.
19/04	to be sent Elliot Thornton's additional information, for comment on technical and planning issues.	Covered in section 7.2.3 of this report.

Date	Question from Panel	Response
19/04	to respond to John Roseveare (DPC56/236) submission at the hearing relating to the seemingly arbitrary zone boundaries (MDR, HDR, difference of application of Policy 3(c) and (d)) and the height issues for the walkable catchment in Eastbourne.	Response in section 6.1.1.4 of this report.
19/04	clarify whether a new retirement complex would attract a financial contribution as well as a reserves fund contribution.	A reserve fund contribution is a type of financial contribution. Prior to PC56, financial contributions for reserves were only imposed on subdivisions and not land use activities. See Section 6.5 of this report for further details.
19/04	Officers to comment on Akehurst submission (RVA)	Covered in Section 6.5 of this report.
19/04	need understanding from consenting team about how current practice works re: calculating financial contributions.	Prior to PC56, financial contributions for reserves were only imposed on subdivisions and not land use activities. Financial contributions typically only imposed when major infrastructure upgrade works due to significant adverse effects arising from the development,. Two cases when this occurred was Kmart development in Petone and Summerset in Boulcott both for transport network upgrades.
19/04	to comment on Mr Hinchey's approach to scope. – Nathan to ensure Mr Hinchey's legal submissions are sent to Stephen Quinn.	Covered in the evidence of Mr Quinn attached to this report in Appendix 2.
21/04	why 35 York St is now not in a proposed Heritage Area, when it was originally.	35 York Street was removed from the proposed Moera Railway heritage area prior to notification based on feedback by Kāinga Ora. The assessment by WSP covering this

Date	Question from Panel	Response
		area was one of the technical reports attached to the section 32 report[3]. This is discussed further in section 7.1 of this report.
26/04	report on the modelling progress for the interaction between the sea level rise hazard and groundwater flooding overlays.	Draft report on further modelling of coastal inundation due end of June 2023. The scope of the further coastal inundation modelling does not consider groundwater levels. In addition, Wellington Water advise they do not currently have any information on shallow groundwater in the Petone/Moera area and predicted trends over time. However, Wellington Water is in the process of developing the Hutt Aquifer Model, which includes a shallow groundwater component within it (as well as the deeper artesian aquifers). Once this model is complete, climate change scenarios will be simulated that will allow an assessment of future trends in shallow groundwater levels.
26/04	investigate whether other submissions re: Jackson St Programme's requested stepped back heights; have been made, in order for Jackson St Programme's further submission to Petone Heritage Society's submission to be within scope.	No original submissions requested a higher height limit within the Jackson Street Heritage Precinct and accordingly I do not think the relief sought by JSP at the hearing was fairly raised. This is discussed further in section 7.1.5.3.
26/04	Officers and Kāinga Ora to discuss positions offline and officers to report back on points of common ground,	Addressed in section 6.2.2

[3] On the Plan Change 56 website under "Proposed Plan Change - Technical Reports", or https://hccpublicdocs.azurewebsites.net/api/download/7210cb015bf3423eb849e753bed7dbae/_districtplann/bd737693135620e8147b59e29eda032bf1b4d

Date	Question from Panel	Response
	and those where disagreements still exist.	
28/04	investigate whether there are any studies regarding rise of the water table in Petone/Moera area.	None known.
28/04	report back on the carried over and introduced controls for sites of Māori significance.	The controls are in the Significant Cultural Resources chapter in the operative plan. The operative but restructured provisions for sites adjacent to Te Puni urupā in Petone Commercial Area 2, and the new proposed provisions for sites adjacent to marae in the Medium Density Residential, High Density Residential, and General Business Activity Areas. These are described in the section 32 report in section 7.2.3 and Appendix 5, in the officers' report in section 6.3.3, and in section 7.3 of this report.
28/04	report on whether any interim solutions for the protection of Māori sites of significance are possible between PC56 and Proposed DP being advertised.	Covered in section 7.3 of this report.
28/04	confirm whether the s32 report included the June 2022 correspondence from [Te Rūnanga o Toa Rangatira].	The section 32 report included a summary of feedback from mana whenua and the council response (see Appendix 3 of the section 32 report). The letters themselves were not included in the section 32 report but are attached to the 23 June 2022

Date	Question from Panel	Response
		agenda of the District Plan Review Subcommittee[4].
28/04	source the WelTec carpark sale of land article from DomPost/HuttNews.	Not located
28/04	find out timeframe for Regional Risk Assessment.	First phase to be completed by end of June 2023. First phase is to: • Develop a common understanding of how climate change will impact the region over the next 100+ years. • Consistent information and an approach that enables climate adaptation decision-making. • Increased capacity to understand and manage climate change risks across the region long-term. The second phase is to create a regional adaptation plan which is currently being scoped.
28/04	Scott Stephens to provide hazard mapping (SSP8.5H+) for the Eastbourne area.	This mapping is covered in 2022 NIWA report, though not shown in summary maps in the report itself. Covered in GIS data. Refer to GIS viewer showing full extent.
28/04	Hamish to undertake a correlation exercise between Chch Red Zone and the liquefaction map for Lower Hutt.	Comparable information is unavailable. Christchurch liquefaction information includes Vulnerability Maps based on MBIE guidance (see https://apps.canterburymaps.govt.nz/ChristchurchLiquefactionViewer/). Hutt City Council information is based on different classification system. See

[4] http://infocouncil.huttcity.govt.nz/Open/2022/06/DPRS_23062022_AGN_3049_AT.PDF. The letter of Taranaki Whānui is pp32-36, the letter of Ngāti Toa is pp37-40.

Date	Question from Panel	Response
		Section 7.2.2 of this report for further details.
28/04	ask Ian Bowman why several properties are now deemed to be of sufficiently heritage value to be included in proposed new Heritage Areas/Precincts, when his last study (2018?) did not highlight these areas at all.	Not applicable – Hutt City Council did not commission Ian Bowman to assess these areas in the 2018 study, which related only to Jackson Street, or the 2007-2011 study, which considered only individual listings and not areas.
28/04	KCDC Notice of Appeal documentation.	See notice in documents attached to this report.
28/04	report back on whether can take into account new info regarding hazard of Eastbourne access (S Stephens maps).	Covered in the legal advice of Mr Quinn attached to this report in Appendix 2.
28/04	Chessa Stevens to review Mr Kemp's evidence (Kāinga Ora's heritage witness).	Neil Kemp was the witness for the Voluntary Heritage Group. The witness for Kāinga Ora was David Pearson. The evidence of both, and the other heritage evidence given at the hearing, is addressed in the further evidence of Ms Stevens attached to this report in Appendix 3.

5 General Plan Change Issues

5.1 Scope and Validity of Relief

17. Many submitters raised issues of scope and validity at the hearing. In general, these key issues are addressed in the legal evidence of Stephen Quinn, DLA Piper, attached to this report as Appendix 2.

18. In general, I continue to think that the summary of issues of scope and validity was well-described in the officers' report and the previous evidence of Mr Quinn. Accordingly, those items described as out of scope in the officers' report are still so.

19. In some cases, based on the advice of Mr Quinn, we have adjusted our position that relief we had categorised as out of scope is also invalid, or vice-versa. However, we have not changed the position to allow any relief that we had previously recommended could not be accepted.

20. I appreciate the concern from submitters that there are many issues with the operative district plan that need to be addressed, due to the age of the plan and lack of some needed topic-specific plan changes. However, the venue for this is the forthcoming full district plan review.

5.2 Need for the plan change

5.2.1 Development capacity

21. Submitters and the panel questioned the degree to which the plan change would provide for development capacity.

22. The council's duty to provide sufficient development capacity is stated in Policy 2 of the NPS-UD, which requires Council to "provide at least sufficient development capacity to meet expected demand for housing and business land over the short term, medium term, and long term".

23. Implementing Policy 2 is not the purpose of the plan change, which is set out in the Act as specifically implementing only Policies 3 and 4. Neither the Council, officers, nor any submitters have provided any evidence to quantitatively assess the impact of the proposed plan change on development capacity.

24. However, the plan change is highly likely to indirectly implement Policy 2 given the substantial liberalisation of intensification.

25. Some figures around the level of development we have seen over the course of Plan Change 43, and the immediate legal effect portion of Plan Change 56 are given in section 8.1 of this report.

26. A final answer on whether Plan Change 56 gives effect to Policy 2 will only be available once the triennial Housing and Business Development Capacity Assessment is published later this year. If Policy 2 is not met, the Council is obliged to address that through district plan changes or other means. The obvious route for that would be the forthcoming full district plan expected to be notified in mid-2024.

5.2.2 Timing and staging of plan change

27. Several submitters raised issues relating to whether the plan change needed to occur immediately, and if the intensification could be "staged" to respond to observed demand.

28. In my view, the requirements of the Act and the NPS-UD are clear: the MDRS and NPS-UD Policies 3 and 4 must be implemented in full through this plan change, and cannot be delayed or staged.

29. I also fail to see an advantage in delaying or staging the plan change. There will be continued demand for development in most areas of the city, even if the NPS-UD requirements are only implemented in part. Delaying or reducing the level of development provided for, if it has any effect, will mean that development is provided at a level below the long term expectation for the area, which makes less efficient use of land and will ultimately require more sites to be redeveloped.

5.2.3 Affordability of housing

30. Submitters raised the issue of how the plan change would contribute towards the affordability of housing. This issue was thoroughly discussed in the Section 32 report and associated supporting information for the National Policy Statement on Urban Development[5] and the Regulatory Impact Statement and associated supporting information for the Medium Density Residential Standards[6] and resulted in clear national direction on addressing the issue.

31. Ryman/RVA raised the issue that reducing the complexity and uncertainty of resource consenting would lead to a reduction in development costs and this would flow on to prices. While I agree with this point in general this needs to be balanced against the benefits of better avoiding, remedying, or mitigating the environmental effects of development proposals.

5.3 Maps

32. One issue that has become apparent in the hearing and preparing the right of reply is the lack of clarity about how the natural hazard provisions apply in different areas. This issue is associated with a lack of clarity in the plan change as proposed as to how the district plan maps are proposed to change.

33. We recommend including in the plan change explicit statements about how the district plan maps are amended by the plan change, including our recommendations. These amendments are set out in Appendix 1.

---

[5] Section 32 report: https://environment.govt.nz/publications/national-policy-statement-on-urban-development-section-32-evaluation-report/, cost-benefit analysis: https://environment.govt.nz/publications/cost-benefit-analysis-on-the-national-policy-statement-for-urban-development/, further evaluation report: https://environment.govt.nz/publications/national-policy-statement-on-urban-development-2020-further-evaluation-report/, regulatory impact statement: https://environment.govt.nz/publications/regulatory-impact-statement-national-policy-statement-on-urban-development/.

[6] Regulatory impact statement: https://www.treasury.govt.nz/sites/default/files/2021-10/ria-hud-bfu-may21.pdf, cost-benefit analysis: https://environment.govt.nz/assets/publications/Cost-benefit-analysis-of-proposed-MDRS-Jan-22.pdf

34. These amendments would clarify the approach to the natural hazard overlays, which is covered in section 7.2 of this report.

35. We also recommend a number of changes to the maps based on points raised by submitters in the hearing.

36. We also continue to recommend the corrections and map updates from our original officers' report (see p361-366 of Appendix 1 of the officers' report).

37. The maps referred to are shown in the online GIS viewer at https://maps.huttcity.govt.nz/portal/apps/webappviewer/index.html?id=c4fd8f7e7ee547919f8e1fb0ab4297b6 which shows the maps of the plan change as proposed, and our recommended changes as separate amendments.

5.3.1 Zoning – Boundaries of Walkable Catchments and Policy 3(d) adjacent areas

38. As the points related to the boundaries of walkable catchments and Policy 3(d) areas would only make a difference in residential areas, issues around zoning are covered in section 6.2.

5.4 Interpretation

39. A few submitters sought new or amended definitions associated with new or amended rules. For example, Department of Corrections sought a new definition for 'community corrections activities, and Kāinga Ora sought new definitions associated with flood hazard rules. As these definitions are associated with broader issues, they are evaluated as a whole as part of the broader issues later in this report.

5.5 Structure of the plan

40. Some submitters raised concerns around how plan provisions interact between activity areas, overlays, and district-wide provisions. I believe operative district plan chapter 1.8 Structure of District Plan provides adequate instruction when considered alongside the provisions of the RMA. If further guidance for plan users is needed, Council can provide this outside the district plan.

41. Council is also currently commissioning a new e-plan product that should make it easier for plan users to identify relevant provisions for their site. This new e-plan is expected to go live when PC56 becomes operative.

6 MDRS and NPS-UD

6.1 Strategic Direction

6.1.1 Urban Environment

6.1.1.1 What is a walkable catchment

42. Submitters raised questions around Council's modelling of walkable distances. However, the panel must adopt some method as a starting point and the only methods presented were Council's, and the method suggested by Alan Smith (159) of using the 10 minute walking circles shown at the Regional Council's walking maps at railway stations.

43. I believe following the distance along the paths of roads and footpaths as proposed by Council better serves the purpose of NPS-UD Policy 3(c), by reflecting the real distance people walk in practice.

44. Alan Smith also suggested that the policy be followed exactly, and that Council not use its discretion to "round out" walkable catchments to natural boundaries.

45. In my view, the "rounding out" is worthwhile due to a number of advantages:

    a. It masks small errors, assumptions, rounding, and necessary arbitrary judgement calls in the modelling process,

    b. It appears more procedurally fair and less arbitrary to the public,

    c. It provides greater development capacity in relatively well-located areas (even if not quite as well-located as those within the walkable catchment), and

    d. It allows for more thoughtfully designed zone transitions.

46. Submitters also questioned the choice of distances. These queries on distances were similar to those raised in Council's public engagement process on the walkable distances in 2022. Details on walkable catchments is covered in section 6.3.2 and Appendices 3 and 4 of Council's section 32 report. I concur with this reasoning. Council's decision at 1200m for the city centre and 800m for metropolitan centres and rapid transit is reasonable, consistent with other territorial authorities and in my view best achieves the purpose of the Act and the policy direction of the NPS-UD.

47. However, the question of whether any particular site is "walkable" or not from the relevant reference point is a factual one, and I believe it is appropriate in particular situations to take account of any evidence particular to that location. Many submitters raised concerns about particular sites, streets, or areas in terms of whether they were walkable, and in my view these need to be considered on a case by case.

48. None of these situations have greater strategic relevance, however, and so are discussed in their relevant activity area sections of this report (for example, section 6.2 of this report for these case by case assessments for residential areas)

49. Adrienne Holmes (262) questioned where the walkable catchments of the city centre and metropolitan centre were taken from. The wording of NPS-UD Policy 3(c) is clear on this location, which is from the exterior boundary of the Central Commercial Activity Area and Petone Commercial Activity Area, as appropriate. I can confirm this boundary location has been used in the walkable catchment modelling.

6.1.1.2 What is a metropolitan centre zone

50. Some submitters disputed the classification of Petone Commercial Activity Area as a metropolitan centre and the Central Commercial Activity Area as a city centre.

51. In the latter case, there would be no practical difference as no-one in the hearing requested any relief in relation to the Central Commercial Activity Area that would hinge on it being a metropolitan centre rather than a city centre. So, I will discuss only the issue as it affects Petone, although this does indirectly require traversing the logic of the city centre as well.

52. The only submitter to present a new argument not covered in the section 32 report or officers' report was the Petone Historical Society (163). The evidence of Sylvia Allan for the Society contends that Petone should not be considered a metropolitan centre. This evidence reiterates some points made in the Society's original submission, covered in our officers' report, but also contends:

    a. The Wellington City Centre should be considered the only city centre for the region, as the national planning standards say a city centre is the main centre for "the district or region".

    b. The Central Commercial Activity Area should therefore be recognised as subservient to Wellington City Centre in a regional commercial hierarchy, and therefore considered as a metropolitan centre, and Petone in turn further down the hierarchy,

    c. Even if the Central Commercial Activity Area is seen as a city centre, it makes no sense to have a metropolitan centre and city centre within 2km of each other,

    d. Proposed Change 1 to the RPS identifies Petone North, rather than Petone South, as an area for urban renewal, and

    e. There is unlikely to be market demand for 6-storey development in Petone.

53. The National Planning Standards set out a zone framework specifically for district plans. This framework does not apply to regional policy statements, and is not presented in the Standards as intended to apply in a cross-district way unless councils commit to a combined plan.

54. The Standards also do not require that the same zone have the same meaning in every district. It is open to a council to have different provisions in a zone than another council does. It is therefore possible for a district plan to have a city centre zone that nonetheless sits below a city centre in another district in a regional hierarchy, if there is for any reason a need to reflect that hierarchy through different land use or subdivision provisions (which I do not believe that in this case there necessarily is).

55. The Standards do provide that the city centre is the "main centre for the district or region". This obviously leaves open the possibility of having more than one city centre in a region – if the Standards had meant to limit it to one within a region, the description would say the "main centre for the region". As a factual question, in any case, there is already more than one city centre or equivalent zone in the region, as the proposed Wellington plan and operative Upper Hutt plan both feature city centre zones. The proposed Porirua plan also features a city centre zone, although it has a current variation proposing to remove it.

56. Also, Lower Hutt is New Zealand's sixth-largest city by urban population, therefore it could be expected to have a city centre as described by the National Planning Standards.

57. The fact that the city centre zone can be used in Lower Hutt's plan does not mean it has to be, although the Council's reasoning in the section 32 report in my view is compelling and I continue to hold the view I expressed in the officers' report that Council applied a correct interpretation of equivalent zones.

58. I generally agree with Ms Allan the distance between the Petone centre and City Centre is in that general range of 2km. However, I do not think this is a distance that should present concern and I would note that, for example, the metropolitan centre of Newmarket is considerably closer to the city centre of Auckland. In any case, the approach of these being the two foremost centres for the district is the operative district plan approach and operative RPS approach. The NPS-UD should be applied to the current plan, not used to substantially alter the plan approach in a way that does not have a connection with Policies 3 and 4 of the NPS-UD.

59. I have read Proposed Change 1 to the RPS and can find no reference to "Petone North", rather than Petone in general, as being preferred as a commercial centre, or indeed any reference to northern Petone at all. In addition, as discussed in the officers' report, I think Proposed Change 1 to the RPS is of limited relevance to this plan change.

60. There may or may not be demand for 6-storey development in and around the Petone metropolitan centre, and it may or may not be economically viable. I am unclear of Ms Allan's point in posing this. If 6-storey development is unviable, and if this is a problem, then clearly it is not an issue that can be addressed by imposing a height limit as she requests.

61. If the Society thinks that the Council, rather than changing its interpretation of the equivalent zones, should change its policy approach for centres, then the appropriate venue for that is a general-purpose plan change such as the forthcoming full plan review.

62. Finally, there is a question of what practical difference this change would make. If NPS-UD Policy 3(b) does not apply to Petone, then Policy 3(d) will. Even if not a metropolitan centre, Petone has a level of commercial activity and community services far above any other suburban centre.

63. The centres identified for the greatest level of development under Policy 3(d) provide for at least 6 storeys within the centre and at least 6 storeys where both adjacent to the centre and contiguous with Policy 3(c) areas, as is the case in Avalon and Moera.

64. Taking a consistent approach with the treatment of Avalon and Moera would therefore still result in at least 6 storeys (qualifying matters aside) within Petone Commercial and the application of the High Density Residential Activity Area adjacent. This adjacent area would be smaller than a full walkable catchment, but given the significant overlap with the rapid transit walkable catchments I think the difference would be minimal if any.

6.1.1.3 What is a relevant residential zone

65. Some submitters queried whether Council had correctly identified Hill Residential as an equivalent zone to Large Lot Residential in the National Planning Standards. As this is chiefly of relevance as a legal question of scope, I refer to the legal evidence of Stephen Quinn attached as Appendix 2 to this report, noting that this issue is also covered in Appendix 4 of the Section 32 report.

66. The practical implication of this for individual submission points is covered in section 6.2 of this report.

67. However, I note that if it were determined that the Hill Residential Activity Area was equivalent to a relevant residential zone, this would require the *entire* Hill Residential area to apply the MDRS. This would have far-reaching consequences which this report has not discussed, including:

    a. Whether additional qualifying matters would be appropriate, such as additional natural hazard overlays or protection of indigenous biodiversity,

    b. Infrastructure needs, and

c. Whether the plan change had then been properly notified (as not all Hill Residential properties were notified).

6.1.1.4 Application of NPS-UD Policy 3(d)

68. John Roseveare (236) and Kāinga Ora (206) presented concerns and alternative views around Council's interpretation of what was "adjacent" for the purpose of NPS-UD Policy 3(d).

69. I agree that this issue should be reassessed and in our discussion with Kāinga Ora we have found significant areas of agreement. Further discussion and our updated recommended approach to this is covered in section 6.2 of this report, as it principally affects residential areas.

70. However, I disagree with the point of Mr Roseveare, and I continue to think that Eastbourne is appropriate as one of the upper level of Policy 3(d) centres.

6.1.1.5 What is a well-functioning urban environment

71. Many submitters, particularly but not only Wellington Regional Council (149), requested relief on issues not covered in the proposed plan change, and tied their relief back to the proposed objective in Chapter 1.10.1A and the phrase "well-functioning urban environment".

72. This term is defined in the NPS-UD and covers a wide range of issues. I agree with some submitters that many of the elements in this objective are not fully addressed in the operative plan or this plan change.

73. However, the proposed objective should be read in light of the full bundle of provisions proposed in the plan change. In my opinion the problem is that this objective may be somewhat too broad for the actual policies and methods designed to sit under it. However, it is a mandatory objective of the MDRS and needs to fit in the plan somewhere. This could have been done by only including it as an objective within relevant zone chapters. However, I think this would be an odd fit given the broad strategic nature of the objective.

74. Accordingly, while I note that there are issues with the objective, I recommend keeping it as notified. Given the substantial scope issues with this plan change process, how this objective interacts with policies will need to be considered further in a future plan change (such as the full plan review). See also the discussion on scope in Stephen Quinn's evidence in Appendix 2.

75. Given this limitation on policy, I also think providing a definition for "well-functioning urban environment" as requested by the Regional Council would not enhance plan usability as it would introduce further references to issues that do not have relevant policy direction.

76. The forthcoming full plan will also need to include this objective, and give effect to Objective 1 of the NPS-UD generally, and that will be an opportunity to revisit this issues with a process with broader scope.

6.1.1.6 Application of NPS-UD Policy 4

77. There was limited contention over the application of NPS-UD Policy 4 at a strategic level. There was substantial contention about particular qualifying matters (for which see section 7 of this report). Many submitters also had questions around the relationship between activity areas and overlays and whether these provisions worked together. As this primarily affects natural hazard overlays it will be addressed in section 7.2.

78. Wellington Regional Council (149) raised whether Te Mana o Te Wai should also be considered as a qualifying matter.

79. In my view it clearly could be a qualifying matter as it is a matter set out in a national policy statement (the NPS-FM) and this is one of the explicitly listed qualifying matters[7].

80. However, this is only relevant if Te Mana o Te Wai needs to be provided for by restricting building heights and density and I do not think any of the evidence presented to the panel suggests that this is necessary.

6.1.2 Amenity values

81. The plan's approach to amenity values was a concern for many submitters. As I said in my verbal reply on the last day of the hearing, I agree with the philosophy expressed by Kāinga Ora (206), that the RMA's conception of amenity values does not inherently favour the status quo, and that the NPS-UD signals a substantial change to how amenity values should be considered. I think the proposed changes to section 1.10.2 appropriately express this mindset for amenity values.

6.1.3 Requested new strategic direction

82. Wellington Regional Council (149) requested additional strategic direction in their submission and generally I think this was fully covered in our officers' report. The major point in the hearings was around recognition of the National Policy Statement on Freshwater Management, and the response to climate change.

83. I agree that Plan Change 56 needs to give effect to the NPS-FM to the extent it can effectively do so though this plan change, and we have discussed freshwater issues in this report in specific sections, such as the issue of impervious coverage requirements. However, this scope is narrow for an IPI (this plan change) and I do not think there is useful strategic direction around the approach to the NPS-FM that can be added.

84. Climate change is a considerable concern. This plan change in my view advances the mitigation of climate change by promoting a more compact and thus more energy-efficient urban form. It also responds to climate change impacts to the degree possible, by incorporating climate change predictions into the modelling of natural hazard risk.

85. However, given the relatively limited scope of this plan change, I do not think further strategic direction on climate change would assist the purpose of this plan change. Specific issues around climate change including wider strategic response are best addressed as part of the full plan review.

86. Ngāti Toa (274) requested strategic direction be expanded to take more account of tangata whenua.

87. As I noted in the officers' report, the operative plan already contains strategic direction on tangata whenua issues in section 1.10.1 and chapter 2. It would be out of scope to make a major plan-wide change to this direction, and I think the direction as recommended in this report adequately integrates the various relevant issues without unnecessary repetition.

6.1.4 Papakāinga

88. Ngāti Toa requested provision be made for papakāinga, although they did not suggest specific wording or a general policy approach. They did not identify any specific projects

[7] Sections 77I(b) and 77O(b) of the Act and clause 3.32(1)(b) of the NPS-UD

that could proceed in the short term that PC56 might be able to enable through the tools available (such as rezoning).

89. The Council in its section 32 report set out the reason for not adding specific provision for papakāinga in this plan change and I do not think Ngāti Toa has added any relevant information for this decision. In particular, I think the development of papakāinga provisions should have input from, at a minimum, both Ngāti Toa and Te Āti Awa, the latter of which did not appear at the hearing. This is accordingly best addressed for the forthcoming full plan.

6.1.5 Giving regard to Proposed Change 1 to the RPS

90. Wellington Regional Council (149) and some other submitters contended that Proposed Change 1 to the RPS should be given significant weight. I covered this issue in the officers' report and have not changed my conclusion. The only significant development since then is greater certainty about the timeline for Proposed Change 1. The Regional Council have advised hearing will commence in June 2023 and will continue until early 2024. Accordingly, there is no chance of there being more certainty about the final shape of Proposed Change 1 before the deadline for Hutt City Council to make its decisions on this plan change.

6.2 Residential

6.2.1 Effects on Liveability and Amenity

91. Many submitters raised concerns at the hearing regarding the effects of PC56 as proposed on the liveability and amenity of residential areas. Most concerns related to:

- The provision of private and public greenspace and associated ecological services
- The retention of mature vegetation and associated ecological services
- Increased on-street car parking and subsequent traffic safety and efficiency effects
- The provision for and safety of pedestrians, cyclists, and public transport
- General amenity effects on private properties and residents, such as privacy, sunlight, overlooking, setbacks, noise, and road clutter (such as rubbish and recycling bin collection)
- The disconnect and potential conflict between existing low density residential houses and new neighbouring medium and high density housing
- Potential social effects, such as loss of community identity, unsafe urban design, the creation of “ghettos”, and lack of space for children to play outside
- The potential strain placed on existing built infrastructure and social infrastructure, facilities, and services. Increased density will result in an increased need for these services to create a liveable urban residential environment that supports residents’ wellbeing.

92. We acknowledge these concerns, but also note that the MDRS imposes minimum development standards that Council is unable to alter, unless they are altered to be more permissive of development.

93. There are some standards that Council does have discretion over to improve liveability and design outcomes. The merits of amending these development standards to improve the liveability and amenity of residential areas are assessed in the next section of this report.

94. One last point to address the liveability concerns raised by submitters, we note there are many other measures outside the District Plan that Council can use to improve liveability of communities and public spaces, rather than imposing requirements on private properties via the District Plan. These measures can include providing for more and improved public greenspaces, improving amenity and vegetation in the roading corridor, or providing other community services and amenities.

6.2.2 Requested changes and additions to the Medium and High Density Residential rule and policy frameworks

95. As requested by the Panel, this section assesses the merits of requested additions or changes to the rule and policy frameworks for the Medium Density and High Density Residential Activity Areas (MDRAA and HDRAA), setting aside the question of scope.

6.2.2.1 Kāinga Ora

96. Kāinga Ora requested a suite of changes to the MDRAA and HDRAA to better differentiate between the two zones and improve urban design outcomes. To avoid repetition due to the many points of agreement with Kāinga Ora's reasoning, this section should be read in conjunction with Kāinga Ora's supplementary evidence. Where there are differences of opinion, they are set out in this section.

97. The changes requested by Kāinga Ora are set out and assessed on their individual merits below.

Add a height variation control overlay across residential areas within 400m of the city centre and Petone to enable buildings up to 36m (10 storeys)

98. Kāinga Ora notes that the NPS-UD requires *at least* 6 storeys around city and metropolitan centres. This wording suggests that the NPS-UD anticipates more height in these areas. Kāinga Ora considers that enabling building heights of approximately 10 storeys within a 400m catchment of these commercial centres provides for a clear 'stepping down' in the scale and intensity of the planned urban built form from the centre out to the residential environment (transition from the unlimited heights within the city centre and Petone Commercial Area 2 to an intermediate height of 36m, before integrating with the 22m recommended height elsewhere throughout the HDRAA). Kāinga Ora considers this graduation of height limits provides for a level of development that responds to the significance of these centres at a scale that is supportive of the centre and responds to current and future degrees of accessibility. However, Kāinga Ora also acknowledged that the amendments it seeks should be modified and scaled down where relevant, such as in areas that are also affected by natural hazard overlays.

99. For residential areas around the city centre in particular, the areas covered by the overlay are focused on the eastern side of the river where there are good connections between the residential areas and the commercial centre. The edges of the height variation control overlay are defined along cadastral boundaries using changes in land use to delineate between zone (such as schools or streets), or by providing enough sites at the end of a block (e.g., fronting Kings Crescent) where the same built form opportunity could exist on both sides. I agree with the reasoning put forward by Kāinga Ora as set out above and recommend the height variation control overlay be applied as shown on the maps provided by Kāinga Ora in its supplementary evidence.

100. For residential areas around central Petone, the Low Coastal Hazard Area (Inundation) and Low and Medium Coastal Hazard Areas (Tsunami) extend across Petone. This raises concern about the potential perceived conflict of allowing for additional height in hazard overlay areas. To again reflect the approach and perspective taken in the Section 7.2 of this report on natural hazards, it is considered that the Natural Hazards chapter as proposed manages the risks from these hazards (i.e., requiring buildings meet minimum finished floor level requirements, limiting the number of habitable buildings on a site, limiting the number of employees for commercial and retail activities). While in the case of Manor Park this is therefore not considered a reason to "down-zone" the area due to

the confined spatially extent of the seismic risk of fault rupture, it is considered a reason not to go beyond the minimum required by the MDRS and the NPS-UD in the Petone area, particularly given the anticipated sea level rise scenarios affecting large spatial extent of Petone by 2130. Again, it is acknowledged that having a High Density area within hazard areas potentially sends a conflicting message to residents and developers. As such, it is recommended that the building height variation control sought by Kāinga Ora in residential areas around central Petone be rejected, while consideration on the ways to reconcile the zoning with the hazard overlay will be considered as part of the full District Plan review.

Modify the HDRAA height-in-relation-to-boundary planes to 19m + 60º within the first 21.5m of the site, 8m + 60º for all other boundaries further than 21.5m from the front boundary, and 4m + 60º on boundaries interfacing with other zones (such as interfaces with the MDRAA, sites containing heritage buildings, and sites and areas of significance to Māori)

101. Kāinga Ora considers that the standard height-in-relation-to-boundary planes contained in the MDRS effectively constrains the maximum height of buildings, for example on narrow sites. Kāinga Ora considers this is an inefficient use of land in proximity to public transport, local services, and amenity. Therefore, Kāinga Ora has proposed the above modifications to the height-in-relation-to-boundary planes to effectively enable the 6-storey building height enabled by the MDRS while encouraging buildings to be located towards the front of sites and open space at the rear of sites. This is consistent with the direction of the NPS-UD and the planned urban built form of the HDRAA.

102. Kāinga Ora notes that height-in-relation-to-boundary controls typically manage a range of residential amenity considerations, including the level of solar access received by neighbours, increased separation distance between buildings and neighbouring properties, reduced privacy effects from adjacent overlooking properties, and contributions to sense of openness. Kāinga Ora considers a sense of “openness” is less important and should have less weight in locations where a greater level of intensification is specifically anticipated, such as in the HDRAA. Kāinga Ora considers this gives effect to Policy 3 and is consistent with the direction provided under Policy 6(b). Addressing other matters that are typically managed by height-in-relation-to-boundary controls, Kāinga Ora notes that building coverage controls are an alternative means of ensuring sun access in the HDRAA, which also encourages gaps between buildings for sun. The building coverage rule for the HDRAA is currently 50%, which works in conjunction with other standards (i.e., landscaping, open space, outlook, setbacks, and the proposed height-in-relation-to-boundary planes encouraging open space be located towards the rear of a site) to ensure a sense of openness on a site.

103. This issue was discussed with Kāinga Ora to gain clarity on the likely effects of this change, particularly given the large spatial extent of the HDRAA across much of the valley floor and the large change in the height-in-relation-to-boundary plane. Additional advantages of this approach discussed included:

    a. Focusing built form to the front of the site reduces and offsets sunlight effects on neighbouring sites (particularly outdoor living areas that tend to be located towards the back of conventional single-dwelling residential properties). This approach is likely to have less effect on sunlight access to neighbouring sites in comparison to a three-storey building that can occupy the full length of a site, especially considering many residential sites in Lower Hutt are comparatively long sites.

    b. Enables developers to use fewer sites to achieve the maximum allowable building height in the zones rather than needing to acquire multiple sites, which may result in larger scale effects on neighbouring properties.

    c. The requested provisions provide for these types of development when the demand arises, as the change in residential character and amenity values is expected to occur

over the long term. In the short term, wide-scale proliferation of these developments is not expected.

104. I agree that the requested height-in-relation-to-boundary planes are in line with the intent of the NPS-UD policy direction, as they enable buildings to realistically achieve the maximum building height for the zones. However, I remain concerned about the following potential effects of the requested standard:

a. While the standard encourages buildings to occupy the street edge, it may also lead to a situation where the street space is effectively enclosed by a wall of buildings, which would adversely affect the quality of the street environment. However, I note that these effects may be offset by Kāinga Ora's requested change to enable a consent pathway for commercial activities at ground floor level, the merits of which are assessed below.

b. The standard would enable tall, thin spaces (2m wide, based on two 1m setbacks on each side boundary) to be developed between buildings. I consider that these spaces, due to their dimensions, are unlikely to be overlooked or used for any practical, on-site amenity or landscape purpose and will effectively be wasted space. I consider that such spaces are likely to lead to adverse effects on the adjacent street space and surrounding residential environment. I also consider that such spaces would be contrary to crime prevention through environmental design (CPTED) principles.

c. In contrast to the position above about reducing the need to acquire multiple sites, the standard does not encourage or incentivise amalgamating smaller sites to create larger sites of a sufficient size to achieve more desirable design outcomes for higher density development (including sufficient on-site space for access, servicing, on site communal open space and outlook from residential units).

105. On this basis, I consider that the 19m + 60° HIRB standard is not appropriate for the HDRAA, but I do consider that the 8m + 60° height-in-relation-to-boundary plane for the first 21.5m of a site and 4m + 60° height-in-relation-to-boundary plane for the remainder of the site boundaries is an appropriate standard for sites in the HDRAA. This standard would provide for 21-metre-tall buildings to be set back approximately 7.5 metres from the boundary. This approach provides for greater height in the HDRAA to focus future development into high density areas and still focuses development toward the front of a site to provide for outdoor living areas and sunlight access at the rear of sites, while recognising that the change in residential character will be slow and manages effects on adjacent properties during this transition period. In my opinion, such a standard is sufficient to address the issues that I have raised above, while also providing enabling a greater level of development to occur in the HDRAA. On this basis, I have recommended that 8m + 60° height-in-relation-to-boundary standard for the first 21.5m of a site and standard 4m + 60° height-in-relation-to-boundary plane for the remainder of the site boundaries apply in the HDRAA.

Modify the current HDRAA zoning and 14m (4 storey) height limit for residential areas around central Eastbourne, Wainuiomata, and Stokes Valley, to MDRAA zoning with a height variation overlay to enable buildings up to 18m (5 storeys), along with more enabling height-in-relation-to-boundary planes in these areas

106. Kāinga Ora notes that its proposed approach outlined above is the same approach it has taken nationally for residential areas around "local centres" (as classified by the national planning standards). Kāinga Ora considers that its approach is an appropriate response to enable residential intensification commensurate with the level of public transport, commercial, and community services in these locations. I also note that this approach (i.e., tiered heights in the MDRAA) is consistent with the approach Kāinga Ora has taken in seeking to enable intensification around lower order centres across the region.

107. As a logical extension to its above position, Kāinga Ora potentially supports applying this approach to residential areas adjacent to centres in Avalon and Moera as set out under

Policy 3(d) but are outside the walkable catchment required by Policy 3(c) of NPS-UD. However, Kāinga Ora acknowledges that much of Morea is subject to natural hazard overlays, which may warrant reconsideration of this approach in that area.

108. Kāinga Ora also seeks that the height-in-relation-to-boundary planes for these areas be amended to 6m + 60o to better enable the increased building height in these areas for the same reasons outlined for the increased recession planes sought for the HDRAA above.

109. This approach enables some greater intensification around the centres, while not enabling it in the same built form as is expected in the HDRAA. I accept Kāinga Ora's point that calling these areas MDRAA rather than HDRAA creates different expectations from the community and developers about what types of development are appropriate for the area. It is also noted that the only difference between these two zones when the officers report was prepared was the higher building height limit in High Density area. The proposed height reduction overlay in these areas limited buildings to 4 storeys, effectively making any change in zoning arbitrary. However, as some changes to development standards in the HDRAA have been recommended in accordance with Kāinga Ora's requests as set out above and below, there are now more substantive differences between the MDRAA and HDRAA that make the HDRAA more intensive in urban character. As such, it is considered appropriate to apply the more suburban character MDRAA with a height uplift to these areas, which imposes a more appropriate character for the nearby small commercial centres and surrounding residential context of these areas.

Amend the overviews, objectives, policies of the HDRAA and MDRAA for clarity and better distinguishment between zones

Amend residential policies and refine the matters of discretion within relevant rules and standards in the HDRAA and MDRAA to encourage good urban design and built environments, given the status of the Design Guides that are outside the District Plan and require updating

110. Kāinga Ora seeks amendments to Chapter 4G Introduction, Objective 4G 2.4, Policy 4G 3.3, and Rules 4G 4.2.3 Building Height and 4.2.4 Height in Relation to Boundary to collectively enable more height in the HDRAA and give guidance that buildings over 6 storeys are anticipated in this zone, particularly around the city centre and Petone as noted above. These amendments to the policy and rule framework support the other changes sought by Kāinga Ora as discussed above.

111. As noted above, the changes recommended by Kāinga Ora throughout this section mean there are more substantive differences between the HDRAA and MDRAA than proposed in the officers report. As such, it is considered appropriate to differentiate and refine the overviews, objectives, and policies of the zones. In particular, the requested changes reflect the difference in anticipated residential amenities, with the HDRAA being more urban and the MDRAA being more suburban in character.

112. In addition, Kāinga Ora seeks amendments to better articulate quality design outcomes sought for developments of 4+ residential units per site, for both internal relationship between residential units on a site and the development's relationship to the surrounding environment.

113. Kāinga Ora considers that the outcomes required to achieve a high-quality urban environment should be clearly expressed directly within the provisions of the Plan as part of this IPI process, particularly where there is currently an absence of clear guidance within the Plan. Kāinga Ora notes this is specifically relevant to the residential chapters and the framework supporting intensification of a site (i.e., development comprising more than 3 units), as guidance within the District Plan is lacking (the medium density design guide is outside the District Plan and require updating), and these are the areas where the greatest transition in urban built form is being enabled. Kāinga Ora considers the

most efficient way to clearly convey expected design outcomes is through a revised policy framework, which can then be reconciled with the planned urban form of the zone.

114. In addition to the above changes to promote design quality through a mix of new policy direction and amended matters of discretion, Kāinga Ora also seeks that the matters of discretion for residential bulk and location rules in the HDRAA and MDRAA be amended; specifically removing reference to the "design elements" listed in the matters of discretion. While these design elements are a carryover from the Operative District Plan, Kāinga Ora considers it relevant to alter and update these due to the substantial changes to urban built form enabled in the residential zones. Kāinga Ora considers the matters of discretion should be focused and relevant to effects generated by non-compliance with a rule or standard.

115. Given the medium density design guide is outside the District Plan and requires updating, Kāinga Ora considers the design guide is not currently fit for purpose and seeks that reference to it is removed from the residential chapters. As existing, Kāinga Ora considers this design guide fails to account for the planned urban built environment of the MDRAA and HDRAA and is therefore limited in its usefulness and ability to provide appropriate and clearly articulated design objectives to guide quality outcomes.

116. As highlighted during the hearing, ensuring good urban design outcomes with the limited tools available to Council is a major concern for submitters, the Panel, and Council's planners. As such, the overall approach to improve urban design outcomes as recommended by Kāinga Ora is generally agreed with, and commentary on each of the recommended changes is undertaken below. It is considered that since the Medium Density Design Guide is not part of the District Plan and it requires updating as part of the full District Plan review, it is considered essential that the rule and policy framework for the residential zones encourages quality urban design outcomes insofar as possible in lieu of applying the design guide.

117. Introductions to Chapters 4F and 4G: The recommended additions and changes to the introductory text of Chapter 4F and 4G are accepted, with minor amendments to reflect the decisions recommended in this report for Kainga Ora's other submission points (e.g., removing reference to areas surrounding Petone as being suitable for greater intensification).

118. Objective 4F 2.3A: This is a minor wording change that removes reference to low density from the objective. This reflects the primary intent of the MDRAA to provide for medium density development and is therefore accepted.

119. New Policy 4F 3.2E: It is considered that the requested new Policy 4F 3.2E will encourage good quality urban design outcomes, which contribute to a well-functioning environment. Again, this matter is a primary focus for all persons involved in this Plan Change process. The extent of the changed provisions is specific enough that developers and planners can understand the anticipated outcomes for residential intensification in the HDRAA, but also provide enough flexibility to enable a range of possible methods to achieve the outcomes. For these reasons and the reasons set out in Kainga Ora's supplementary evidence, these changes are accepted.

120. New Objective 4F 2.3AA and Policy 4F 3.2: This objective and policy reflects the changes to residential zoning around Wainuiomata, Stokes Valley, and Eastbourne to MDRAA with a height uplift and modified height-in-relation-to-boundary plane, which has been accepted for the reasons set out earlier in this report. This proposed change is therefore accepted.

121. Rule 4F 4.2.1AA Number of residential units per site and Rule 4F 4.2.1 Building coverage: The requested changes refine the matters of discretion to the effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Modifications to correct

the references to relevant policies are accepted where applicable. Deletion of the reference to the design guide is also accepted.

122. Rule 4F 4.2.2 Building height: Changes to the Permitted activity standard are requested that reflect the changed residential zoning around Wainuiomata, Stokes Valley, and Eastbourne to MDRAA with a height uplift and modified height-in-relation-to-boundary plane, which has been accepted for the reasons set out earlier in this report. The requested changes refine the matters of discretion to the effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Modifications to correct the references to relevant policies are accepted where applicable. Deletion of the reference to the design guide is also accepted.

123. Rule 4F 4.2.3 Height in relation to boundary: Changes to the Permitted activity standard are requested that reflect the changed zoning around Wainuiomata, Stokes Valley, and Eastbourne to MDRAA with a height uplift and modified height-in-relation-to-boundary plane, which has been accepted for the reasons set out earlier in this report. Exceptions to the standard for boundaries adjoining commercial or business zones, chimney structures, and antennas, aerials, small satellite dishes, flues, and limited architectural features are considered appropriate given the encroachment size limit also requested, which will limit the effect that these will have on sunlight. The requested changes refine the matters of discretion to the effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Deletion of the reference to the design guide is also accepted.

124. Rule 4F 4.2.4 Setbacks: The requested changes to this rule to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breaches of this rule and are already covered by other matters of discretion where relevant. A Permitted activity standard is also requested to be added to allow for one accessory building to encroach for a length of 6m in a side or rear yard setback. This exception for accessory buildings is in the Operative District Plan but was removed for this Plan Change due to reduction in setbacks required by the MDRS. However, the submission point by Kainga Ora is supported by informal feedback received from the community in support of retaining the setback exemption for accessory buildings where the encroachment is less than 6m in length. As such, I support adding the setback exemption for accessory buildings.

125. Rule 4F 4.2.5 Permeable surface: The recommended change to this rule to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breach of this rule and are already covered by other matters of discretion where relevant. Preclusion of public and limited notification for breach of these standards is also accepted for the reasons set out in the next section of this report.

126. Rule 4F 4.2.8 Screening and storage: The requested changes to this rule to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to a breach of this rule and are already covered by other matters of discretion where relevant.

127. Rule 4F 4.2.6 Outdoor living space, Rule 4F 4.2.11 Outlook space, Rule 4F 4.2.12 Windows to street, and Rule 4F 4.2.13 Landscaped area: The requested changes to these rules to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breach of these rules and are already covered by other matters of discretion where relevant. Preclusion of limited notification for breach of these standards is also accepted for the reasons set out in the next section of this report.

128. The requested changes to Objective 4G 2.4 and consequential changes to Policy 4G 3.3 are accepted given the range of other changes requested for the HDRAA, with minor wording amendments to reflect decisions recommended in this report.

129. Policy 4G 3.8: The changes to this policy clarify the outcomes sought where the listed standards are breached. As such, the requested changes to this policy are accepted.

130. Policy 4G 3.9: Kāinga Ora continues to seek deletion of this policy, noting that the broad range of alternative policies within Chapter 4G make adequate provision for amenity (including Policy 4G 3.8). With the requested amendments to Policy 4G 3.8 and 4G 3.10, it is considered that the amenity matters covered in this policy are adequately reflected elsewhere. As such, the request to delete this policy is accepted.

131. Replace Policy 4G 3.10: It is considered that the requested changes to Policy 4G 3.10 are more likely to encourage good quality urban design outcomes, which contribute to a well-functioning environment. Again, this matter is a primary focus for all persons involved in this Plan Change process. The extent of the changed provisions is specific enough that developers and planners can understand the anticipated outcomes for residential intensification in the HDRAA, but also provide enough leeway to enable a range of possible methods to achieve the outcomes. For these reasons and the reasons set out in Kainga Ora's supplementary evidence, these changes are accepted.

132. Rule 4G 4.2.1 Number of residential units per site: The requested change to remove reference to the design guide is accepted. The amended matters of discretion have been refined by Kainga Ora to align more with the style and structure of the rest of the District Plan. Kainga Ora have also proposed a rule framework that applies where 4+ units are proposed, consistent with the MDRS, to enable a design-based assessment to be undertaken. The changes also link back to the amended Policy 4G 3.10. It is considered that the requested changes to the matters of discretion better capture the effects of breaching this standard and enabling a design-based assessment to be undertaken will result in improved urban design outcomes. For these reasons and the reasons set out in Kainga Ora's supplementary evidence, these amendments are accepted.

133. Rule 4G 4.2.2 Building coverage: The requested changes refine the matters of discretion to the actual effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Deletion of the reference to the design guide is also accepted.

134. Rule 4G 4.2.3 Building height: The change to the Permitted activity standard is accepted as it references the height overlays that have been recommended for inclusion as set out earlier in this report. The requested changes refine the matters of discretion to the actual effects of breaching this rule while also simplifying the framework. Deletion of reference to design elements is accepted due to the more specific matters of discretion recommended. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Deletion of the reference to the design guide is also accepted.

135. Rule 4G 4.2.4 Height in relation to boundary: The Permitted standard is recommended to be amended as set out earlier in this section of the report. Exceptions to the standard for boundaries adjoining commercial or business zones, chimney structures, and antennas, aerials, small satellite dishes, flues, and limited architectural features are considered appropriate given the encroachment size limit also recommended, which will limit the effect that these will have on sunlight. The requested changes refine the matters of discretion to the actual effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Deletion of the reference to the design guide is also accepted.

136. Rule 4G 4.2.5 Setbacks: The requested changes refine the matters of discretion to the actual effects of breaching this rule while also simplifying the framework. The changes to the matters of discretion are accepted for the reasons set out by Kainga Ora. Deletion of

the reference to the design guide is accepted. Preclusion of limited notification for breaching the front setback is also accepted, as this does not specifically affect a neighbouring party. A Permitted activity standard is also recommended to be added to allow for one accessory building to encroach for a length of 6m in a side or rear yard setback. While I agree that allowing accessory buildings to encroach into the side or rear yard setback is efficient and results in limited effects, I consider the recommended permitted encroachment length of 6m to be somewhat large. A quick investigation into the average size of garden sheds shows that an average sized shed goes up to about 4m in length. A maximum encroachment size of 4m is therefore recommended.

137. Rule 4G 4.2.7 Permeable surface: The requested change to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breach of this rule and are already covered by other matters of discretion where relevant. Preclusion of public and limited notification is also accepted, as the effects of breaching this rule are generally considered with regard to alternative acceptable engineering solutions to mitigate stormwater runoff effects.

138. Rule 4G 4.2.8 Outdoor living space: The requested change to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breach of this rule and are already covered by other matters of discretion where relevant.

139. Rule 4G 4.2.10 Screening and storage: The requested change to remove reference to the design guide is accepted. The removal of the listed design elements as matters of discretion is accepted, as they are not specifically relevant to breach of this rule and are already covered by other matters of discretion where relevant.

140. Rule 4G 4.2.14 Windows to street: The requested change to remove reference to the design guide is accepted. The changes to the matters of discretion to instead refer to "streetscape and visual amenity effects" and "passive surveillance and safety" are also accepted, as these effects directly relate to any breach of this rule. Preclusion of limited notification for breach of this standard is also accepted for the reasons set out below.

Add non-notification clauses for breaches of specified standards, including windows to street (4F 4.2.12, 4G 4.2.14), landscaped area (4F 4.2.13, 4G 4.2.15), and front yard setback in the HDRAA (4G 4.2.5)

141. Kāinga Ora considers it is appropriate to preclude limited notification for non-compliances with standards that manage on-site amenity outcomes or streetscape controls that manage street interfaces and passive surveillance considerations. Kāinga Ora considers that building activities that breach these standards will not have an adverse effect on adjoining sites that would warrant notification. Adding a non-notification clause would also reduce risk and increase certainty for residential developers.

142. As already touched on in the previous section, these development standards relate to improving urban design outcomes as opposed to managing effects on neighbouring sites, these notification preclusions are accepted.

Add a new Restricted Discretionary activity rule to enable a consent pathway for commercial activities to operate at ground floor level in the HDRAA

143. Kāinga Ora considers that providing for a range of small-scale commercial offerings at the ground level of apartment buildings within the anticipated HDRAA urban context will result in several benefits, such as:

    a. Commercial activity at the ground floor of apartments is an optimal way to avoid the privacy and amenity issues associated with residential at ground floor

b. Commercial activities, scattered throughout the urban residential environment, can provide meeting locations for residents and others in the neighbourhood and can assist with live work opportunities and the supply of daily needs

c. Activities such as commercial tenancies at street level improves safety and surveillance, which improves walkability, and therefore creates a positive and vibrant urban living environment supporting walkable neighbourhoods and provides for health and wellbeing of the community.

144. Kāinga Ora considers that providing for these activities as a Restricted Discretionary activity provides clear direction as to the scale of activity and the setting in which it can operate while recognising the benefits such activities can bring, and indicates these activities are appropriate in the HDRAA. Restricted Discretionary activity criteria can clearly outline operating limits to provide direction on the appropriate scale of the activity for the context. It also retains the ability for Council to assess the effects of the activity upon the surrounding community via the consent process. These proposed changes would recognise the benefits of appropriate non-residential activities in the HDRAA that support place making.

145. In addition, further advantages of this approach were raised in discussions with Kāinga Ora. Commercial activities at ground floor level also provides some measure of resilience to natural hazards as it allows non-habitable activities to occur at ground floor level. In terms of urban design advantages, it also improves a building's interface with the street, as having residential activities at ground floor level can present challenges with balancing quality street interface with residents' need for privacy. This approach would also help offset the effects of height-in-relation-to-boundary planes encouraging building height to be oriented towards the street front that were discussed earlier in this section of the report.

146. Accordingly, I consider that the request to provide a Restricted Discretionary consent pathway for commercial activities at the ground level of residential buildings in the HDRAA would result in improved urban design outcomes, and I consider this request should be accepted.

Section 32AA assessment of proposed changes from Kāinga Ora

147. I consider that the recommended amendments are a more appropriate way to achieve the objectives of Plan Change 56 and the purpose of the RMA than the notified provisions, for the following reasons:

a. The reasons set out in Kāinga Ora's supplementary evidence;

b. The increased level development enabled as recommended above better provides for the District Plan to give effect to Objective 3 and Policy 3 of the NPS-UD by enabling greater opportunities for more people to live in, and more businesses and community services to be located in, parts of the urban environment where more than one of the qualities set out under Objective 3 of the NPS-UD are present; and

c. As highlighted during the hearing, ensuring good urban design outcomes with the limited tools available to Council is a major concern for submitters, the Panel, and Council's planners. For every point above, it has been considered essential that the rule and policy framework for the residential zones encourages quality urban design outcomes insofar as possible in lieu of applying the design guide. As such, the overall approach to improve urban design outcomes as sought by Kāinga Ora is generally agreed with, particularly in light of the current design guide not being fit-for-purpose and not being updated until the full District Plan review.

6.2.2.2 Wellington Regional Council

148. GWRC also requested a suite of changes to the MDRAA and HDRAA to give effect to the NPS-FM by better incorporating the management of freshwater into urban intensification, and to ensure that nature-based solutions are an integral part of new subdivision, use and development to support climate change adaptation and mitigation and improve the health and resilience of people, biodiversity, and the natural environment.

149. GWRC sought amendments to Chapters 4F and 4G to:

a. Include objectives, policies, permitted standards and rules in the plan change as a whole that provide for the qualities of well-functioning urban environments, with particular reference to NPS-UD Policy 1, clauses (a)(ii), (e) and (f) (the focus is on additional provisions to give effect to Policy 1 clauses (e) and (f) to support reductions in greenhouse gas emissions and provide resilience to the likely current and future effects of climate change).

b. Add a policy that requires hydrological controls for use, development, and subdivision of land to address the effects of increased stormwater runoff from urban intensification on urban streams

c. Add a policy which requires the application of water sensitive urban design principles, including sustainable stormwater design, to minimise impacts on the natural environment and achieve outcomes additional to stormwater treatment, such as providing amenity spaces, ecological habitat

d. Include policies which seek to improve the climate resilience of urban areas through measures identified in Proposed Wellington RPS Change 1 Policy CC.14

e. Amend matters of discretion to better integrate the management of freshwater with urban intensification.

150. While the general theme of these matters was present in GWRC's submission, it is noted for the Panel that specific wording changes below for Chapters 4F and 4G were not included in the original or further submissions from GWRC, which therefore raises questions of scope, fairness, and natural justice for other submitters.

151. The specific wording changes sought to Chapters 4F and 4G to give effect to the above themes in GWRC's statements of evidence for the Hearing are set out and assessed below:

a. Add to 4F Introduction / Zone Statement noting that if a proposed development does not meet development standards, resource consent is required *to "contribute to the climate resilience of the local community"* and "*protect the health and climate resilience of the natural environment"*

b. Amend Objectives 4F 2.1AA and 4G 2.1 to require urban environments to have *"… resilience to the effects of climate change…"*

c. Amend Objectives 4F 2.5 and 4G 2.5 to require built development to be of high quality and provide for *"…an urban environment that reduces greenhouse gas emissions, is resilient, and can adapt to the effects of climate change"*

d. Amend Objectives 4F 2.6 and 4G 2.6 to require that built development is adequately serviced by network infrastructure or addresses any infrastructure constraints *"… and this infrastructure protects the quality of the natural environment, where practicable, incorporating nature-based solutions"*

e. Add a new Objective to Chapters 4F and 4G: "*Urban land use, subdivision and development design integrates features, in particular nature-based solutions, that support reductions in greenhouse gas emissions, reduce the risk of natural hazards and increase the climate resilience of the communities and environments of Hutt City"*

f. Amend Policy 4G 3.1 to require activities supporting the community's social, economic, and cultural wellbeing to *"increase resilience to the effects of climate change"*

g. Amend Policies 4F 3.2A and 4G 3.4 to provide for developments not meeting permitted activity status, while encouraging high quality developments *"… that protect the quality of the natural environment and contribute to the climate resilience of the site and surrounding area, including through the use of nature-based solutions"*

h. Amend Policy 4F 3.9 to require rainwater tanks to have *"both detention and retention",* and *"include the use of nature-based solutions"* to assist with the management of stormwater runoff created by development

i. Amend Policy 4F 3.10 and 4G 3.14 to require stormwater to be *"hydraulically"* neutral and *"incorporate hydrological controls to provide retention of stormwater volumes"* in medium density areas, and *"incorporate hydrological controls to achieve retention*" in high density areas, and add a supporting definition for "hydrological controls"

j. Amend Policy 4G 3.13 to require rainwater reuse to provide retention of stormwater

k. Add matters of discretion under 4F 4.2.1AA and 4G 4.2.1 Number of Residential Units per Site:

    a. *… Design elements that contribute to climate change adaption and mitigation…'*

    b. *Adverse effects on gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries, drinking water sources, ecosystem values, and any relevant water quality attribute targets in a regional plan.*

    c. *Extent and volume of earthworks and the degree to which earthworks follow existing land contours.*

    d. *Adverse effects on the relationship between tangata whenua and their culture, land, water, sites, wāhi tapu and other taonga*

    e. *The following design elements: … Onsite stormwater management, including the use of water sensitive urban design and hydrological controls"*

    f. *The following design elements: … Landscaping, including the incorporation of indigenous canopy tree species*

l. Amend Rules 4F 4.2.5 and 4G 4.2.7 Permeable Surfaces to require a minimum of 40% of the total site area be a permeable surface (up from 30%), and amend the matters of discretion to include:

    a. *The effects on the stormwater system and the health and wellbeing of water bodies, freshwater ecosystems, and receiving environments*

    b. *The potential for increased surface ponding and flooding, including on neighbouring properties*

    c. *The mitigation of additional stormwater runoff volumes through onsite stormwater retention*

    d. *The following design elements: … Onsite stormwater management and water sensitive urban design.*

m. Amend the title of Rules 4F 4.2.10 and 4G 4.2.12 Stormwater Retention to Stormwater Detention

n. Review the Medium Density Design Guide to ensure it provides best practice design elements to support the built environment to reduce greenhouse gas emissions and increase the climate resilience of the natural environment and local community to the current and future effects of climate change.

152. As an initial comment responding to these requested provisions and evidence, I found it difficult to reconcile this relief sought with existing provisions in the Proposed Natural Resources Plan (PNRP) and other methods. The GWRC evidence is silent on existing provisions apart from Mr Lowe's evidence regarding issues associated with the aquifer (which clearly explained the relationship between existing and requested provisions). For example, the PNRP includes provisions relating to discharges to land and water. Under Section 75(4)(b) of the RMA, a District Plan must not be inconsistent with a regional plan. In addition, Wellington Water's Regional Standard for Water Services[8] applies requirements for the design and construction of new stormwater, wastewater, and water supply services, which Council considers in assessing resource consent applications.

153. Further, in terms of general comments on the changes sought by GWRC, I note that it is unclear what constitutes "nature-based solutions" as this term is not defined. Resilience of cities to climate change and the effects of activities on natural environment values are important but are better managed within the ambit of regional councils, which will be implemented through the hierarchy of planning documents. In addition, adding these considerations throughout the MDRAA and HDRAA chapter as set out above muddies the primary intent of the objectives and policies, which has flow on effects to the rules, especially where it is unclear how these objectives will be achieved and how the policies will be implemented, particularly where there is no supporting rules or methods to achieve them.

154. Regarding the requested changes to implement water sensitive urban design, improve stormwater management methods (detention and retention), and impose hydrological controls for urban developments, I consider that these measures may have merit in managing stormwater runoff from increasing impermeable surfaces as a result of more intense development. However, there is a lack of evidence presented (including benefits, costs, and alternatives) for this Plan Change that quantifies the potential scale of stormwater management issues and how the above requested changes would manage these effects. As such, I consider that this matter should be further investigated as part of the full District Plan review when there is more time to quantify the issue and consider possible management approaches.

155. For point (l) above regarding amending the permeable surface requirement from 30% to 40%, there is little evidence to suggest that this additional 10% would result in much improved stormwater management outcomes. Increasing this threshold to 40% while also achieving compliance with the other standards (e.g., building coverage up to 50% and outdoor living area requirements) could create challenges to effectively design functional and attractive complying developments. The current suite of standards has been developed as a package based on realistic development scenarios. Without testing this increase in the permeability threshold with the other standards, I have concerns it may result in unintended consequences of developments with contrived designs to comply with all the standards. Regarding the additional matters of discretion relating to health and wellbeing of waterbodies, freshwater, environments, and water sensitive urban design, the same concerns outlined above apply here, including that these matters better sit within the jurisdiction of regional councils and the ambiguity of what constitutes "water sensitive urban design". Regarding the additional wording in the matters of discretion including "on neighbouring properties" and "volumes", it is considered these are already self-evident from the way the matters are currently worded. No changes are recommended.

[8] Wellington Water, Regional Standard for Water Services, December 2021

156. For point (m) above, the change to Stormwater Detention is a minor and technical correction and is therefore accepted.

157. For point (n) above, site permeability was an issue raised by several submitters, including GWRC. There are potentially significant benefits to ecological, visual, and amenity outcomes from improving stormwater management, introducing water sensitive urban design requirements, and encouraging nature-based solutions. While these suggestions generally have merit, time and resource constraints for this process means that it is proposed that the review of the Medium Density Design Guide be deferred until the full District Plan review. In addition, it is considered that the recommended changes from Kāinga Ora will result in good design outcomes in the interim period between the approval of this plan change and the review of the Design Guides for the full District Plan review.

158. For the purposes of Section 32AA, I consider this is the most appropriate way to achieve the purpose of the Act for the reasons set out above, particularly regarding the effectiveness and efficiency in achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS by not introducing unclear provisions or amending existing provisions that makes them unclear, which would have the effect of restricting residential development necessary to meet projected housing demand.

6.2.2.3 Te Rūnanga o Toa Rangatira

159. At the hearing, Te Rūnanga o Toa Rangatira raised concerns about the lack of specific papakāinga provisions in Plan Change 56, the potential effects of increased density on marae, managing the effects of intensification on the environment, the lack of identification and protection of sites and areas of significance to Māori, and insufficient consultation with iwi on PC56.

160. Aside from identification and protection of sites and areas of significance to Māori, which is addressed in Section 7.3 of this report, the specific matters raised by Te Rūnanga o Toa Rangatira are summarised and addressed below.

a. Papakāinga provisions: These provisions can provide iwi and mana whenua an opportunity to benefit from the intensification process. Te Rūnanga o Toa Rangatira considers that the Operative District Plan does not have any provisions to enable Papakāinga development or proposals alongside the fast-track development proposals with high densities and tall buildings in the walking catchments. While specific papakāinga provisions have not been provided for as part of this plan change, it was considered that papakāinga could be established under the multi-unit dwelling rules until a more fulsome set of provisions was developed as part of the full District Plan review. However, Te Rūnanga o Toa Rangatira considers this could result in mana whenua being pushed out of particular areas should they want to develop papakāinga in the interim.

b. Marae and intensified surroundings: Te Rūnanga o Toa Rangatira noted that it was unable to see any detailed analysis about how marae will be affected if there are taller buildings and increased density around marae sites. Since the current provisions for sites and areas of significance to Māori in the Operative District Plan lack nuance about how contemporary and historical sites of significance will be protected and maintained, Te Rūnanga o Toa Rangatira is unable to see and comment on the impacts to mana whenua privacy, presence, and the cultural use of these sites.

c. Managing effects of intensification: Te Rūnanga o Toa Rangatira is concerned that the intensification variation aimed at housing heights and densities will have significant issues on other matters such as, adequate stormwater and wastewater infrastructure, climate change and sea level rise, and water quality issues. Te Rūnanga o Toa Rangatira considers it is not clear how intensification will be managed via the plan change to ensure that it also does not result in further environmental degradation.

d. Insufficient consultation: Te Rūnanga o Toa Rangatira is concerned that the urgency of completing the IPI could create unintended consequences, which may be compounded by the lack of further appeal rights for this process. Section 4A of the RMA 'Further pre-notification requirements concerning iwi authorities' requires that iwi and Mana Whenua are given reasonable, adequate time, and opportunity to comment, consider the draft proposals and are able to give advice on the Plan Change variation. The speed in which Council is forced to undertake Plan Change 56, in order to comply with central government deadlines, means that iwi have not been provided with reasonable and adequate time required by the legislation. Te Rūnanga o Toa Rangatira considers that this warrants Councils seeking advice from the Ministry for the Environment who clearly have not considered the implications that requiring these plan changes not only places on Council, but also iwi. Within the rohe, the timeframes set around intensification planning place a burden on them, given that there are nine councils within their rohe required to go through this same process, and each Council has its own location specific nuances.

161. Council acknowledges the above matters raised by Te Rūnanga o Toa Rangatira and considers that the relationship with Te Rūnanga o Toa Rangatira in developing this Plan Change could have been better managed. Council acknowledges that it would have been ideal and in better faith to work in conjunction with Te Rūnanga o Toa Rangatira in developing the provisions.

162. However, various factors contributed to the situation Council found itself in, such as the tight timeframes imposed by this process, the historic lack of information within the District Plan relating to these matters, and Council time and resourcing constraints. Council considered these matters, and working with Te Rūnanga o Toa Rangatira, could be better achieved through the full District Plan review.

163. As such, Council commits to working with Te Rūnanga o Toa Rangatira as part of the full District Plan review to address their concerns and develop provisions that appropriately address the issues raised above.

164. For the purposes of Section 32AA, I consider this is the most appropriate way to achieve the purpose of the Act for the reasons set out above, particularly regarding the effectiveness and efficiency in achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS by providing adequate time for fulsome consultation with iwi and time to prepare bespoke provisions in conjunction with iwi.

6.2.2.4 KiwiRail

165. To summarise the submitter's position, the proposed 5m setback from the rail corridor seeks to manage the adverse effects on the safe use and operation of the railway corridor if maintenance activities on properties adjacent to the railway corridor were to accidentally encroach on the rail corridor. The 5m setback is intended to provide sufficient room for scaffolding and potential dropped tools, equipment required for drainage works, mobile height access equipment, water blasting spray, and ladders. The risk of accidental encroachment by maintenance activities is illustrated in the statement of evidence of Mr Brown, who provided corporate evidence for KiwiRail and supplied diagrams from WorkSafe that showed the amount of space necessary to safely erect a scaffold for a 12-metre-tall building, as well as the paths that a dropped object would take if it were to accidentally fall from the scaffold (see Figure 1 below).

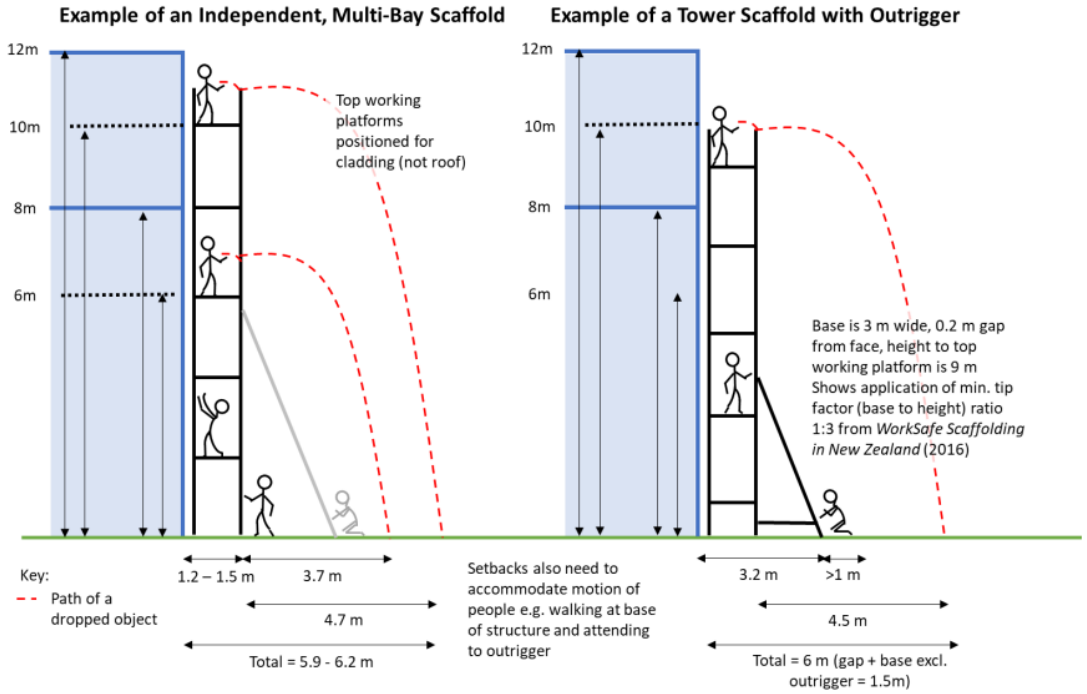

Figure 1: Appendix A to statement of evidence from Mr Brown on behalf of KiwiRail

166. Kāinga Ora opposes this setback, as it considers that a reduced setback could still provide adequate space for maintenance activities within sites adjacent to the rail corridor. Kāinga Ora consider a reduced setback would continue to protect the safe, efficient, and effective operation of the rail network while balancing the cost on landowners.

167. Reviewing this evidence (particularly the diagram from WorkSafe above) it appears that the risk from maintenance activities to the safety of the rail directly corresponds to the height of buildings adjacent to the rail corridor. On this basis, it is considered that a height-in-relation-to-boundary restriction may be a more appropriate tool than the proposed 5m setback.

168. The height-in-relation-to-boundary standard under the MDRS already requires a 12m tall building to be set back approximately 4.6m from the boundary. This standard enables sufficient distance to install at least one of the safe scaffold options identified by KiwiRail.

169. In addition, a key principle of managing reverse sensitivity effects is that the effects of an activity (in this case the safety of the rail corridor) should be internalised unless it is shown that it is not reasonable do so, which was the original basis for recommending this submission point be rejected in the officers' report, as well as the potential reduction in development potential from introducing the 5m setback.

170. In this instance, the question remains as to whether the operational and safety risks associated with accidental or illegal encroachment on the rail corridor can or should be managed within the designation or at its boundary. These risks can be managed by KiwiRail using several possible methods such as arranging activities within the designation to minimise or mitigate safety or operational risks near the edge of the designation, using the Permit to Enter system to manage works within 5m of the rail line (noted in point 4.14 of the supplementary evidence provided by Kāinga Ora), widening the designation, minimising the risk of accidental or illegal encroachment on the corridor at the boundary (e.g. fence or barrier design), or monitoring the rail corridor (particularly in urban areas).

171. I consider that it has not been demonstrated that options for managing residual safety and operational risks within or at the boundary of the rail corridor are unreasonable or unfeasible. This setback would also make the MDRS less enabling, especially considering the significant spatial application of this setback due to the number of train lines running through the Hutt urban environment. As noted in the evidence of Kāinga Ora, it is also noted Kiwirail has not provided the justification required by Section 77J to explain how a 5m setback is the least restriction necessary to accommodate the qualifying matter that KiwiRail rely upon to implement such a setback. Considering the above points, I therefore recommend that the 5-metre setback requested by KiwiRail be rejected.

172. For the purposes of Section 32AA, I consider this is the most appropriate way to achieve the purpose of the Act for the reasons set out above, particularly regarding the effectiveness and efficiency in achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS by not unnecessarily restricting residential development required to meet projected housing demand.

6.2.2.5 Retirement Villages Association (RVA) and Ryman Healthcare Ltd

173. RVA and Ryman Healthcare sought amendments to better enable retirement village activities in the MDRAA and HDRAA. Specifically, they have proposed a standalone retirement village-specific objective and associated effects-management policy, and refined matters of discretion for retirement villages that better link to the relevant objectives and policies, as set out below.

a. New Objectives *4F 2.X / 4G 2.X Provision of housing for an ageing population*

Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in the MDRAA / HDRAA, such as retirement villages

b. New Policies *4F 3.X / 4G 3.X Retirement villages*

1. *Enable retirement villages in the Residential Zones to:*

a. Provide for a greater density than other forms of residential developments and enable shared spaces, services, amenities and facilities, and affordability and the efficient provision of assisted living and care services; and

b. Provide good quality onsite amenity, recognising the day to day needs of residents as they age.

2. *Encourage the scale and design of the retirement village to:*

c. Be of a high quality and align with planned urban character; and

d. Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.

c. Enable retirement village activities as a Permitted activity to indicate the appropriateness of retirement village activities occurring in residential zones, while making construction of retirement villages a Restricted Discretionary activity to control effects generated by the increased density, bulk, location, and design of buildings

d. Replace the rule for retirement villages in Chapters 4F and 4G with the following (noting this would only apply to the construction of retirement villages as set out above):

Rule 4F 4.1.X / 4G 4.1.X Retirement Villages

Construction or alteration, of, or addition to any building or other structure for a retirement village involving 4 or more retirement units per site is a restricted discretionary activity.

Discretion is restricted to:

1. *The matters of discretion of any infringed standards*
2. *The effects of the retirement village on the safety of adjacent streets or public open spaces*
3. *The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces*
4. *The extent to which articulation, modulation, and materials address adverse visual dominance effects associated with building length*
5. *The matters in policies [4F 3.2, 3.2A, 3.2B, 3.3, 3.8, 3.10, and 3.X* **or** *4G 3.1, 3.2, 3.3, 3.4, 3.5, 3.8, 3.12, 3.14, and 3.X]*
6. *The positive effects of the construction, development, and use of the retirement village.*

For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village, but plan provisions that address other effects of retirement villages still apply.

Notification: An application for resource consent for a restricted discretionary activity under this rule is precluded from being publicly notified.

An application for resource consent for a restricted discretionary activity under this rule that complies with Rules 4F.4.2.1, 4F 4.2.2, 4F 4.2.3, and 4F 4.2.4 / 4G 4.2.2, 4G 4.2.3, 4G 4.2.4, 4G 4.2.5 is precluded from being limited notified.

174. In addition to the above suite of changes to better enable retirement village activities in residential zones, RVA and Ryman Healthcare have requested a range of other miscellaneous changes and consequential amendments that generally support the implementation of the requested changes above. These were provided in the appendix to Dr Mitchell's statement of evidence for the Hearing. The requests and an assessment of their individual merits are undertaken below:

a. Change the definition of "retirement village" to match the National Planning Standards definition

b. Wording amendments and deletions in Chapter 4 Residential, Chapter 4F 1 Introduction / Zone Statement, and Chapter 4G 1 Introduction / Zone Statement

c. Deletion of Objective 4F 2.3A and Policies 4F 3.10, 4G 3.9, 4G 3.10, 4G 3.11, 4G 3.13

d. Wording amendments and deletions in Objective 4F 2.5, 4G 2.4, 4G 2.5, 4G 2.8, and Policies 4F 3.3, 4G 3.1, 4G 3.3, 4G 3.8

e. Exclusion of retirement villages from Policies 4F 3.2C, 4F 3.2D, 4G 3.6, 4G 3.7, 4G 3.14

f. Insertion of four more policies into Chapter 4F and 4G as below:

    1. 4F and 4G Changing communities: To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities
    2. 4F and 4G Larger sites: Recognise the intensification opportunities provided by larger sites within all residential zones by providing for more efficient use of those sites

3. 4F Provision of housing for an ageing population:
    a. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older person in Medium Density Residential Areas, such as retirement villages
    b. Recognise the functional and operational needs of retirement villages, including that they:
        i. May require greater density than the planned urban built character to enable efficient provision of services
        ii. Have a unique layout and internal amenity needs to cater for the requirements of residents as they age.
4. 4G Retirement villages: Enable retirement villages that:
    a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities, and / facilities, and affordability, and the efficient provision of assisted living and care services
    b. Provide good quality onsite amenity, recognising the unique layout, internal amenity, and other day to day needs of residents as they age

    Encourage the scale and design of the retirement village to:

    a. Be of a high quality and aligned with the planned urban character; and
    b. Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance
5. 4F and 4G Role of density standards: Enable the density standards to be used as a baseline for the assessment of the effects of development

g. Amend rules to exempt retirement villages from the matters of discretion where the permitted standard is breached and applies the matters of discretion under the new proposed rule for retirement villages above. This is proposed to apply for Rules 4F 4.2.1 and 4G 4.2.1 Number of Residential Units per Site, 4F 4.2.1 and 4G 4.2.2 Building Coverage, 4F 4.2.2 and 4G 4.2.3 Building Height, 4F 4.2.3 and 4G 4.2.4 Height in Relation to Boundary, 4F 4.2.4 and 4G 4.2.5 Setbacks, and 4F 4.2.13 and 4G 4.2.15 Landscaped Area

h. Deletion of Rules 4F 4.2.5 and 4G 4.2.7 Permeable Surface, 4F 4.2.8 and 4G 4.2.10 Screening and Storage, 4F 4.2.10 and 4G 4.2.12 Stormwater Retention

i. Modifications to development standards for retirement villages, including:
    1. Rule 4F 4.2.6 and 4G 4.2.8 Outdoor Living Space: Exempt retirement villages from the matters of discretion and apply those under the new proposed rule for retirement villages above, and modify clauses (iii) and (iv) of the permitted standard to allow the outdoor living space to be wholly or partly grouped cumulatively in one or more communally accessible location(s) and/or located directly adjacent to each retirement unit, and a retirement village may provide indoor living spaces in one or more communally accessible locations in lieu of up to 50% of the required outdoor living space
    2. Rule 4F 4.2.11 and 4G 4.2.13 Outlook space (per unit): Exempt retirement villages from the matters of discretion and apply those under the new proposed rule for retirement villages above, and modify clauses (i) – (viii) of the permitted standard to require minimum dimensions for a required outlook space to be 1m deep and 1m wide for a principal living room and all other habitable rooms

3. Rule 4F 4.2.12 and 4G 4.2.14 Windows to Street: Exempt retirement villages from the matters of discretion and apply those under the new proposed rule for retirement villages above and amend the permitted standard for retirement units facing a public street to require a minimum of 20% glazed façade.

175. Aside from the matters of scope that are addressed by Mr Quinn, the merits of the relief sought by RVA and Ryman Healthcare are assessed below.

176. Overall, I agree with Dr Mitchell that the above requested changes would result in a more streamlined pathway for retirement villages and would likely result in better urban design outcomes for retirement villages. However, I retain concerns that by enabling retirement villages to the extent sought, the nature and scale of effects associated with the non-residential activities that would be enabled as part of a retirement village is uncertain and potentially open ended.

177. Due to this and the wide range of other amendments sought to the overall chapter that would exempt retirement villages from otherwise relevant considerations, or remove those considerations entirely, I do not consider that providing specifically for retirement villages in the terms sought by the RVA and Ryman is appropriate.

178. I also consider that retirement villages are not the same as residential activities and retirement villages should not have an arguably more permissive framework than conventional, medium, or high density residential activities. Residential activities and retirement villages are defined differently in the National Planning Standards. Although there is an overlap in the definitions (retirement villages include “land and buildings for peoples’ living accommodation” (which is the definition of residential activity)), the definition of retirement villages states that they “may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities”. Non-residential activities are regularly incorporated into retirement villages and generally include on-site facilities such as pools, gyms, theatres, libraries, cafes and restaurants, hairdressers, communal seating areas, bowling greens, and landscaped grounds. Therefore, enabling retirement villages as a Permitted activity would also enable non-residential activities as part of a retirement village under the regime sought by Ryman and RVA, which are likely to have effects that are not residential in nature that are not anticipated in the zone. Effects could include:

a. Noise effects associated with non-residential activities in a residential zone (for example, effects associated with cafes or restaurants)

b. Nuisance effects associated with the hours of operation of non-residential activities

c. Adverse effects on the viability of commercial activities within centres zones (where that demand for those activities is satisfied through on-site facilities)

d. Reverse sensitivity effects, particularly as it relates to higher density residential development that is otherwise encouraged by the MDRAA and HDRAA provisions.

179. I agree that the establishment of non-residential activities as part of retirement villages plays an important part of a well-functioning of the village and the wellbeing of its residents. I also acknowledge some of the effects associated with non-residential activities within a retirement village can be managed through the layout of the village, including through locating facilities in a central building, and that these facilities would not be available to the public.

180. However, this is not what would be enabled by the requested changes from RVA and Ryman. The changes sought effectively allow retirement village activities to establish with little to no controls. Apart from policies and matters of discretion associated with breaching development standards and effects on interfaces with public adjoining spaces, the regime sought by Ryman and the RVA includes no standards or matters of discretion

that provide for any degree of control over the effects associated with non-residential activities established within a retirement village, limiting the ability of Council to consider these effects through a resource consent process. I consider that there is no planning or other evidence (such as economic evidence) to support a retirement village regime in the MDRAA or HDRAA that provides no control over the effects associated with non-residential activities established as part of a retirement village.

181. Further, I do not consider that there is sufficient evidence to demonstrate what would be appropriate standards or matters of discretion in this regard, such that I do not consider that I can advise the Panel on this. I therefore continue to consider that the regime for retirement villages sought by Ryman and RVA in the MDRAA and HDRAA is not appropriate.

182. Notwithstanding this, I do agree that residential zones are generally the most appropriate zone for retirement village activities to located within, and therefore consider that retirement villages could be better recognised at a policy level within the MDRAA and HDRAA to acknowledge this. I consider it is appropriate to add the policy as requested by the RVA and Ryman with some additional wording (in bold) to manage non-residential activities within villages as below:

4F 3.X / 4G 3.X Retirement villages

1. *Enable retirement villages in the MDRAA / HDRAA to:*
    a. *Provide for a greater density than other forms of residential developments in the Activity Area and enable shared spaces, services, amenities and facilities, and affordability and the efficient provision of assisted living and care services* ***while managing the effects of non-residential activities in retirement villages on the surrounding environment****; and*
    b. *Provide good quality onsite amenity, recognising the day to day needs of residents as they age.*
2. *Encourage the scale and design of the retirement village to:*
    a. *Be of a high quality and align with planned urban character; and*
    b. *Achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.*

183. I consider that this additional policy will generally provide policy direction to enable retirement villages to be established within the HDRAA and MDRAA and while still noting relevant matters that a processing planner should have regard to. This direction is supported by a rule managing retirement village activities both the MDRAA and HDRAA.

184. Regarding the requirements of Section 32AA, I consider that the recommended amendments are a more appropriate way to achieve the objectives of Plan Change 56 and the purpose of the RMA than the notified provisions, because they provide appropriate recognition of the housing needs of older persons in a manner that is consistent with the policies of the NPS-UD and MDRS that promote housing variety and choice, while ensuring that effects associated with non-residential activities associated with retirement villages in the residential zones can continue to be assessed through appropriate resource consent processes.

6.2.2.6 Survey and Spatial New Zealand

185. Survey and Spatial NZ sought changes to refine the matters of discretion for the rules and standards in Chapters 4F and 4G. The specific changes requested were:

a. Remove "*The planned urban built character for the Medium Density Residential Activity Area"* as a matter of discretion for Rules 4F 4.2.1AA, 4F 4.2.1, 4F 4.2.2, 4F 4.2.3, 4F 4.2.4, 4F 4.2.6, 4F 4.2.11, 4F 4.2.12, and 4F 4.2.13. The submitter considers this matter too broad and unspecific, making it inconsistent with the Restricted Discretionary activity status for breach of these standards

b. Rules 4F 4.2.1AA and 4G 4.2.1 Number of Units per Site: Remove *"building height"* and *"recession planes and setbacks"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

c. Rules 4F 4.2.2 and 4G 4.2.3 Building Height: Remove *"recession planes and setbacks", "indoor and outdoor living spaces", "open space and boundary treatments", "entrances, car parking, and garages", "onsite stormwater management", "end / side wall treatment", "building materials", "bike parking, storage, and service areas"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

d. Rules 4F 4.2.3 and 4G 4.2.4 Height in Relation to Boundary: Remove *"building height"* and *"end / side wall treatment"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

e. Rules 4F 4.2.4 and 4G 4.2.5 Setbacks: Remove *"building height"* and *"recession planes"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

f. Rules 4F 4.2.6 and 4G 4.2.8 Outdoor Living Space: Remove *"building height", "recession planes and setbacks", "entrances, car parking, and garages", "onsite stormwater management", "end / side wall treatment",* and *"building materials"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

g. Rules 4F 4.2.10 and 4G 4.2.12 Stormwater Retention: Remove the Permitted activity standard requiring rainwater tanks for stormwater collection, and replace with the following:

    1. *A Wellington Water Limited approved solution for managing volume and rate of stormwater runoff is installed as part of the development; or*

    2. *Stormwater management measures are incorporated which achieve post-development peak stormwater flow and volumes that are the same or less than the modelled peak flows and volumes for the site in its current state.*

    The submitter considers there are other methods of achieving hydraulic neutrality aside from using rainwater detention tanks, which are set out as pre-approved solutions in Wellington Water's document "Managing Stormwater Runoff" and that these should also be Permitted activities.

h. Rules 4F 4.2.12 and 4G 4.2.14 Windows to Street: Remove *"open space and boundary treatments", "entrances, car parking, and garages",* and *"end / side wall treatments"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard

i. Rules 4F 4.2.13 and 4G 4.2.15 Landscaping: Remove *"building height", "recession planes and setbacks", "entrances, car parking, and garages", "onsite stormwater management", end / side wall treatment", "building materials",* and *"bike parking, storage, and service areas"* as matters of discretion as the submitter considers these design elements are not relevant to assessing the effects of breaching this standard.

186. Regarding point (a) listed above, I consider "the planned urban built character for the MDRAA" to be relevant to assessing the effects of breaching the density, building

coverage and height, height-in-relation-to-boundary, setbacks, outdoor living space, outlook space, and windows to street rules. These development standards are those modified by the MDRS, from which it can be inferred that these matters are critical components for distinguishing between different densities of development. The planned urban built character for the MDRAA is defined by the objectives and policies of Chapter 4F MDRAA, and to an extent, is also defined by this chapter as a whole given it also sets out the activities and built form anticipated in the MDRAA through its introductory text, rules, and standards. I agree that this matter is somewhat broad, but I consider that it is specific enough as it only applies to the development standards modified by the MDRS, and the parameters of the planned urban built character for the MDRAA are defined by Chapter 4F itself.

187. Regarding points (b) to (f), (h), and (i) listed above, I acknowledge the submitter's point that some of the design elements listed under the matters of discretion do not strictly relate to the potential effects generated by breaching the permitted development standard. Resolving this issue, Kainga Ora has proposed more refined matters of discretion to encourage improved design outcomes and have subsequent deletion of these design elements, which has been accepted for the reasons provided by Kainga Ora in its supplementary evidence, and for the reasons set out earlier in this report.

188. As a related issue to the above discussion, the Panel asked whether a 4+ unit development could be refused consent on the basis of height even if it meets the permitted height standard, as "building height" is listed as a matter of discretion. This directly relates to the example used above, a breach of the "number of residential units per site" standard. Reading the zone chapter to determine which rules and standards are breached by a proposal, a planner could see that an appropriate building height for the zone is set out in the Permitted height standard and would logically use that Permitted height standard as a starting point for assessing the effects of the proposal. However, listing these design elements gives the developer and processing planner ideas of where some changes might be made on a development to mitigate the effects of breaching a standard. In this case, having a complying or lesser building height may reduce the perceived effects of increased density resulting from a breach of the "number of residential units per site" standard. It is also noted that directions like this are often listed in the objectives and policies of a chapter, but as consideration of these are not necessarily required for a Restricted Discretionary activity, it is useful to list these under the matters of discretion.

189. Regarding point (g) listed above on Rules 4F 4.2.10 and 4G 4.2.12 Stormwater Retention, I agree that it is effective and efficient that the District Plan specify outcomes to be achieved, along with a range of acceptable methods where applicable. However, the exact requirements could not be confirmed in consultation with Hutt City Council's Development Engineer in time for this report, and it is therefore recommended that this be considered further in conjunction with other potential stormwater management provisions mentioned earlier in this report as part of the full District Plan review.

190. For the purposes of Section 32AA, I consider this to be the most appropriate way to achieve the purpose of the Act and achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS for the reasons set out above.

6.2.2.7 Residential Design Guides

191. Design Guides are a useful tool for accomplishing desirable urban design outcomes. As the Design Guides currently sit outside the District Plan, it is important that the policies give sufficient weight and effect to the matters covered in the Design Guides to ensure efficient resource consent processes and good urban design outcomes.

192. In addition to the position of Kāinga Ora set out previously, Fiona Christeller sought to apply consideration of design guides (such as Ministry for the Environment National Medium Density Design Guide, or Kāinga Ora design guides) for residential activities in the MDRAA and HDRAA. Living Streets Aotearoa sought that more directive language be used in the MDRAA and HDRAA, using wording such as "require" instead of "encourage" in policies that direct liveability and urban design outcomes.

193. The Council acknowledges that the Design Guides need updating to better support good medium density and high density design outcomes, but due to the quantum of work required, the Design Guides being outside the Plan, and the short timeframe of this IPI process, it is proposed that this work be deferred to the full District Plan review.

194. However, the Panel's question on the final day of the Hearing which was "will the Plan Change improve the quality of built outcomes?" has been front of mind in considering all requests relating to the MDRAA and HDRAA. Urban form and character of Lower Hutt will change as a result of the NPS-UD and MDRS, which has already begun as a result of Plan Change 43. As noted by Kāinga Ora, this will require a mindset shift (reflected in Objective 1 under 1.10.2 Amenity Values). Given this substantial change, there is a challenge to ensure quality residential outcomes. As such, the recommended amendments suggested by Kāinga Ora have been accepted or rejected as set out previously to encourage quality urban design outcomes while the Medium Density Residential Design Guide is reviewed and updated as part of the full District Plan review. It is also noted that Council can influence high quality outcomes in the residential environment via other mechanisms outside the District Plan, such as through streetscape and open space design.

195. Regarding the requirements of Section 32AA, I consider that this is the most appropriate way to achieve the purpose of the Act, particularly with regard to effectiveness and efficiency of achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS. The proposed changes to residential development standards set out earlier balance the minimum standards imposed by the MDRS with achieving quality urban design outcomes, while deferring review of the Medium Density Design Guide to the full District Plan where it can be more fully and effectively reviewed.

6.2.2.8 Individual Requests from Submitters

196. Wayne Donnelly requested that the location of the height-in-relation-to-boundary plane in relation to right-of-ways be amended to apply to the near side of the right-of way. It is envisaged that applying this standard on that boundary would improve pedestrian safety and amenity from the extra space around buildings and would incentivise site amalgamation. This request helps to address concerns raised earlier in this report regarding the higher height-in-relation-to-boundary planes requested by Kāinga Ora resulting in tall, narrow "wasted" spaces between buildings, which generates CPTED concerns and does not incentivise site amalgamation. As such, this request is recommended to be accepted.

197. Laura Skilton requested several new development standards, including a maximum permitted house size standard for affordability, requiring developments to manage <1-in-100-year stormwater events so that runoff from the subject site is no more than prior to development, removal of building side yard setbacks to allow for row housing, require bigger rear yards for sun, and introduce outdoor living space location and orientation requirements. However, it is noted that the original submission only related to heritage precincts and coastal hazards and these points are therefore out of scope. However, the merits of the proposed standards are considered here for completeness.

198. As set out previously in this report, it is considered that additional stormwater management provisions may have merit, but the evidence to quantify the potential scale of the issue and assess solutions is currently lacking and is therefore better addressed as

part of the full District Plan review. It is considered that limiting house sizes for affordability purposes may impose an unnecessary restriction and additional costs associated with requiring resource consent on residents wishing to build private properties, which could be an unintentional consequence from this standard. Regarding side yard setbacks, this is a minimum standard to provide protections and ensure minimum setback outcomes for neighbouring sites. This can be reduced or waived via a resource consent process, which allows proposals to be assessed on a case-by-case basis and only granted in instances where this is appropriate. Regarding outdoor living space location and orientation requirements, this proposal may have merit, especially considering the recent approach taken by Porirua District Council in its IPI process. However, it is noted that Porirua introduced this standard in part due to the extent of hills in the district. The effects of sunlight obstruction in the Lower Hutt context may be more limited compared to the Porirua context, as much of the Hutt's residential areas are on the relatively flat valley floor. Sites on hills that may be more affected by sunlight obstruction similar to Porirua are generally part of the Hill Residential zone, which is not a relevant residential zone for the purposes of this Plan Change. As such, the benefits of requiring outdoor living space and orientation requirements to maximise sunlight may be somewhat limited. However, this matter may be considered further as part of the full District Plan review, which will review all residential zones including the Hill Residential zone where this provision may be more relevant.

199. Tom McLeod requested that Rule 4G 5.2.3.1(b)(ii) be amended for clarity. Upon reviewing this provision, this provision appears sufficiently clear. No amendments are recommended to this rule.

200. Cuttriss Consultants Ltd have requested non-notification clauses be added for Rule 4F 4.2.10 and 4G 4.2.12: Stormwater Retention, Rule 4F 4.2.12 and 4G 4.2.14: Windows to Street, Rule 4F 4.2.13 and 4G 4.2.15: Landscaped Area, and Rule 4F 4.2.5 and 4G 4.2.7: Permeable Surface. For completeness, it is noted that the original submission requested that non-notification provisions be added for plan-enabled developments, but preclusions for specific rules were not listed in the original submission. However, notification preclusions are recommended to be added in response to Kainga Ora's submission for windows to street, landscaped areas, and permeable surfaces for the HDRAA. For the same reasons as evaluated for the Kainga Ora submission points earlier in this chapter, a notification preclusion for breaching the stormwater detention rule in the HDRAA is also considered appropriate, as management of effects is generally about finding alternative acceptable solutions to manage stormwater runoff effects to manage effects on the wider environment. Limited notification preclusions are considered less appropriate in the MDRAA where breaches of these rules are likely to have more effect on the anticipated less-intense character and amenity of the MDRAA.

201. Margaret Luping enquired about a system for notifying affected residents. The primary mechanism to notify affected parties is via Section 95 of the RMA, which sets out notification requirements and preclusions for activities requiring resource consent and sets out the circumstances whereby a party is determined to be potentially "affected". It is outside the scope of a District Plan to diverge from the requirements of Section 95, such as requiring notification for permitted activities.

202. Many submitters were concerned about the removal of mature trees and vegetation. This matter is more fully discussed in section 8.7 of this report. To summarise however, there are existing rules in the Operative District Plan that restrict the removal of indigenous vegetation (trees and shrubs) that are proposed to be carried over to the residential zones in Plan Change 56. These rules were incorporated as a result of a change to the RMA that limited the types of rules District Plans can contain to protect vegetation in urban areas, which means the Council has limited discretion to modify these rules within the existing framework. These rules permit the removal of trees and shrubs within an 'Urban Environment Allotment', which means the removal of indigenous vegetation is

permitted on a high number of properties in the MDRAA and HDRAA unless a tree or group is specifically listed as a Notable Tree in the District Plan. However, it is also noted that the development standards “outdoor living space” and “landscaped areas” in the MDRAA and HDRAA consider retention of mature trees and vegetation where a development does not meet the minimum standards.

203. Regarding the requirements of Section 32AA, I consider that the above approach is the most appropriate way to achieve the purpose of the Act (particularly the effectiveness and efficiency of achieving the objectives of Plan Change 56, the NPS-UD, and the MDRS) for the reasons described for each requested change as set out above.

6.2.3 Rezoning Requests

204. Several rezoning requests were made in submissions and evidence presented at the hearing. As requested by the Panel, we have assessed these rezoning requests on their individual merits as opposed to considering whether they are within scope. Questions of scope have been addressed in the legal advice of Mr Quinn attached as Appendix 2.

205. Douglas Shepherd questioned whether Natusch Road should be zoned MDRAA given the narrowness of the road access.

206. It is acknowledged the access into, out of, and along Natusch Road is constrained by its narrowness. On the merits it appears that medium density zoning may not be the most appropriate density for this area. However, this area is proposed to become part of the MDRAA as this Plan Change rezones all Operative General Residential areas to MDRAA and removes the General Residential zone from the District Plan. This city-wide approach raises the question of what zone within the District Plan is the most appropriate to apply to this specific area. The only Residential zone less intense than MDRAA remaining in the District Plan is the Hill Residential zone. However, as the purpose of this Plan Change is to enable intensification and as the Hill Residential zone is not considered a “relevant Residential zone” for the purposes of Plan Change, it is considered that the Plan Change does not provide Council with the requisite tools to “down-zone” the sites on Natusch Road. As such, no change in the proposed zoning of this area is recommended at this time and the area should be considered for rezoning to another type of residential zone as part of the full District Plan review.

207. Rebecca Leask and Mike Stewart questioned whether Rakeiora Grove should be zoned HDRAA given the development and walkability constraints relating to slope instability and steepness.

208. This area has been rezoned from the Operative Hill Residential zone to HDRAA under Policy 3(c) of the NPS-UD as the properties with vehicle access fronting London Road are within a walkable catchment from the Petone train station. The spatial extent of the HDRAA was broadened to include the entirety of the residential block (including Rakeiora Grove) to enable the block of land to be developed comprehensively. Having heard the evidence and given this matter further consideration, we the properties fronting London Road are still within the walkable catchment of Petone train station. While somewhat steep, London Road is considered walkable within the Lower Hutt context and has a footpath available for pedestrians. It is also noted that additional walkability and/or vehicle access improvements may be undertaken by Council in the future to support or facilitate development. Regarding the steepness of private properties, this matter was generally discussed with Kāinga Ora who does not consider steep slopes on private properties should preclude property from being “up-zoned”, as an engineering solution is usually possible (acknowledging that such engineering solutions may be cost-prohibitive). Overall, we still consider it appropriate that the entire block be zoned HDRAA to enable comprehensive development of the sites. As such, no changes to the proposed zoning of this area are recommended.

209. Alison Thwaite requested that Manor Park be rezoned from HDRAA to MDRAA given the position of the fault hazard overlay across much of the suburb. To reflect the approach and perspective taken in the Section 7.2 of this report on natural hazards, it is considered that the Natural Hazards chapter as proposed effectively manages the risks from seismic hazards (i.e., limiting habitable buildings within the fault overlay, requiring a report stating that necessary engineering precautions have been taken). It is not considered that there is any other significant reason to "down-zone" the area, but it is acknowledged that having a HDRAA within a hazard area potentially sends a conflicting message to residents and developers. While no change is recommended to the proposed zoning recommended in the officer report, consideration on ways to reconcile the zoning with the hazard overlay will be considered as part of the full District Plan review.

210. Stride Investment Management Ltd, Investore Property Ltd, Oyster Management Ltd, Argosy Property No 1 Ltd requested that the area between Barber Grove and Randwick Road in Moera be rezoned from MDRAA to HDRAA.

211. The areas north of Barber Grove were incorporated into the HDRAA under Policy 3(d), being "adjacent" to a centre. The boundary between the HDRAA and MDRAA was drawn in its current position to avoid splitting zoning over blocks, which has been the approach taken across the rest of the city. However, given the positioning of the school south of Barber Grove, it is considered that the location of the school could also provide a clear delineation of the zoning boundary between HDRAA and MDRAA. In addition, access to properties on the south side of Barber Grove do not have a longer walking distance to the Moera centre than the properties on the north side. As such, it is appropriate that the properties on the south side of Barber Grove be included in the HDRAA, as they are arguably within the walkable catchment of the Moera. However, sites beyond this are outside the walkable catchment and are not appropriate to be zoned HDRAA. Given the recommended position of this zone boundary, it is not recommended that the commercial area at 39-49 Randwick Road be rezoned as requested by the submitter.

212. The York Bay Residents Association pointed out that an unusual zoning pattern has been applied to the York Bay residential sites, which appears to be a result of carrying the zoning pattern over from the Operative District Plan. The Association requests that there be no MDRAA zoning in York Bay due to the steepness of the residential sites and the vulnerability of the access road. Regarding the single access road into the Eastern Bays, this will be discussed further in the Natural Hazards section of the right of reply. Regarding the unusual zoning pattern being carried over from the Operative District Plan, we acknowledge this unusual pattern for these sites. However, as this is an intensification plan change and there is no qualifying matter within the Plan Change to apply to these sites to "down-zone" them, no change to the proposed zoning is recommended at this stage. The potential rezoning of these sites can be better considered as part of the full District Plan review.

213. Several submitters also requested rezoning Hill Residential sites to MDRAA. I note that there is a question of scope for these requests, namely whether there is any legal impediment to rezoning properties in the Hill Residential zone (as it is not considered a "relevant residential zone" under this Plan Change) and whether they meet the criteria in Sections 77G and 80E of the RMA. These matters have been addressed in the evidence of Mr Quinn in Appendix 2.

214. There are additional implications to consider if the Hill Residential zone is considered a "relevant residential zone" for the purposes of this Plan Change. This stance would mean that all Hill Residential zone properties are within scope of this Plan Change, which would require Council to consider all Hill Residential zone in the district for rezoning to HDRAA or MDRAA, along with an assessment of any applicable qualifying matters to these areas. The additional work required would present Council with time, cost, and staff capacity challenges.

215. Aside from the issue of scope as set out above, the merits of the individual sites have been assessed below.

216. Cuttriss Consultants requested that the Silverstream Retreat site and the areas around Antrim and Pencarrow Crescents in Wainuiomata be rezoned from Hill Residential to MDRAA.

217. Regarding the Antrim and Pencarrow Crescent areas, the nearby sites have been rezoned to MDRAA as part of the conversion from the now-deleted General Residential zone. Regarding the individual merits of rezoning these areas, it is noted that the steepness of private properties has not been considered for the reasons discussed with Kāinga Ora noted for Rakeiora Grove. However, there are no distinguishing features of the Hill Residential sites on Antrim and Pencarrow Crescents that recommends an exception be made to the proposed zoning pattern. The sites are not particularly proximate to local infrastructure or services (commercial, community, public transport, alternative modes), and there is no need to rezone additional sites to meet anticipated housing demand beyond areas already rezoned under Plan Change 56. In addition, very limited information is available about the suitability of this land for urban development that needs to be assessed (e.g., capacity of three waters infrastructure, land contamination, geotechnical). Rezoning these sites would also likely contribute to suburban sprawl, which goes against the intent of the MDRS and NPS-UD. In addition, the sites are subject to an overlay denoting Significant Natural Resource 34: Mowlem Bush, which suggests that further assessment of the effects on natural values from rezoning these sites should be undertaken before any zoning changes are made. No changes from the proposed zoning set out in the Section 42A report are recommended for these sites.

218. Regarding the Silverstream Retreat site at 3 Reynolds Bach Drive, Stokes Valley, there are also no notable reasons to make an exception to the proposed zoning pattern for this site. The site is relatively isolated from any residential amenity, infrastructure, or services, and pedestrian access to the site is challenging with little realistic prospect for improvement given the existing transport network layout. Further constraints also exist on the site as it is bisected by the National Grid Yard and Corridor and is located close to the Silverstream Landfill and its access road which may raise reverse sensitivity effects for the landfill. In addition, very limited information is available about the suitability of this land for urban development that needs to be assessed (e.g., land contamination, geotechnical). No change from the proposed zoning set out in the Section 42A report is recommended for this site.

219. Sam Lister requested that 23A McGowan Road, Wainuiomata, be rezoned from Hill Residential to Medium Density. As noted for Antrim and Pencarrow Crescent areas above, the neighbouring sites have been rezoned MDRAA from the operative General Residential Zone, and there are no distinguishing features to recommend an exception be made to the proposed zoning pattern. In addition, very limited information is available about the suitability of this land for urban development that needs to be assessed (e.g., capacity of the three waters infrastructure, land contamination, geotechnical). This site is also overlaid by Significant Natural Resource 36: Mt Hawtrey Bush, which contains natural and ecological values. No change from the proposed zoning set out in the Section 42A report is recommended for this site.

220. Kāinga Ora also requested several zoning changes across the district:

a. Change Rakeiora Grove from HDRAA back to the Operative Hill Residential zoning. This area has been considered and addressed earlier in this section of the report. No change from the proposed zoning set out in the Section 42A report is recommended for this site.

b. Apply a height variation control of 36m to residential areas around central Petone and around the Lower Hutt city centre. Kāinga Ora considers this approach responds to the opportunity to provide taller buildings of “at least 6 storeys” around the main

commercial centres as directed by Policy 3(c). This approach also provides direction for greater intensification at the right (i.e., more central) locations.

For residential areas around the city centre in particular, the areas covered by the overlay are focused on the eastern side of the river where there are good connections between the residential areas and the commercial centre. The edges of the height variation control overlay are defined along cadastral boundaries using changes in land use to delineate between zone (such as schools or streets), or by providing enough sites at the end of a block (e.g., fronting King Crescent) where the same built form opportunity could exist on both sides. I agree with the reasoning put forward by Kāinga Ora as set out above and recommend the height variation control overlay be applied as shown on the maps provided by Kāinga Ora in its supplementary evidence.

For residential areas around central Petone, the Low Coastal Hazard Area (Inundation) and Low and Medium Coastal Hazard Areas (Tsunami) extend across Petone. This raises concern about the potential perceived conflict of allowing for additional height in hazard overlay areas. To again reflect the approach and perspective taken in the Section 7.2 of this report on natural hazards, it is considered that the Natural Hazards chapter as proposed manages the risks of natural hazards (i.e., requiring buildings meet minimum finished floor level requirements, limiting the number of habitable buildings on a site, limiting the number of employees for commercial and retail activities). While in the case of Manor Park this is therefore not considered a reason to "down-zone" the area due to the confined spatial extent of the seismic hazard, it is considered a reason not to go beyond the minimum required by the MDRS and the NPS-UD in the Petone area, particularly given the anticipated sea level rise scenarios affecting large swathes of Petone by 2130. Again, it is acknowledged that having a HDRAA within hazard areas potentially sends a conflicting message to residents and developers. As such, it is recommended that the building height variation control sought by Kāinga Ora in residential areas around central Petone be rejected, while consideration on the ways to reconcile the zoning with the hazard overlay will be considered as part of the full District Plan review.

c. Change the HDRAA areas northwest of State Highway 2 to MDRAA (where the Operative zoning is General Residential) or back to Hill Residential zone where applicable. To summarise, these areas have been zoned HDRAA as they are generally within a walkable catchment of train stations. However, Kāinga Ora considers the walkable catchment criteria does not support intensification of these areas due to poor or unsafe pedestrian connections, and the Hutt River is a barrier to a connected urban environment. It considers intensification is better suited in the city centre and the surrounding residential areas to the east. It is noted that since these areas are within the walkable catchments of train stations, Council may improve pedestrian connections in the future to support or facilitate development. However, I accept Kāinga Ora's point that this change in conjunction with enabling more height in areas around centres as discussed in the previous point will result in better urban design outcomes. Promoting good urban design outcomes is a consideration at the forefront of Council's, submitters', and the Panel's minds given the current Medium Density Design Guide is non-statutory and requires updating and the MDRS allows Councils' limited discretion to manage urban design outcomes via on-site measures such as bulk and location standards. On the basis of encouraging better urban design outcomes, I accept Kāinga Ora's recommended rezoning for these areas as shown on the maps provided by Kāinga Ora in its supplementary evidence.

d. Change the residential zoning around central Wainuiomata, Stokes Valley, and Eastbourne from HDRAA with a height reduction (14m) to MDRAA with a height uplift (18m). This approach is consistent with Kāinga Ora's approach across the country for other local centres where a more suburban character (rather than urban character) is envisioned. This approach enables some greater intensification around the centres,

while not enabling it in an urban form as is expected in high density zones. I accept Kāinga Ora's point that calling these areas MDRAA rather than HDRAA creates different expectations from the community and developers about what types of development are appropriate for the area. It is also noted that the only difference between these two zones when the officers report was written was the taller building height limit in the HDRAA. The proposed height reduction overlay in these areas limited buildings to 4 storeys, effectively making any change in zoning arbitrary. However, as some changes to development standards in the HDRAA have been recommended in accordance with Kāinga Ora's requests as set out earlier in this report, there are now more substantive differences between the MDRAA and HDRAA that make the HDRAA more urban in character. As such, it is considered appropriate to apply the more suburban character MDRAA with a height uplift to these areas, which achieves a more appropriate character for the nearby small commercial centres and surrounding residential context of these areas.

e. Extend the HDRAA around the Naenae centre. Kāinga Ora has requested an expansion of the HDRAA at Naenae to include the area south of Pilcher Crescent, along both sides of Waddington Drive between Cole Street and Naenae Road. This area is further than the 800m walkable catchment principle from the train station. However, it is flat with reasonable connections, is supported by the schools, and the natural landscape forms a suitable boundary (including the Waiwhetu Stream and the steep land beyond). It follows an urban fabric response where the stream and open space corridor generally defines the area around the centre from those further suburban areas. This is also supported also by centre and open space east of the railway.

   For the areas south of Pilcher Crescent, along both sides of Waddington Drive between Cole Street and Naenae Road, it is noted Kāinga Ora considers Naenae has the potential to become a focal point for future commercial and residential development. However, pushing the boundary of the HDRAA to the extent suggested in the south of Naenae stretches the walkable catchment out to approximately 1.2km due to the configuration of walking connections in the area. This raises the question of whether rounding the HDRAA out to the natural hill boundary conflicts with a sense of procedural fairness (particularly in regard to other areas where the blanket 800m walkable catchment has been applied), and whether rounding the boundary of the zone out to this extent begins to undermine the policy regarding walkable catchments. Considering the questions above, it is considered that these areas are beyond the bounds of the walkable catchment and are therefore not appropriate to be included in the HDRAA. As such no changes are recommended to the boundary of the HDRAA to include these areas.

   Kāinga Ora has also requested expansion of the HDRAA to the northeast of the town centre along Hewer Crescent and on both sides of Naenae Road. Kāinga Ora's reasoning is to implement the urban fabric argument set out above. Zone boundary interface recommendations have been made consistent with Kāinga Ora's response to open space, the location of Rata School at the zone interface, and considers the similar built form on both sides of a street (such as Naenae Road). This is also in consideration of the proximity to the General Business zone and Suburban Mixed Use zone, which Kāinga Ora considers a centre within a walkable catchment, even if the centre is not currently classified at a scale that requires greater expansion of HDRAA areas. The sites on the east side of Naenae Road effectively have the same walking distance as sites on the west that are currently within the proposed HDRAA. However, the sites along Hewer Crescent and the section of Naenae Road north of Westbury Street are also nearly 1.2km from the Naenae station. As such, I agree that the sites on Naenae Road opposite sites currently within the HDRAA be rezoned to HDRAA,

but the sites north of Westbury Crescent on Naenae Road, Chapman Crescent, and Hewer Crescent remain within the MDRAA.

f. Change the small strip between McDougall Grove and State Highway 2 beside the Manor Park train station from HDRAA to MDRAA. The HDRAA zoning of this area is required by Policy 3(c) of the NPS-UD, as it is within a walkable catchment. However, Kāinga Ora notes it has identified some areas that it considers do not meet the "walkable catchment" criteria, which includes McDougall Grove. Kāinga Ora considers this area relies on poor pedestrian access. While it is relatively flat and it may be possible to add pedestrian paths along this street that could support higher density, Kāinga Ora notes that this area is not well connected except for the underpass, which should not be relied upon, especially at night. I accept Kāinga Ora's reasoning for this area as set out above and consider that the zoning as proposed in the officer report would not result in good urban design outcomes. I therefore accept Kāinga Ora's recommended rezoning for this area as shown on the maps provided by Kāinga Ora in its supplementary evidence.

221. Regarding the requirements of Section 32AA, I consider that the above recommended approach is the most appropriate way to achieve the purpose of the Act and achieves the objectives of Plan Change 56, the NPS-UD, and the MDRS for the reasons described for each requested change as set out above.

6.3 Commercial and Other Non-Residential Activity Areas

6.3.1 Community corrections activities

222. The Department of Corrections (submission 111) sought that community corrections activities be enabled as a permitted activity.

223. As set out in paragraph 659 of the officers' report, I believe that this relief is out of scope of the plan change, and the legal evidence presented at the hearing has not changed my view. See also the evidence of Stephen Quinn attached to this report as Appendix 2.

224. Even if the relief were in scope, the panel has the discretion not to provide it if it thinks this is not a good venue for the issue. In my view, the issue is not urgent and is best left for the full plan review.

225. However, the panel has requested that we discuss the merits as well. I did discuss the merits in paragraphs 659 to 666 of the officers' report, although my view has since evolved.

226. Having heard the evidence presented at the hearing, I believe the submitter has well argued their case for community corrections activities in the Suburban Mixed Use activity area. I continue to be concerned about the role of community corrections activities in the centres hierarchy, and how accessible they are to the public transport network. However, I do not think this risk is greater for community corrections activities than for other commercial and community activities in general.

227. Accordingly, I think that ignoring issues of scope, community corrections activities under the national planning standards definition should remain a permitted activity in the Central Commercial Activity Area, and should be a permitted activity in other commercial areas up to the same maximum floor area or occupancy standards as other comparable

commercial and community activities. The operative standards are shown in the table below:

Activity Area	Operative general maximum floor area or occupancy standard
Central Commercial	No limit
Petone Commercial 1	1,000m² (commercial), not permitted at any size (community activities)
Petone Commercial 2	3,000m² (retail), 300 persons on site (other commercial activity), not permitted at any size (community activities), no limits (a variety of other activities, e.g. service industry activities)
Suburban Mixed Use	500m²

228. These operative limits are themselves complex and inconsistent within Petone Commercial Area, and I note that community activities in general are not permitted in Petone Commercial for seemingly no good reason. However, this is an issue best resolved through the full plan review.

229. The relief sought in the hearing is complex and potentially confusing for plan users. I think it would be simpler to rely on the same gross floor area or occupancy thresholds used for other commercial and community activities, rather than proximity to the High Density Residential Activity Area.

230. With regards to the General Business Activity Area, the submitter has pointed out that community corrections activities are already a permitted activity in that zone. In my opinion, resource consent should be required in what is primarily an industrial area, but no person has submitted requesting that such a rule be introduced and, in any case, this is an issue best left for the full district plan review.

6.3.2 Commercial design guides

231. Many submitters had concerns around the design guides for commercial areas, including whether the Central Commercial, Petone Commercial 1, Petone Commercial 2, and Medium Density design guides were still appropriate for the scale of development anticipated.

232. I agree that they are not, however, no submitter proposed any specific changes that would make a significant improvement. Given the forthcoming full plan intends to fully rewrite the guide, and the relative infrequency of commercial developments I think a review and revision at this time would be of limited value.

233. Kāinga Ora wishes to see the design guides removed from the plan and exist as only external guidance. This change would require a major restructuring of the plan and would be inefficient to undertake this task now given the imminent full plan.

234. RLW Holdings wishes to see more clarity in the Petone Commercial 1 design guide about the anticipated scale of development outside the Jackson Street Heritage Precinct.

235. I have reviewed the evidence and further evidence of David Batchelor on this topic. I agree with him that more clarity is needed that 22 metre buildings are anticipated in this area and height (up to 22 metres) in and of itself is not a reason to decline a resource consent application. I disagree that the approach needs to be modified over 22 metres, where the plan provides a non-complying activity status and I think this appropriately signals the high risks of impacts on historic heritage values above this scale.

236. I disagree with Mr Batchelor's proposed changes to the rule structure of the Petone Commercial chapter provisions themselves. These changes are unnecessary, and some would have wider impact than intended, for example changing the activity status within the heritage precinct or removing discretion over height in circumstances where it should still be considered.

237. My recommendation in Appendix 1 is to modify the wording in the design guide only. It combines the approach of Mr Batchelor for buildings up to 22 metres but does not adopt his suggested wording for buildings over this height.

6.3.3 Height limits in Petone Commercial 2

238. Submitters including the Petone Historical Society questioned the approach to height limits in Petone Commercial 2 and whether the approach of unlimited height is appropriate. The Council chose a higher height limit to encourage growth in this area, as opposed to others, reflecting that it is particularly well-suited for growth given the location. This is discussed further on page 29 of the Section 32 report.

6.3.4 Petone Commercial – Viewshafts

239. The Petone Historic Society sought reinstatement of the building height in relation to road boundary provisions in Petone Commercial Activity Area 2 (see Amendment 274). In my opinion these provisions are incompatible with the requirement of Policy 3(b) of the NPS-UD to provide for building heights of at least 6 storeys within a Metropolitan Centre.

240. The Society raised the potential historic heritage values of the viewshaft to the western hills / Pukeariki. However, this viewshaft is not identified in the operative plan as having historic heritage value – the relevant policy 5B 1.2.3(d) makes it clear that the purpose is to achieve a particular streetscape character and protect sunlight access to public spaces on Jackson Street. These are not specifically listed qualifying matters and no-one has provided a suitable assessment that would demonstrate the necessity of this as a qualifying matter.

241. The existing policy may also indirectly protect the view to the hills. However, likewise, there is no evidence to suggest this view has particular historic heritage significance.

6.3.5 Summary of Officer Recommendations and s32AA Analysis

242. The only recommendation I make is to the wording of the Petone Commercial 1 design guide. As this is primarily intended to clarify the approach that I understood the notified plan was taking, I believe the original Section 32 analysis still applies.

6.4 Subdivision

243. For the Subdivision Chapter, detailed and provision wording matters were raised at the hearing, as well as consequential amendments associated with relief sought to strategic direction, historic heritage and natural hazards chapters.

6.4.1 Efficient Water Use and Nature Based Solutions

244. GWRC sought a new policy be added to Chapter 11 Subdivision to support efficient water use and alternative water supplies for non-potable uses. Based on the evidence

and relief sought from GWRC it is unclear which objective(s) in the Operative District Plan or PC56 this policy is seeking to contribute towards achieving. It is assumed that this policy is seeking to achieve part of the new objective sought by GWRC to Chapter 1.10.1A Urban Environment relating to subdivision design integrating features to increase climate resilience of the communities and natural environment of Hutt City.

245. In addition, GWRC sought a new matter of control or discretion for subdivision to include the extent to which the design protects, enhances, restores, or creates nature-based solutions to manage the effects of climate change or similar.

246. The benefits of this policy and matter of control/discretion would be potentially reduced demand for potable water from the reticulated water supply network. The costs of this policy would be higher development costs and compliance costs of requiring alternative non-potable water supplies to be provided at the time of subdivision.

247. Chapter 11 Subdivision in the Operative District Plan contains existing policies and rules for water supply for subdivision. For example, the policies in Section 11.1.2 seek to ensure subdivisions are appropriately serviced to protect the environment and ensure there are no adverse effects on the health and safety of residents and occupiers. In addition, the rules in Section 11.2.2.1(b)(vi) include specific performance standards and Section 11.2.2.3(b)(vi) include specific assessment criteria for water supply to implement the policies. We are unclear how the policy and rule addition sought by GWRC integrate with and do not conflict with these existing provisions which are not part of PC56. Therefore, we do not recommend the inclusion of this additional policy and rule sought by GWRC to the subdivision chapter.

6.4.2 Non-notification clause

248. Kāinga Ora sought the addition of a non-notification to Rule 11.2.2 for controlled activity subdivisions. As noted in the Officers Report, the proposed changes to the Subdivision Chapter in PC56 are either consequential amendments arising from the changes to the residential and commercial zones or minor updates. For example, the majority of the updates are the zone (Activity Area) names, which is the case for Rule 11.2.2 which Kāinga Ora seeks the addition of a non-notification clause.

249. Ms Williams for Kāinga Ora re-stated and agreed with Kāinga Ora's view that adding a non-notification clause to Rule 11.2.2 is appropriate as it is consistent with the outcome of Clause 5(3) of Schedule 3A of the Act. Having further considered this matter, we agree with Ms Williams that it is appropriate to add a non-notification clause to Rule 11.2.2 for subdivisions which comply with the MDRS requirements. Accordingly, we recommend the addition of this clause to this rule.

6.4.3 Petone Historical Society – Subdivision in Heritage Precincts and containing Heritage Items

250. The Petone Historical Society sought a few amendments to the subdivision provisions to correct the references to precincts. We agree with these corrections as they more accurately describe where the subdivision provisions apply.

6.4.4 Sylvia and Bill Allan – Subdivision in Coastal Hazard Overlays

251. Ms Allan contended the subdivision provisions are inconsistent and unworkable with respect to coastal hazards. She stated the relationship between Subdivision Objective 11.1.3(b) and Policy (bd) will not work, in that the only policy relating to the "do not increase risk" objective requires mitigation measures to avoid any increases in risk. Mr Allan contended the only reasonable/sustainable activity status for subdivision in such circumstances is prohibited activity. She also that the matters of discretion for subdivision in the Medium Coastal Hazard Area Overlay have only two matters, which she contended is a logical inconsistency, when a doubling, or quadrupling of housing intensity in hazard areas is being proposed.

252. As evaluated below in the natural hazards section of this document, we recommend the permitted residential density in the High Coastal Hazard Overlay be limited to one residential unit per site, and more than one residential unit per site be a non-complying activity. For the same reasons as discussed in the natural hazards section, we recommend a corresponding rule in the Subdivision Chapter to make subdivision within the High Coastal Hazard Overlay a non-complying activity.

253. Similarly, as evaluated below in the natural hazards section of this document, we recommend the permitted residential density in the Medium Coastal Hazard Overlay be retained as notified to two residential unit per site, and more than two residential units per site be a restricted discretionary activity. While we understand Ms Allan's view, this approach limits development to the permitted level of development under the Operative District Plan, therefore not increasing risk above the current baseline. We suggest this approach is reviewed as part of the full district plan review.

6.4.5 Summary of Officer Recommendations and s32AA Evaluation

254. For the reasons set out above, we recommend that:

a. Non-notification clause is added to Rule 11.2.2.1 for Medium Density and High Density Residential Activity Areas;

b. Policy 11.1.4, Rule 11.2.2.1 and Rule 11.2.4 is amended to correct and clarify the references to Heritage Precincts and Heritage Sites;

c. Add a new policy to 11.1.3 Natural Hazards and add a new rule to 11.2.5 (Non-Complying Activity) on subdivision within high hazard areas within the Natural Hazard Overlays and Coastal Hazard Overlays.

Section 32AA Evaluation

255. We consider that the recommended amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because the non-notification clause is consistent with the requirements of the RMA. The amended heritage reference provide clarity to achieve the objective of protecting historic heritage from inappropriate subdivision, and the new policy and rule for protect people, property and infrastructure from the risks of natural hazards due to inappropriate subdivision.

6.5 Financial Contributions

256. The Retirement Villages Association and Ryman Healthcare were the only submitters at the hearing to specifically address the proposed changes to the financial contribution provisions. They sought greater clarity and certainty in these provisions, as well as seeking specific recognition for retirement villages. These submitters were asked by the Hearing Panel to provide specific requested amendments to the financial contributions.

257. Mr Akehurst gave evidence Retirement Villages Association and Ryman Healthcare contending retirement villages can have lower demand for Council recreation, community facilities and reserves. In addition, he outlined retirement villages can generate significantly lower traffic volumes compared to other forms of residential development. Similarly, he contended retirement villages can have lower consumption of water and generation of wastewater compared to other forms of residential development. On this basis, he considered that the financial contribution provisions should differentiate retirement villages from more general residential development. Mr Akehurst also considered that the financial contribution provisions should contain more robust methodology for determining financial contributions which are able to be readily quantified and interpreted and proportionately links demands and related benefits and does not overlap with development contributions.

258. Dr Mitchell gave planning evidence for Retirement Villages Association and Ryman Healthcare raising similar matters as Dr Akehurst. In supplementary evidence, Dr Mitchel proposed a number of changes to the financial contribution policies and rules to address the matters raised in the primary evidence.

259. In response to this evidence and the proposed changes, we consider the majority of the proposed changes are appropriate and provide greater clarity and certainty. In addition, most of the proposed changes are consistent with the Council's Development and Financial Contributions Policy 2021-2031. We respond to specific proposed changes below:

a. Introduction: The additional text to the Introduction section is supported in principle in terms of differentiating between financial contributions and development contributions. For consistency between the District Plan and the Council's Development and Financial Contributions Policy, it is recommended that the Introduction section of the District Plan use the same text as in the Council Policy (paragraphs 86 – 88).

b. Policies: The amendments to Policies 12.1.1 (b) – (d) are generally appropriate as they reflect the costs and benefits of the contributions should be proportionate. However, for Policy (b), there are two potential scenarios where the upgrade or new services are solely to service the individual subdivision or development, or where the upgrade or new services would service multiple subdivisions or development. It is recommended this policy should reflect these two scenarios. New Policies (e) – (f) are generally appropriate for the reasons stated in the evidence, and is generally consistent with the Council's Development and Financial Contributions Policy. Two minor wording changes are recommended to Policy (f), being referring to 'less' rather than 'substantially less' to not over-state the situation, and adding reference to 'residential' for multi-unit developments. New Policy (g) is considered superfluous as it states what is required by the Local Government Act and Resource Management Act.

c. Rules: The amendments to Rules 12.2.1.1, 12.2.1.4 and 12.2.1.5 on transport, water supply, wastewater and stormwater contributions are generally appropriate for the same reasons as the policies above. However, for Rule (b) in each of these sections, it is recommended this rule reflect the two scenarios described above for the equivalent policy. For Rule 12.2.1.4(c), adding reference to "address existing constraints" in this rule is not supported as existing constraints are covered by Rule 12.2.1.4(b). For Rule 12.2.1.8 on reserve contributions, we agree the additional matter is appropriate to add. However, we consider the word 'substantially' is unnecessary.

6.5.1 Summary of Officer Recommendations and s32AA Evaluation

260. For the reasons set out above, we recommend that:

a. Additional text be added to the introduction to clarify the difference between development contributions and financial contributions, and to avoid double-dipping;

b. Add and amend policies and rules to reflect financial contributions should be proportionate to the demand on services.

Section 32AA Evaluation

261. We consider that the recommended amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because the new and amended provisions ensure developers and Council make fair and reasonable contributions for the provision of utility services and land for reserves. The

6.6 District-Wide Matters – Transport – Noise and Vibration

262. The only submitter at the hearing to specifically request changes to transport noise and vibration provisions was KiwiRail. This request was to modify the approach of the State Highway and Railway Corridor Buffer Overlays to:

a. Modify the size of the buffer from 40 metres to a mixture of 40 metres (for state highways), 60 metres (for vibration from the rail corridor), and 100 metres (for noise from the rail corridor) (188.11 in part)

b. Add additional matters of discretion to the relevant rule (188.12),

c. Expand the activities covered by the definition of "noise-sensitive activity" (188.13),

d. Provide new indoor noise levels for the additional activities (188.11 in part), and

e. Update the vibration standard from Norwegian Standard 8176 E:2005 to the 2017 version (188.11 in part).

263. These requests were addressed in the officers' report as being out of scope of the plan change as notified and I continue to believe that they are out of scope.

264. However, the panel has asked us to comment on the merits as well.

265. Having heard the submitter at the hearing and read their evidence, including the evidence of Dr Stephen Chiles, I think the key factors to consider are:

a. Even if the relief is in scope, whether this is a reasonable venue to pursue the issue,

b. Whether the evidence provided by KiwiRail is complete enough and relevant enough to Lower Hutt,

c. Whether the available evidence supports the relief sought by KiwiRail,

d. Whether the relief sought by KiwiRail can be practically implemented, and

e. The risk of acting or not acting when the available information is incomplete.

Reasonable venue to pursue the issue

266. The operative noise and vibration provisions relating to the rail corridor buffer were introduced in Plan Change 39: Transport, which was publicly notified for submissions on 4 October 2016. KiwiRail on that plan change supported the 40m noise buffer distance (submission point DPC39/5.17) in their original submission.

267. The plan change became operative on 27 March 2018. The provisions are accordingly not required to be reviewed until 2028. However, the provisions are being reviewed as part of the ongoing full plan review.

268. To reconsider the issue in this venue would mean three different reviews within a ten year period that would ordinarily only see it reviewed once.

269. Noise and vibration issues and provisions, including the state highway and railway noise provisions has been part of the current full district plan review. The full review on these matters is reasonably well advanced. Council's (then) District Plan Review Subcommittee approved a draft noise chapter for consultation at its 6 December 2021 meeting. The paper presenting that draft chapter summarises the evidence that informed its development, including the ambient noise survey and expert review[9].

270. Council's current timeline is to consult on the draft plan in September/October of this year and notify the plan mid-next year.

271. Given this matter is considered out of scope, reporting officers did not obtain acoustic advice on this matter to assist the panel (for example, the author of the ambient noise survey and review of KiwiRail's acoustic evidence). In addition, KiwiRail and its advisors may have been unaware of the noise information as part of the full district plan review (I note it is noted referred to in any KiwiRail evidence). This information which contains actual measurements of the noise environment of Lower Hutt including several measurements at different distances from the rail network, both alone and in conjunction with state highway noise.

272. Given this context and status of the full review, I therefore think that this plan change is not an appropriate venue to pursue the issue.

Completeness and relevance of the evidence presented by KiwiRail

273. I accept the evidence of Dr Chiles to the degree it is complete and relevant to the City of Lower Hutt. Both that completeness and relevance however need examination.

274. As Dr Chiles' evidence notes in paragraph 6.3, "[r]ailway sound levels are dependent on train types/condition, traffic volumes, speeds, track geometry/condition, terrain and various other factors". Dr Chiles' evidence is based on measurements in other parts of New Zealand and modelling, which assume that the dominant noise on a rail corridor comes from freight trains hauled by diesel locomotives. The table in Dr Chiles' evidence paragraph 6.3 is based on two freight train movements per hour.

275. As KiwiRail notes in their evidence, the dominant rail traffic on the Melling and Wairarapa lines is electric multiple units carrying passengers, which would have a different noise level and profile. The Gracefield branch is also in much more limited use, serving only the KiwiRail workshop. The Wairarapa Line currently sees only two freight train movements per day, and the Melling and Gracefield branches do not have regularly scheduled freight traffic. KiwiRail's evidence also does not attempt to account for the speeds, track geometry/condition, terrain, or other factors Dr Chiles mentions.

276. In my view the evidence would be of greater relevance if it attempted to account for the specific factors of the rail network in Lower Hutt and ideally if it were based on actual measurements. As noted in the previous section of this report, there are recent actual noise measurements available for Lower Hutt.

277. The evidence provided by KiwiRail also covers plan change decisions and consent orders from selected other councils. This shows that they use a range of distances from 40 metres to 100 metres for noise and 20 to 60 metres for vibration. KiwiRail has also only included a selection of councils and so there are no figures for most councils that

[9] 6 December 2021 meeting of the Hutt City Council District Plan Review Subcommittee. Agenda: http://infocouncil.huttcity.govt.nz/Open/2021/12/DPRS_06122021_AGN_2927_AT.PDF, minutes: http://infocouncil.huttcity.govt.nz/Open/2021/12/DPRS_06122021_MIN_2927_AT.PDF.

include a part of the rail network within their boundaries. Of particular note, none of KiwiRail's examples cover a part of the rail network dominated by electrified passenger rail, rather than freight.

278. Dr Chiles in his written evidence and in his comments at the hearing noted that there are possible mitigation measures for noise from railway activities at source, as well as at the receiving site, but that mitigation measures at source cannot fully internalise effects. However, there was no evidence provided by KiwiRail that suggests those effects cannot be mitigated to some degree that might reduce the required buffer distance, or that compares the relative cost of mitigation at source versus at receiving sites.

279. With regards to vibration, Dr Chiles' evidence notes the significant variability of vibration between locations, and it is therefore even more important that none of the evidence is based on measurements in Lower Hutt.

280. Accordingly, I think that there is insufficient evidence to conclude that either a 60 metre or 100 metre buffer is more appropriate than the operative 40 metre buffer in the context of Lower Hutt's rail lines.

Risk of acting or not acting

281. Section 32 of the Act requires decision-makers to consider the risk of acting or not acting when there is insufficient information.

282. In my view, the risk of acting is significant. The noise insulation requirements and particularly the vibration requirements add significant costs and uncertainty to consenting and constructing developments. The figure given by KiwiRail in the hearing was around 1% of construction costs for noise alone. Vibration is potentially more expensive as it requires specialist assessment and mitigation cannot be achieved through merely meeting a known construction schedule. Expanding the size of the corridor exposes a much larger number of people to these costs. These are unreasonable costs to impose on people in the absence of any known benefits.

283. The risk of not acting is relatively low. There is no record of reverse sensitivity effects having prevented KiwiRail operating rail services in the rail corridor in Lower Hutt and Council does not receive significant complaints about rail corridor noise. People moving near the rail corridor are generally aware of the presence of the railway at the time they move, and so are more likely to accept the noise effects. There is also no legal mechanism for residents to inhibit KiwiRail's operations in the rail corridor as KiwiRail possesses a permissive designation. The full district plan is currently being reviewed including a district-wide ambient noise survey. Therefore, additional information will be available to better assess the benefits and costs of this matter.

284. By discouraging development near the rail corridor to some degree, acting would also detract from the benefits from implementing NPS-UD Policy 3(c).

285. KiwiRail also seeks the vibration standard be updated from the 2005 version to the 2017 version. However, a copy of the 2017 standard was not provided and its content is not before the panel. It would be inappropriate and risky to incorporate a document by reference without knowing its contents.

Whether evidence supports relief

286. With regards to the other three points: the definition of noise-sensitive activity, the additional target indoor noise levels, and the matters of discretion, I believe the panel does have adequate information.

287. KiwiRail's evidence supporting their definition of "noise-sensitive activity" and the corresponding target noise levels is reasonable and aligns better with other councils in the region and the draft noise chapter approved by the District Plan Review Subcommittee.

288. While noting again that I think that the issue is both legally out of scope, and that this process is not the appropriate venue for the issue, I therefore think that aside from these issues KiwiRail's relief sought in terms of indoor design noise level and the definition of noise sensitive activity is appropriate.

289. In terms of the expanded matters of discretion, I think the existing discretion covering "the effects of the standard not met", and Objective 14A 3.3, Policy 14A 4.4 are reasonable enough to address the issue and provide guidance about how to process consents. KiwiRail's additions in my view do not usefully clarify the matters. In the case of proposed matter of discretion (e) this implies a requirement to consult with KiwiRail that is better handled by applying the standard test in the Act for affected parties.

Whether relief can be practically implemented

290. KiwiRail has provided a map of their proposed Railway Corridor Buffer Overlay. This map is based on a buffer distance of 60 metres from the rail corridor boundary. There are numerous issues with this map, some of which can be corrected by Council officers, but the following either cannot be fixed, or would require substantial extra assessment:

a. The map provides only the requested 60 metre vibration boundary and not the requested 100 metre noise boundary.

b. The buffer is based on the rail designation boundary, not the active rail corridor. It therefore includes many locations where trains do not currently operate and, in many cases, due to the complex and bumpy shape of the designation, it is highly unlikely that they ever would operate without expanding or moving the designation further.

c. There appears to several errors, such as a buffer area within the Lower Hutt City Centre nowhere near a rail designation, discrete parts of the KiwiRail workshop that rail vehicles cannot access, and some park-and-ride carparks.

d. It includes buffers of designated industrial sidings in Seaview where the railway infrastructure has been removed and appears unlikely to be reinstated.

291. The information in the map is therefore not reliable enough for Council to create district plan maps that would implement the relief sought.

Summary

292. In summary therefore my recommendation is that all five of KiwiRail's points on the transport chapter are out of scope.

293. As the panel asked for comments on the merits as well, they are as follows: for all five points, this is also an inappropriate venue to advance this issue.

294. For the rail buffer distances (188.11 in part) and the version of the vibration standard (188.11 in part), there is insufficient information and a greater risk of acting than not acting. The relief is also not practical to implement given the information available. For the matters of discretion (188.12) the relief sought would not advance the plan's management of the issue.

295. For the definition of noise-sensitive activities (188.13) and the indoor target noise levels, the relief sought is reasonable, although I would omit the words "lawfully established" as this would be laborious to prove in an enforcement context and provides little value.

296. As my recommendation is that no change be made, no s32AA assessment is required.

6.7 Wind

297. Although some submitters mentioned wind at the hearing, it was only to reiterate their requested relief. There is no new expert evidence, other information, or consequential

change that leads me to change my view from the officers' report and accordingly I recommend retaining the wind chapter as notified.

7 Qualifying Matters

7.1 Heritage Buildings, Structures and Precincts

298. The panel heard from several submitters and experts on the topic of heritage.

299. Council engaged Chessa Stevens of WSP to provide heritage advice at the hearing, and some further comment from her is attached as Appendix 3 to this report responding to evidence from submitters presented at the hearing. I will note where I am relying on her opinion in this report.

300. The panel also heard from and read evidence lodged by Reuben Daubé and Dean Raymond of Heritage New Zealand, David Pearson of DPA Architects, Sylvia Allan of Allan Planning & Research, David Batchelor of Wellington Resource Consents, and Neil Kemp of Design Group Stapleton Elliott. Many individual submitters also presented their views on the merits of various policy approaches to heritage, as well as the heritage merits of specific items or areas.

301. In this reply I have particularly relied on the evidence of Ms Stevens, whose qualifications and experience, and the clear reasoning she sets out in her evidence are in my view compelling on the issues still in dispute. This is particularly as her evidence attached to this report, in the hearing, attached to the officers' report, and in the Section 32 report:

a. Is based on a systematic, consistent, city-wide survey of heritage values, rather than starting with individual sites or streets, and

b. Comprehensively assesses the potential areas against the criteria in the RPS.

302. While noting that there are differences between her position and those of a number of submitters, I also note the significant level of agreement or support of her evidence with the evidence provided by most experts, particularly Mr Daubé and Mr Raymond of Heritage New Zealand. While there are still issues in dispute with other experts, for most matters, they are relatively minor. Other than from Mr Kemp and Ms Allan there is no substantial disagreement over the general approach to heritage as a qualifying matter, rather more detailed points about the merits of individual items and the precise policy approach.

7.1.1 Engagement

303. The panel asked for a summary of the engagement process on heritage areas and individual items. A timeline of engagement, including communication with the public is shown in the table below:

Date	For	Areas / Individual Listings	Identifies specific sites or areas	Details

Nov 2018	Taonga Tuku Iho – Heritage Policy	Both	No	Public survey on the community's interest in and attitude towards heritage
Late 2020	Full District Plan	Both	No	Request for heritage nominations sent to key stakeholders
Nov-Dec 2020	Taonga Tuku Iho – Heritage Policy	Both	No	Public engagement (online and open days) on Taonga Tuku Iho – Heritage Policy
Mar-April 2021	Taonga Tuku Iho – Heritage Policy	Both	No	Public engagement on draft Taonga Tuku Iho – Heritage Policy
April 2021	Full District Plan	Individual	Yes	Mailout to owners of potential individual sites seeking feedback
Sep 2021	Full District Plan	Areas	Yes	Mailout to owners within potential areas seeking feedback
Mar 2022	Full District Plan/PC56	Both	Yes	Mailout to engaged property owners on delay to district plan caused by PC56, included indication that properties may be affected by PC56. This mailout did not go to every affected property owner.
Aug 2022	PC56	Areas	Yes	Final identification of heritage areas for PC56, report published on website, all property owners and residential occupiers affected by PC56 notified.

7.1.2 Identification of tangata whenua values

304. The Council's review of heritage for the full plan review has always intended to include an assessment of the historic heritage values to tangata whenua of potential heritage items.

305. Unlike the general assessment carried out by WSP, this assessment can only be carried out in conjunction with tangata whenua and is principally led in partnership with mana whenua through Council's Kahui Mana Whenua workshops. This work also covers assessment of sites of significance to Māori (i.e. RMA section 6(e) matters as well as section 6(f) matters).

306. This assessment is still ongoing and thus could not be presented in the hearing.

307. Although submitters raised this issue in original submissions, the panel did not hear any significant further evidence about the values of any particular proposed heritage item or area to tangata whenua. Accordingly, my position remains unchanged from our earlier report. In my view, it is unlikely that further information on this point would lead to the removal of any proposed heritage area, and while it could lead to additional areas being identified, at this time there is not yet sufficient information to act.

308. The forthcoming full plan review provides an opportunity to update the approach, and I also note that many sites have already been identified for their significance to Māori (see section 7.3).

309. Note also the comments of Chessa Stevens in paragraphs 113 and 114 of her further evidence.

7.1.3 Character

310. Several submitters and the panel raised the distinction between character and heritage during the hearing.

311. I think these queries about the distinction between character and heritage if anything confused the issue. I refer to paragraph 6 of Chessa Stevens' further evidence in Appendix 3, and my comments in the officers' report, and the Council's section 32 report. Council has proposed historic heritage as a qualifying matter. To determine if something qualifies as historic heritage, the primary test should be the clear direction in the RPS.

312. Council has, in my view rightly, not proposed character as a qualifying matter. If, based on the evidence, the panel concludes any particular area does not meet the RPS test for heritage, then it should not (for that reason) place limits on height and density more stringent than what is required by Policy 3 of the NPS-UD and Policy 1 in proposed section 1.10.1A – Urban Environment of the District Plan.

313. Character remains relevant to the plan *other* than as a qualifying matter. That is, the plan has goals for character that do not involve limits to building height and density. For example, the proposed changes to provisions in Petone Commercial 1 are designed to ensure character and heritage issues are treated separately.

314. Some submitters did propose directly or indirectly that character should be added as a qualifying matter, particularly in residential areas. I do not think these submitters raised any issues not already considered in Appendix 6 of the Section 32 report.

7.1.4 Voluntary heritage policy

315. Many individual submitters requested that Council take the approach of only providing heritage protection where the owners of relevant sites agreed to the protection being established.

316. I discussed this issue in the officers' report and concluded that there was no basis for such a policy. None of the presentations at the hearing provides any reason to alter this conclusion. The Council's duty to protect historic heritage and the factors prescribed by the RPS do not enable Council to waive protection because the owner of a heritage item does not agree.

7.1.5 Rules for heritage areas

7.1.5.1 Alteration and demolition controls

317. The Voluntary Heritage Group, Kāinga Ora, Shayne Hodge, Laura Skilton, and others raised the issue of whether the proposed new heritage areas should include alteration and demolition controls as well as limits on heights and density. They did so both asking that such controls be introduced, or suggesting that as the proposed new heritage areas do not include such controls the areas should not be introduced at all.

318. I do agree controls on alterations and demolition are necessary, to protect historic heritage values from inappropriate use and development. However, introducing those controls is not a valid ISPP purpose.

319. In a sense this raises a difficulty for assessing the plan change. The plan change does not directly impose many of the costs or realise many of the benefits of heritage protection. However, having accepted the evidence that a particular area has historic heritage value, the Council is all but obliged to include demolition and alteration controls once it can do so.

320. It is also potentially difficult for submitters in engaging with a plan change that is clearly only an interim position without knowing where the situation will evolve to.

321. However, the only realistic way to deal with this situation is to discuss the merits of particular heritage items, which can be done both now and in the full plan review, and also to discuss the wording of provisions in a comprehensive heritage chapter when that is introduced in the to-be-proposed full plan.

7.1.5.2 Subdivision and density

322. Tom McLeod (213) raised the issue of whether the rules adequately provided for subdivision and increased density in situations where this would not negatively impact on heritage values.

323. I agree that increased density and subdivision can often be done in a way that protects historic heritage values, and this would typically be the case if there are no, or sympathetic, exterior modifications to buildings.

324. This raises a question over provisions in the Residential Heritage Precincts that trigger resource consent based on an increase in the number of household units, and require resource consent for subdivisions on sites with heritage items.

325. However, the use of the rule needs to be considered in the context of the plan change. Density may be a poor tool in that it is only distantly connected with the protection of physical heritage values. However, it is one of only two tools available, and in my view the indirect benefits such a rule provide are necessary to make up for the lack of comprehensive controls on alterations and demolition.

326. The rules proposed in the plan change also still provide for increased density through a resource consent process, and I believe the matters of discretion in proposed rule 4G 5.2.3 are appropriate for adequately protecting the heritage values while allowing increased density where appropriate.

327. Council can reconsider how to provide for density and subdivision in a more direct and holistic way in the full plan.

7.1.5.3 Permitted height in Jackson Street Heritage Precinct

328. The Jackson Street Programme (F06) requested in the hearing an increase in the height limit within the Jackson Street Heritage Precinct from 10m to 13 or 14 metres. They did not request this relief in their further submission or in any original submission and nor did any other submitter. Accordingly, no other submitter or potential submitter had an opportunity to respond. I therefore do not think it is reasonable to consider this point as within scope.

329. The panel did not explicitly ask for comment on the merits of the relief sought but for completeness see paragraphs 89 to 91 of Chessa Stevens' further evidence in Appendix 3.

7.1.5.4 Height in areas adjacent to Jackson Street

330. The Petone Historical Society requested lower height limits for areas adjacent to, but not in, the Jackson Street Heritage Precinct. I adopt the further evidence of Chessa Stevens at paragraph 92. (Her point at paragraph 93 I discuss in section 6.1.1.2 of this report).

331. RLW Holdings supported the proposed height limit and I refer to Chessa Stevens' further evidence at paragraphs 94-96. (For the matters where RLW sought changes to the design guide, this is discussed in section 6.3.2 of this report).

7.1.6 Proposal for additional area (Naenae)

332. Heritage New Zealand raised the heritage values of Naenae town centre in the hearing.

333. In my view while the evidence of Heritage New Zealand is interesting, there is no reason from that evidence to think that limits on building height and density are necessary to protect the heritage values of individually listed buildings, Hillary Court, or the town centre as a whole.

334. If there are values of potential heritage items in Naenae, they can only be protected in the district plan through demolition and alteration controls, which are not a valid use of the ISPP.

7.1.7 Heritage values of the proposed areas

335. The Voluntary Heritage Group and some individual submitters raised as an issue whether an area could be said to have historic heritage values if no individual building within that area is also specifically identified as having historic heritage.

336. The criteria in the RPS refer to "places, sites, and areas" and the definition in the Act refers to "sites, structures, places, and areas". It is anticipated by the statutory scheme and regional policy direction that areas can and should be considered on their merits as a whole independently of being merely a byproduct of the values of individual items within.

337. I refer also to paragraph 9 of Ms Stevens' further evidence.

338. This plan change is also not a comprehensive review of historic heritage and does not identify any new individual heritage items. Council is not presenting the lack of individual listings as a definitive statement that there are no individual items of value, only that they cannot be protected through limits on building height and density.

339. The Voluntary Heritage Group questioned the heritage merits of a number of areas through a slide show comparing different buildings. I adopt the assessment of Chessa Stevens in paragraphs 38-39 of her further evidence, and I would also note that a visual assessment of potential heritage items is only one part of assessing their value. The heritage value of an item/area cannot be solely excluded based on a visual assessment, with the overall heritage values of an item/area and what it represents such as its historic and social values (e.g. the story it tells or representatives).

340. In addition, under Policy 21 of the Wellington Regional Policy Statement used for identifying places, sites and areas with significant historic heritage values, it states "one or more" of the criteria must apply. Therefore, while an item/area may not be identified for having significant physical values (e.g. architectural, age, integrity), the item/area may have significant heritage values under other criteria (e.g. historic, social, surroundings). See also paragraphs 7-9 of Ms Stevens' evidence in Appendix 3.

341. A number of individual submitters also had concerns over the areas in general, or rather just which properties should be included. For this I generally rely on the further evidence of Ms Stevens at e.g. paragraphs 53, 57, 64-65, and I do not think these points suggest the assessment of heritage areas was deficient.

342. I note also the support of Laura Skilton, Graeme Lyon, the Tuatoru and Sienna Trusts, and Heritage New Zealand for the identification of heritage areas.

7.1.8 Requested modifications to areas

343. Andrew Hendry and Kāinga Ora requested the removal of particular sites from heritage precincts. I adopt the further evidence of Chessa Stevens at paragraphs 69, 70, and 97 to 109 and recommend these notified heritage precincts be retained.

344. Laura Skilton requested the inclusion of Beach and Bay streets within the Petone Foreshore Heritage Precinct. I continue to support this extension as discussed in our previous report and refer to the evidence of Chessa Stevens at paragraphs 76 to 79.

345. The Petone Historical Society and Living Streets Aotearoa requested that 5 Riddlers Crescent be re-included within the Riddlers Crescent Heritage Precinct (it is currently in the Historic Residential Activity Area but was proposed not to be carried over). I adopt Chessa Stevens' reasoning at paragraphs 80-83 of her further evidence and recommend this re-inclusion.

346. Many submitters requested the boundaries of the Jackson Street Heritage Precinct be reverted to that of the operative plan, to end at Cuba Street. I adopt Chessa Stevens' further evidence at paragraphs 84 to 88 and recommend that the plan change proceed with our recommendation as in the officers' report – to have the Jackson Street Heritage Area cover the area as proposed, plus 354, 358, and 362-364 Jackson Street as shown in the maps attached to this report.

7.1.9 Property values and other costs to owners

347. Submitters raised the effect that heritage listings could have on property values.

348. So long as the district plan does not leave owners with land that is incapable of reasonable use (per s85 of the Act), it is not the role of the RMA to protect the financial value of anyone's interest in real estate.

349. Depending on the circumstances, reasonable use can also simply be just continuing the current use of the site, and there is no presumption in the RMA of any entitlement to expand the use (e.g. by increasing the height of buildings or number of units).

350. However, costs that heritage listings might impose are relevant if they might render property incapable of reasonable use, affect the ability of owners to preserve and maintain heritage items, or have other environmental effects.

351. The primary costs raised were the cost of obtaining insurance and the cost of conducting repairs and maintenance. The cost of obtaining resource consent was also raised.

352. As the proposed plan change does not include demolition or alteration controls, it is difficult to see a mechanism by which these costs would increase through PC56 and so this is not strictly relevant to the decisions the panel must make. However, as I note, I think demolition and alteration controls are necessary once Council can introduce them, so I will discuss the possibility of those effects.

353. Heritage may have an impact on the price or scope of insurance available, or the cost of conducting repairs and maintenance. However, Lower Hutt and other districts have a long history of heritage protection and there is no evidence yet that any significant number of properties have become uninsurable based on their heritage protection. Whether or not they have higher premiums or excesses, most existing heritage buildings are in use and there is no evidence of any insurance issue leading to properties being abandoned or going unmaintained.

354. If costs do become prohibitive, it remains open to the owners of heritage items to seek resource consent for repairs or alteration and argue the balance of costs and benefits including the economic viability of retaining the heritage item.

355. Finally, Council can and does support the owners of heritage items financially. This is set out in Council's 2021 Heritage Policy – Taonga Tuku Iho[10].

356. This issue is probably better discussed further in the Section 32 report that will be needed for the introduction of those demolition and alteration controls.

7.1.10 Summary of recommendations and s32AA analysis

357. My only recommended change since the officers' report is re-including 5 Riddlers Crescent within the Riddlers Crescent Heritage Precinct.

358. Regarding the requirements of Section 32AA, I consider that the above recommended approach is the most appropriate way to achieve the purpose of the Act and achieves the objectives of Plan Change 56, the NPS-UD, and the MDRS for the reasons described above in my evidence and in paragraphs 84-88 of the further evidence of Chessa Stevens in Appendix 3.

7.2 Natural Hazards

7.2.1 Engagement

359. The panel asked for a summary of the engagement process on natural hazard areas. This is shown in the table below:

Date	For	Type of Natural Hazard	Details
Late 2019	Full District Plan	Flood	Public engagement (online, mailout and open days) on draft flood hazard modelling and maps in Wainuiomata prepared by Wellington Water
June 2021	Full District Plan	Flood	Final identification of flood hazard areas in Wainuiomata prepared by Wellington Water. Published on website and media release.
August 2021	Full District Plan	Flood	Public engagement (online, mailout and open days) on draft flood hazard modelling and maps in Stokes Valley, Petone, Alicetown, and valley floor (Taita to Seaview) prepared by Wellington Water
March 2022	PC56	General	Public engagement (online and face-to-face meetings on request) on a summary document of the draft PC56.
August 2022	PC56	Flood	Final identification of flood hazard areas in Stokes Valley, Petone, Alicetown, and valley floor (Taita to Seaview) prepared by Wellington Water. Published on

[10] https://hccpublicdocs.azurewebsites.net/api/download/dca10d32fed24fb48c89a051398ef73e/_CM9-WE/682e9bbc20576b84b7cb64108fb98c24ada

			website. Included as part of PC56 and public notices.
		Coastal Inundation	New coastal inundation hazard maps included as part of PC56 and associated public notices.
		Tsunami	New tsunami hazard maps included as part of PC56 and associated public notices.
		Wellington Fault	Revised Wellington fault hazard map included as part of PC56 and associated public notices.

7.2.2 Liquefaction

360. The Hearing Panel queried liquefaction risk in Lower Hutt and the approach for managing liquefaction risk in PC56.

361. The most recent information on liquefaction risk for the entire Lower Hutt City area is a GNS Report in 2018[11]. This liquefaction risk information is shown in Greater Wellington Regional Council's online GIS Viewer called "Hazards and Emergency Management Information" (see here). Below is a screenshot from this GIS viewer of the liquefaction risk for Lower Hutt. It is noted the liquefaction risk for Lower Hutt is similar to other urban areas in the Wellington region, with a mix of low to high risk areas. Other 'high risk' areas in the Wellington region include parts of the Wellington City central area, Porirua City central area, and the majority of the urban areas on the Kapiti Coast.

[11] Dellow, G.D.; Perrin, N.D.; Ries, W.F. 2018 Liquefaction hazard in the Wellington region. Lower Hutt, N.Z.: GNS Science. GNS Science report 2014/16

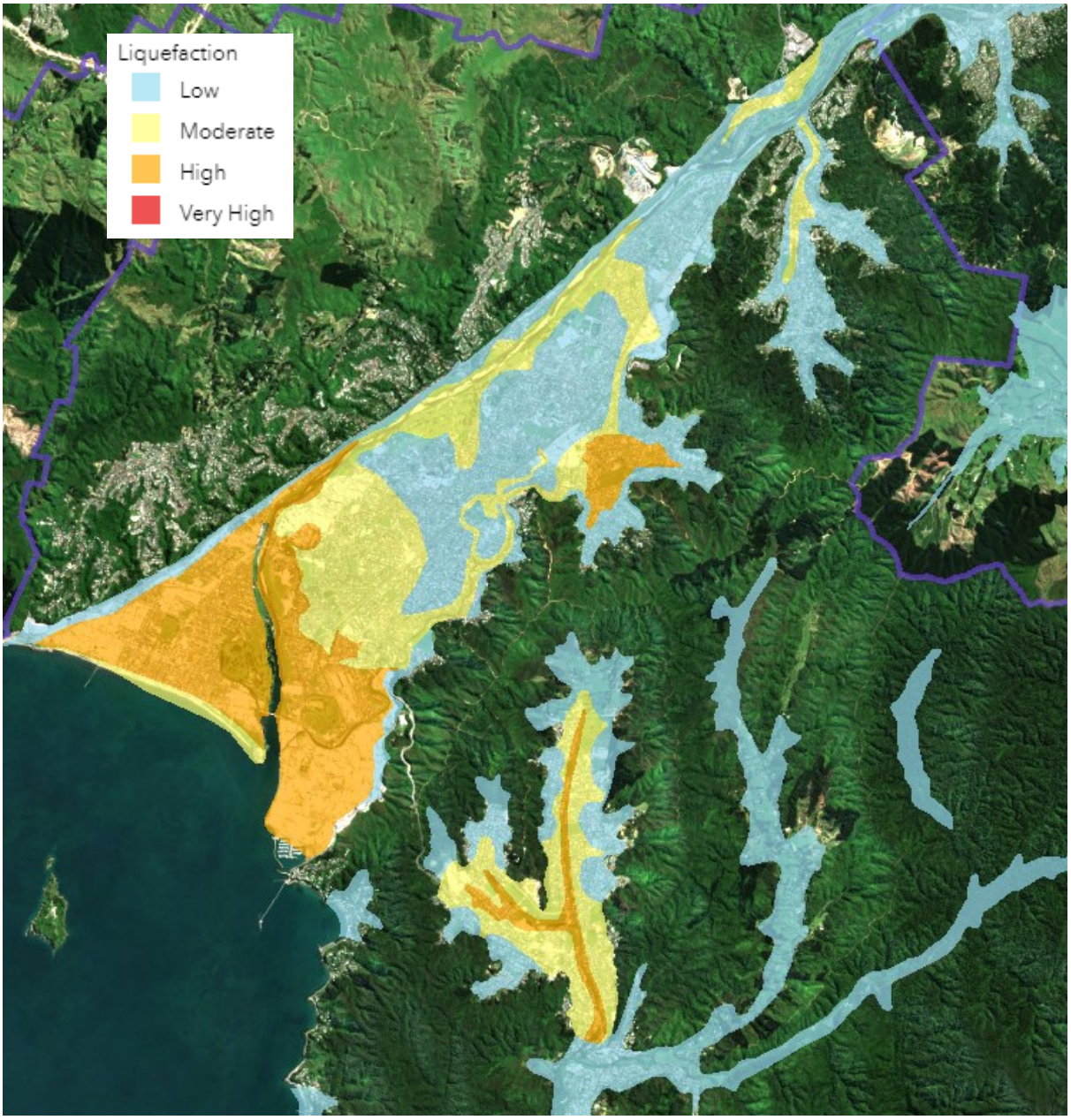

Figure 2: Screenshot from GWRC Online GIS Viewer Showing Liquefaction Risk

362. As set out in paragraph 330 of the Officers Report, Hutt City Council have taken the approach that liquefaction risk is dealt with through the building consent process. It is noted that changes took effect in November 2021 to the Building Code which revised the requirements for building on liquefaction prone land.

363. Notwithstanding this reliance on the building consent process, provisions in the Operative District Plan and notified PC56 enable liquefaction to be assessed for some land uses and subdivisions. For example, Rule 4G 5.6.2.1 states housing for the elderly as a restricted discretionary activity in the High Density Residential Activity Area. One of the matters of discretion under this rule is natural hazards, with specific reference to "the extent to which the proposal addresses the following risks to the site; liquefaction, fault rupture and residual flood risks above a 1 in 100-year flood or stopbank breach or failure".

364. Similarly, Rule 5B 2.2.2 states the construction, alteration of, addition to building and structures is a restricted discretionary activity in the Petone Commercial Activity Area. Three of the matters of discretion for this rule require consideration of the risk of liquefaction (amongst other natural hazards), and the proposal avoids or mitigates the effects from these risks. Lastly, in Rule 11.2.2.2 which lists the matters of control for all complying subdivision applications, a new matter of control is proposed to be added in PC56 which states "avoidance or mitigation of any natural hazard risk in accordance with Policy 11.1.3'. Policy 11.1.3 ensures suitable building platforms exist on all allotments to avoid or mitigate the risks from natural hazards.

365. Notwithstanding the above approach, it is recommended that the HCC consider liquefaction risks and the planning approach further as part of the full district plan review. In particular, parts of Lower Hutt are identified as vulnerable to high liquefaction risk, and the likelihood and consequences of liquefaction should be considered in the full review.

7.2.3 Flood Modelling and Mapping

366. The Hearing Panel sought additional information or responses from Mr Osborne on various matters relating to flood modelling and mapping. Mr Osborne's response to these requests is attached in Appendix 4. Based on this additional information and responses, we do not consider it raises any matters which require further consideration of the flood modelling or mapping.

7.2.4 Planning Approach for Flood Hazards

367. There were four main matters that arose in evidence and at the hearing relating to the planning approach for flood hazards. These matters were:

- Language/terminology used for describing flood hazards;
- Consideration of effects of flooding on access to buildings;
- Flood hazard areas mapped 'in' or 'out' of the District Plan;
- Level of flood protection for the Hutt River.

Language/Terminology Used for Describing Flood Hazards

368. Elliott Thornton for Cuttriss Consultants gave evidence about the language and terminology used for describing flood hazards. In particular, he highlighted that the use of language can change how people perceive flood effects. Mr Thornton contended for some people, describing flood effects in terms of average re-occurrence interval or ARI can lead to a false impression that a particular event will not occur again until that time-period (e.g. 1:100 year ARI or once every 100 years). Mr Thornton preferred using annual exceedance probability or AEP as a better method to identify potential risk. For example, a 1% AEP flood event has a 1% chance of occurring in any given year.

369. Mr Osborne has responded to this matter from a technical perspective as attached in Appendix 4. Mr Osborne considered this matter ultimately was a planning decision rather than a technical one, though his preference was to use ARI. As noted by Mr Osborne, the Wellington Water Regional Standard for Water Services refers to AEP when specifying Level of Service targets.

370. GWRC also prepare flood modelling and mapping for land use planning purposes. GWRC have developed a Flood Hazard Modelling Standard[12] (FHMS) that outline

[12] Flood Hazard Modelling Standard, 6 May 2021, Greater Wellington Regional Council.

protocols for GWRC's flood hazard modelling projects. The purpose of this standard is to ensure that flood hazard modelling projects are undertaken in a robust and consistent manner that is inline with accepted industry practice. Of particular relevance to this matter is Section 1.4 of this Standard which relates to 'event frequency descriptor'. This section of the standard is quoted in full below.

1.4 Event frequency descriptor

The FHMS uses the percentage Annual Exceedance Probability (% AEP) terminology as the descriptor for the frequency of flood events. This terminology is preferred over the Average Recurrence Interval (ARI) terminology which can be misinterpreted by the community as an event that will only occur every given number of years, rather than the probability of occurrence in any given year. The AEP terminology and how this equates to ARI is outlined in Table P0-1 below. Modellers and reviewers undertaking work under the FHMS should maintain consistency and reference event frequency using the AEP terminology.

Table P0-1 Event frequency terminology

Frequency	***AEP***	***ARI***
Very frequent	*39% AEP*	*1 in 2-year ARI*
Frequent	*20% AEP*	*1 in 5-year ARI*
	10% AEP	*1 in 10-year ARI*
Rare	*5% AEP*	*1 in 20-year ARI*
	2% AEP	*1 in 50-year ARI*
	1% AEP	*1 in 100-year ARI*
Very rare	*0.1% AEP*	*1 in 1000-year ARI*

371. Given the above, we consider the AEP should be used in the District Plan for describing the frequency of flood events. We have adopted the amendments suggested by Mr Thornton to the natural hazards chapter in the District Plan.

Consideration of effects of flooding on access to buildings;

372. Elliott Thornton for Cuttriss Consultants also gave evidence seeking the addition of effects of flooding on accessing buildings within the Inundation Areas of the Flood Hazard Overlay. Mr Thornton contended this approach would be consistent with Policy 51 in the Operative RPS and Plan Change 1 to the RPS as would enable consideration of flood hazard risk on pedestrian and vehicle access.

373. The benefits of this addition to the rules would be increased certainty to occupiers that access to/from the site is readily available during flood events. The costs of this addition to the rules are higher compliance costs with assessing the effects of flooding for the access. In reviewing the spatial extent of the Inundation Areas for the Flood Hazard Overlay, it is an extensive area across the majority of the valley, covering both properties and roads. It is understood the Inundation Areas are low velocity flood waters with a depth greater than 50mm. Given the extensive nature of the Inundation Area, including along many roads, the benefits could be limited as while it may ensure the on-site access is above the flood level, the road the on-site access connects to may be flooded.

374. We have also reviewed the Operative RPS. Policy 51 states the following:

When considering an application for a resource consent, notice of requirement, or a change, variation or review to a district or regional plan, the risk and consequences of natural hazards on people, communities, their property and infrastructure shall be

minimised, and/or in determining whether an activity is inappropriate particular regard shall be given to:

…

(i) the need to locate habitable floor areas and access routes above the 1:100 year flood level, in identified flood hazard areas.

375. The wording in the policy refers to "access routes". In our view, this wording relates to a 'route' such as new roads providing access to a new greenfield subdivision or in a rural context the access connecting a rural dwelling to a road. For intensification of existing urban areas, access for an individual property is not necessarily a 'route'.

376. In addition, we have also reviewed RPS Proposed Plan Change 1 and note that Policy 51 (i) is proposed to be amended as shown below.

(i) the need to locate ~~habitable~~ floor ~~areas~~ levels of habitable buildings and buildings used as places of employment above the 1% AEP (1:100 year) flood level, in identified flood hazard areas.

377. It is noted the "access routes" wording does not appear in the Plan Change 1 text. It is unclear whether the removal of this wording is an inadvertent deletion or intentional deletion and not shown with strikethrough. There is no reference to this matter in the associated s32 Report. Given this unknown omission, and for reasons stated earlier in this right of reply, we have given limited consideration to Plan Change 1.

378. For the above reasons, we do not consider it effective or efficient to add requirements for access to the rules sought.

Flood hazard areas mapped 'in' or 'out' of the District Plan

379. Kāinga Ora requested the removal of the flood hazard overlay maps from the District Plan, and for these maps (overlays) to be replaced with consequential changes to the rules and definitions. Ms Williams gave evidence for Kāinga Ora on this matter. We consider the main differences between the two approaches of maps 'in' or 'out' of the District Plan relate to flexibility, certainty and public participation. Having maps 'out' of the District Plan provides greater flexibility to update the maps more regularly so that the spatial extent of flood hazards are based on the latest information when it becomes available. Maps 'out' of the District Plan also provide a degree of certainty provided the definitions are drafted so they can be consistently applied. Conversely, maps 'out' of the District Plan are less flexible as they require a District Plan Change, while providing more certainty in that are fixed without a plan change.

380. In terms of public participation, as HCC is reliant on Wellington Water and GWRC in undertaking the flood modelling and mapping, it is reliant on their processes for effective public participation. As Ms Williams noted, the GWRC Flood Hazard Modelling Standard[13] includes public participation as part of its process. As noted in Figure P0-1 of this Standard which shows the overall process, consultation (public participation) occurs at three points as below:

- Gather and assess data: "Consult community and gather community flood data"
- Finalise hydraulic model: "Consult community"
- Final outputs: "Present to TA's and community"

[13] Flood Hazard Modelling Standard, 6 May 2021, Greater Wellington Regional Council.

381. We note the final step in this process in the Standard is shown as “TA plan change” (i.e. Territorial Authority District Plan Change).

382. While this process provides for public participation, in our view, this process does not contain the same checks and balances as an RMA Schedule 1 plan change process. Flood hazard modelling and mapping can be undertaken for a variety of purposes, such as emergency management, design of flood protection projects (such as RiverLink) and land use planning. The inputs (e.g. modelling assumptions) and outputs may vary depending on the purpose of the modelling and mapping. Therefore, not all flood hazard maps are equal or suitable for land use planning process.. The Schedule 1 process provides the opportunity to understand and question these inputs and outputs, and suitability of using the maps for land use planning purposes.

383. In addition, as the flood hazard maps impose land use restrictions in the form of District Plan rules, the Schedule 1 process recognises and protects the particular rights and interests of those affected and general public interests. These rights and interests are through the notification of a proposed plan change (including supporting information), ability to make a submission, and right to appeal.

384. The rules and definitions proposed by Kāinga Ora to enable the flood hazard maps to be ‘out’ of the District Plan do not provide the opportunity for the modelling inputs and outputs to be tested. In addition, the rules and definitions do not allow the rights and interest to be recognised or protected as they only become apparent when spatial information becomes available in the form of a flood model and map.

385. For these reasons, we do not consider the rules and definitions proposed by Kāinga Ora and maps ‘out’ of the District Plan are an efficient or effective approach, and would not be the most appropriate way to achieve the natural hazard objective.

Level of flood protection for the Hutt River.

386. Another query from the Hearing Panel was comment on the level of flood protection for the Hutt River, and whether this level of protection has changed in light of the findings in the rapid study about rainfall statistics of Cyclone Gabrielle. The Hutt River flood protection scheme is managed by Greater Wellington Regional Council. In response to this query, the Regional Council’s Flood Protection Team have advised the following:

- *Rainfall depths such as those experienced around the headwaters of Esk Valley (~500mm in ~24 hours) in ex-Tropical Cyclone Gabrielle could be possible in headwaters of Hutt City Catchments, if an ex-Tropical Cyclone event tracked more directly over the Wellington Region. Factors such as wind direction would play a large role in how much and where rain would fall.*
- *500mm rainfall would likely stress the Hutt River Scheme to its limits and exceed its current form. This is why carrying out the upgrades outlined in the Hutt Valley Flood Plain Management Plan (HRFMP) is critical.*
- *An ex-Tropical Cyclone would also cause significant flooding from smaller watercourses including the Wainuiomata River, Waiwhetu Stream as well as widespread surface/stormwater flooding.*
- *Even with the proposed upgrades in HRFMP we anticipate this sort of event would be very close to or exceed the capacity of the Hutt River scheme.*
- *GWRC is to provide updated flood hazard maps for the Hutt City District Plan Review for the Hutt River. These maps will include mapping of areas of residual flood hazard. These are areas that would likely flood were an event to exceed or breach the Hutt River Flood Defences.*
- *GWRC’s view is that development should be limited in areas subject to high residual flood hazard. These are areas where flood depths would be deep enough to cause*

fatalities. Key community buildings should be avoided in residual flood hazard areas also. These views are inline with our guiding principles for Flood Risk Management, and the Regional Policy Statement.

387. Further to the above response, the Regional Council's Flood Protection Team have advised the flood hazard overlays for the Hutt River will be available in September 2023. These overlays will be considered as part of the full district plan review.

7.2.5 Coastal Hazards

388. There are two primary matters for coastal hazards; firstly, identifying (spatial mapping) and categorising coastal hazards for land use planning purposes; and secondly, the planning approach for coastal hazards. PC56 proposes to introduce mapping (overlays) and plan provisions for two types of coastal hazards, namely coastal inundation and tsunami.

7.2.5.1 Identifying Coastal Hazards

389. The Hearing Panel sought further comment from Dr Stephens on the Ministry for the Environment interim guidance14 relating to the use of new sea-level rise projections for land use planning, and what scenarios should be used for what purpose in relation to intensification of existing urban areas. Dr Stephens' response to this request is attached in Appendix 5. In summary, Dr Stephens' advised the Category B (intensification) in Table 3 of the Ministry for the Environment interim guidance correlated with mapping scenario 5 (SSP5-8.5H+) incl. VLM with a relative sea level rise of 1.9m at year 2130. Mapping scenario 5 is not used in proposed PC56 as notified, with mapping scenario 4 (1.5m sea level rise) corresponding to the Medium Hazard Area and mapping scenario 1 (0m sea level rise) corresponding to the High Hazard Area. Based on Dr Stephens' evidence, and taking into account the latest Ministry for the Environment guidance, it is recommended that the mapped Medium Hazard Area for coastal inundation is updated to reflect scenario 5 (SSP5-8.5H+). Using this scenario compared to scenario 4, it adds approximately 700 properties to be within the Medium Hazard Area (Coastal Inundation) (refer Appendix 6 for table of number of properties within natural hazard areas). These properties are at the western end of Petone, northern end of Alicetown and parts of Eastbourne (refer GIS viewer showing spatial extent of scenario 5 (SSP5-8.5H+)).

390. In addition, Dr Dawe for GWRC highlighted the modelling for coastal inundation mapping in PC56 used a static bath-tub inundation model and suggested the use of alternative mapping15. Council officers advised that Council had commissioned NIWA to undertake further modelling of coastal inundation using dynamic inundation modelling. The results of this modelling are anticipated to be available in June 2023 and will be used to inform the full District Plan Review.

391. Mr Baisden sought that the Council use a 'middle of the road' climate change scenarios. He considered that further work was needed to make the city more resilient while providing for development.

392. The Hearing Panel queried the two different sea level rise figures used in the modelling for coastal inundation (1.5m) and tsunami (1.0m). Dr Stephens has responded to the sea level rise figures used for coastal inundation as referred to above. Mr Burbidge at the final day of the hearing confirmed the 1.0m sea level rise was based on the scope for the tsunami assessment requested by Hutt City Council. In addition, Mr Burbidge advised

[14] Ministry for the Environment. 2022. Interim guidance on the use of new sea-level rise projections.
[15] Statement of Evidence, Iain Dawe, GWRC dated 29 March 2023, paragraphs 23 – 24

this same (1.0m) sea level rise figure had been used for tsunami modelling and mapping for Wellington City Council, therefore was regionally consistent.

393. Based on the evidence presented at the hearing, we consider the modelling and mapping produced by NIWA and GNS is currently the best available and up-to-date coastal hazard information for land use planning purposes. The only alternative mapping information referred to in evidence or at the hearing was from Dr Dawe16, being 2012 NIWA storm inundation hazard for coastal margins. We have been unable to ascertain the scope and purpose of this 2012 modelling and mapping, and its suitability for use for land use planning purposes.

394. Given the current information status, we need to consider the risk of acting or not acting. Based on the Ministry for the Environment interim guidance and the high risk to people and property from these natural hazards, the risks of acting in the form of restricting development opportunities, in our view, outweigh the risks of not acting. The benefits of acting are protecting people and property from these coastal hazards. The costs of acting are reduced development opportunities and the economic and social benefits associated with these opportunities.

7.2.5.2 Planning Approach for Coastal Hazards

Categorisation of Natural Hazards

395. The first matter regarding the planning approach for coastal hazards and natural hazards generally is the categorisation of natural hazards, into High, Medium and Low categories. Mr Jeffries for Argosy, Stride, Investore and Oyster proposed to delete the hazard rankings and rely on the hazard names/descriptions17. We agree with Mr Jeffries that the categorisation approach can provide a simplifying basis for multiple natural hazards and rule frameworks. We also agree with Mr Jeffries that this approach has limitations, including potential for confusion and misrepresentation of probabilities.

396. As explained at the hearing, Council was part way through its full District Plan Review when the requirement to prepare an IPI was introduced. Natural hazards was one of the key topics to be addressed in the District Plan Review. The Councils in the Wellington region have been working on developing consistent natural hazard planning approach. Hutt City Council is looking to follow the same approach to natural hazard planning as used in the Proposed Porirua District Plan and Proposed Wellington District Plan, both of which use a hazard categorisation approach. While we agree with Mr Jeffries about the benefits and limitations of using categorises for this purpose, overall, we are of the view that categorises are a more efficient way of applying the natural hazard provisions given the high number of natural hazards in Lower Hutt and variable risks from different types of natural hazards.

397. In terms of selecting the category for each type of natural hazard, as set out in the Introduction to Chapter 14H Natural Hazards, the categorisation takes a risk based approach. Tsunami and coastal inundation based on a 1:100-year scenario with existing sea level are categorised as ‘high’ as they reflect the existing risk, reflect the ‘at least 100 years’ time period in the NZCPS, and could have significant consequences if such an event was to occur. Tsunami based on a 1:500-year scenario with 1.0m sea level rise is categorised as ‘medium’ as it reflects the lower probability, but higher consequences of such an event, as well as the uncertainty with future sea level rise. For similar reasons, coastal inundation based on a 1:100-year scenario with 1.9m sea level rise is categorised as ‘medium’ as it reflects the uncertainty with future sea level rise.

---

[16] Statement of Evidence, Iain Dawe, GWRC dated 29 March 2023, paragraph 23
[17] Statement of Evidence, Joe Jeffries, Agrosy, paragraphs 11.1 - 11.11

398. While retaining the overall categorisation approach, we agree with the wording put forward by Argosy, Stride, Investore and Oyster on providing clearer and consistent natural hazard overlay names and descriptions, and generally adopt their suggested wording.

Objectives and Policies

399. Mr Jeffries for Argosy, Stride, Investore and Oyster proposed to add 'not increase' to Objective 14H 1.1 to recognise it is not always possible to avoid or reduce risk of natural hazards. He contended this addition would be consistent with the direction of the RPS objectives. Ms Allan contended PC56 does not give effect to the NZCPS, in particular the 'avoid' policies (Policy 25(a) and (b)) as well as Policy 27(a) to 'promote and identify long-term sustainable risk reduction approaches'.

400. Policy 25 in the NZCPS includes the following direction:

(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'.

401. The Wellington RPS includes the following direction:

- Objective 19 refers to reducing the risks and consequences of natural hazards and climate change to people and communities;
- Objective 20 refers to hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events;
- Objective 21 refers to making communities are more resilient to natural hazards.

402. Given this higher order direction, we consider the outcomes are a combination of avoiding, reducing and not increasing the risks from natural hazards. Given the purpose of PC56 is focused on enabling housing supply and is not a natural hazard plan change considering all relevant matters and activities, we consider it is effective and efficient to reflect these outcomes in a single objective in PC56. In the full District Plan Review, we consider a more nuanced approach should be considered for the natural hazard objectives to recognise different circumstances and potential outcomes (for example, differentiate outcomes for new development or redevelopment, and outcomes for defences against coastal hazards and natural hazards). On this basis, we agree with the relief sought by Argosy, Stride, Investore and Oyster.

403. Policy 14H 1.1 sets out the overall policy direction for natural hazards. However, the Hearing Panel questioned the clarity of this policy, noting that it uses various policy directions. Similarly, evidence from Argosy, Stride, Investore and Oyster, and Ms Allan sought greater clarity and direction. We generally agree with this evidence, and in response to questions from the Hearing Panel for greater clarity, we recommend a number of amendments to Policy 14H 1.1. Most of these amendments do not change the overall policy direction of PC56 on natural hazards.

404. Argosy, Stride, Investore and Oyster proposed amendments to Policies 14H 1.3, 1.4 and 1.8 to clarify it is the risk to the addition to the building that is the relevant matter, not the inherent risk from the natural hazard itself. We agree with this proposition and support this amendment.

Natural Hazard Rules

405. The majority of evidence presented by submitters at the hearing related to the rules for High Coastal Hazard Areas. Dr Dawe for GWRC put forward the proposition that no more than one residential unit per site be permitted in the High Coastal Hazard Area, and where this number of residential units is exceeded resource consent is required as a non-complying activity. At the request of the Hearing Panel, Dr Dawe supplied supplementary evidence18 setting out this relief sought and an additional evaluation under Section 77J of RMA. The York Bay Residents Association, Sylvia and Bill Allan, and Ms Williams for Kāinga Ora supported or adopted Dr Dawe's evidence in relation to high coastal hazard areas. Mr Edgar, Ms Skilton and Mr Smith separately contended that there should be no new residential units permitted in the High Coastal Hazard Areas. Further, Mr Smith contended no further intensification should be provided for until the community and Council had come up with a plan on climate change adaptation options.

406. We have considered Dr Dawe's supplementary evidence, particularly the additional evaluation, and generally agree with this evaluation. In addition, we have considered the Ministry for the Environment interim guidance referred to above in identifying coastal hazards, and the high risk to people and property from the coastal natural hazards. Based on this guidance and evaluation, in our view, the risks of acting in the form of restricting development opportunities outweigh the risks of not acting. The benefits of acting are protecting additional people and property from these coastal hazards. The costs of acting are reduced development opportunities and the economic and social benefits associated with these opportunities.

407. In terms of the form of acting, weighing up these benefits and costs as set out in Dr Dawe's evaluation, and taking into account high-level policy direction and national guidance, avoiding intensification of hazard sensitive activities in the high hazard areas is considered the most appropriate approach. Within the parameters of PC56, this means limiting development to no more than one residential unit per site within High Coastal Hazard Areas. Through the full district plan review, consideration needs to be given to other types of hazard sensitive activities in these hazard areas. Accordingly, we recommend Rule 14H 2.9 be amended from permitting two residential units to one residential unit.

408. In addition to amending this rule, we have considered the policy direction for this rule. We consider the current suite of natural hazard policies do not provide sufficient or effective policy direction for this rule, in particular in assessing resource consent applications for this rule. We recommend a consequential amendment to add a new policy (Policy 14.1 NEW) specifically relating to residential units within High Coastal Hazard Areas to provide an effective policy for this rule. The wording of this policy mirrors the equivalent 'avoidance' policy for the High Flood Hazard Area.

409. In terms of the rules for Medium Coastal Hazard Area, Ms Allan opposed the doubling of density as permitted by Rule 14H 2.8 due to inconsistency with the NZCPS policy direction. She contended that 'mitigation or accommodation (such as building up parts of sites or raising floor levels) is not effective for coastal inundation and should not be promoted through policy, especially on a site-by-site consenting basis as Policy 14H 1.1 does generally, and Policy 14H 1.10 does in the Medium Coastal Hazard Area'. Other submitters spoke in general about concerns associated with intensification within areas identified as potentially at risk of coastal hazards.

410. Based on the recommendation earlier in this report to use scenario 5 (SSP5-8.5H+) for the mapped Medium Hazard Area for coastal inundation, there are a total of 4679 properties fully within this area, and an additional 787 properties partly within this area.

[18] Supplementary Statement of Evidence, Iain Dawe, GWRC dated 21 April 2023

This number of properties equates to approximately 15% of all properties within the scope of PC56. These properties are predominantly located in the Petone, Alicetown, Moera and eastern bays areas of the city.

411. The evaluation for High Coastal Hazard Area referred to above is applicable to Medium Density Hazard Areas in terms of the same types of benefits and costs. However, the main differences are the Medium Coastal Hazard Areas are based on future sea level rise scenarios and a lower probability, higher impact tsunami event. In addition, the impact on limiting development capacity is six times greater in terms of the number of properties affected. Weighing up the benefits and costs as set out in evaluation, and taking into account high-level policy direction and national guidance, we do not consider avoiding intensification to the same degree as in the high hazard areas is the most appropriate approach in medium hazard areas. We consider retaining the provisions as notified for the medium hazard areas weighs up the policy direction of the NZCPS and NPS-UD. This approach limits development to the permitted level of development under the Operative District Plan, therefore not increasing risk above the current baseline.

412. However, we recommend these provisions are revisited during the full district plan review as part of the overall approach to natural hazards. In addition, it is recommended the Council undertake detailed dynamic (flexible) adaptive pathways plan for the city to plan for the impacts of climate change, particularly the coastal hazards influenced by climate change.

Single Access Route to Eastern Bays

413. A number of submitters expressed concern about the single access route (Marine Drive) to the Eastern Bays and opposed intensification in the Eastern Days due to the vulnerability of this route to coastal hazards and sea level rise. The Hearing Panel sought further information about the new eastern bays shared path and future plans for Marine Drive, as well as legal advice on this matter in terms of an access route as a qualifying matter.

414. Attached in Appendix 8 of this reply is a memorandum from Jon Kingsbury (HCC Head of Transport) and Nat Garcia (Project Manager – Tupua Horo Nuku) responding to these questions from the Hearing Panel. In summary, the Tupua Horo Nuku Eastern Bays shared path is designed to create new seawalls for improved protection from storms and waves, and to provide a base for future resilience upgrades. In addition, this memorandum confirms the Council's commitment to ensuring Marine Drive remains fit for purpose. Given the design and construction will enable future upgrades, it does not compromise other future climate change adaptation options.

415. Council's legal advice in Appendix 2 also responds to this matter.

416. Given this information, the access route to the Eastern Bays is considered to a lifeline utility which provides essential infrastructure service to the community. Therefore, it is likely to be maintained for the foreseeable future. Therefore, treating the single access route to the Eastern Bays due to its vulnerability to natural hazards as a qualifying matter is not considered appropriate.

7.2.6 Natural Hazards – General Matters

417. This last section on natural hazards responds to three general matters that arose during the hearing. These matters are:

- Do the natural hazards provisions apply to zones that are not part of PC56?
- Relationship between zones (activity areas) and natural hazard overlays
- What is the status and relevance of the Wellington Regional Climate Change Impact Assessment?

418. In response to the first matter above on the zones (activity areas) the natural hazard provisions apply to, Amendment 405 in PC56 answers this query. This amendment proposes new text in the introduction section of Chapter 14H Natural Hazards and specifically states what zones (activity areas) the new policies and rules for natural hazards apply to. These zones are:

- Medium Density Residential Activity Area
- High Density Residential Activity Area
- Suburban Mixed Used Activity Area
- Central Commercial Activity Area
- Petone Commercial Activity Area

419. The PC56 GIS map viewer shows which activity areas the natural hazard overlays do and do not apply to by using a 'mask' layer. When the 'mask' layer is selected for each type of natural hazard overlay, it applies a mask in the form of a semi-transparent layer to white-out the activity areas the policies and rules do not apply to.

420. This approach to only applying the natural hazard overlays to these specific activity areas is a result of the scope of PC56 under the RMA. This approach is an interim solution until the full district plan review where the natural hazard provisions will be addressed for the city as a whole and apply to relevant activity areas.

421. In response to the second matter relating to the relationship between the zone and natural hazard overlays, this matter was evaluated in paragraphs 1055 – 1059 in the Officers Report. Given the recommendation above to permit one residential unit per site and non-complying activity status for more than one residential unit in the High Hazard Area for Coastal Hazard Overlays, this raises the potential for down zoning in these high hazard areas. However, based on the alternative zones in the Operative District Plan and PC56 as notified, there is no suitable zoning for this type of circumstance. Therefore, a new bespoke zoning would need to be developed. To develop a suite of provisions for a new zone is constrained by the scope of PC56, as it does not provide the jurisdiction to include the full suite of provisions such as the range of land use activities. For these reasons, it is recommended to retain the current zone and natural hazard overlay relationship, and that this matter be further considered through the full district plan review.

422. In response to the third matter about the Wellington Regional Climate Change Impact Assessment, the first phase of this work is currently underway. The purpose of the first phase to be completed by the end of June is:

- Develop a common understanding of how climate change will impact the region over the next 100+ years;
- Develop consistent information and an approach that enables climate change adaptation decision-making; and
- Increased capacity to understand and manage climate change risks across the region long-term.

423. The second phase to commence following the first phase is to develop a regional adaptation plan. Given this work is currently a work in progress, the outputs from this work would inform the full district plan review process.

Summary of Officer Recommendations and s32AA Evaluation

424. For the reasons set out above, we recommend that:

- The flood hazard terminology refer to AEP to aid plan users to better understand the risk of flood events;

- The mapped spatial extent for the Medium Hazard Area for coastal inundation is updated to reflect scenario 5 (SSP5-8.5H+) for consistency with the latest guidance;
- Amend the descriptions for different types of natural hazards to aid plan users to understand and apply the provisions;
- Amend the objective and policies to provide greater clarity on when risk to people, property, and infrastructure is to be avoided, reduced or not increased;
- Add a new policy and amend Rule 14H 2.9 to permit only one residential unit within the High Coastal Hazard Area to avoid and not increase the risk to people and property from the high risk of coastal hazards.

Section 32AA Evaluation

425. We consider that the recommended amendments are a more appropriate way to achieve the objectives of PC2 and the purpose of the RMA than the notified provisions, because:

- The amendments to the descriptions and terminology would clarify and improvement the interpretation of the natural hazard provisions;
- The amendments to the objectives, policies, rules and maps more appropriately recognise and provide for the management of significant risks from natural hazards (s6(h) RMA), achieve the objectives in the NZCPS and RPS, and give effect to the policies in the NZCPS and RPS of identifying coastal hazards over at least 100 years and avoiding redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards.

426. As outlined in Section 7.3.15 and Appendix 5 of the Section 32 Evaluation Report, the natural hazard overlays are a qualifying matter under s77I and 77J of the RMA. Expanding the Medium Hazard Area for coastal inundation is a qualifying matter. In relation to the information required for qualifying matters under s77J(3) and 77P(3) of the RMA, I note the following:

- Justification for the qualifying matter (s77J(3)(a) and s77P(3)(a): We consider that the change in the extent of the coastal inundation Medium Hazard Area and amended rule for residential units in High Coastal Hazard Area are qualifying matters under s77I(a) of the RMA because they are necessary to accommodate a matter of national importance that decisions makers are required to recognise and provide for under section 6(h) of the RMA.
- Impact on development capacity (s77J(3)(b) and s77P(3)(b)). In relation to the larger spatial extent of the Medium Hazard Area for coastal inundation to reflect scenario 5 (SSP5-8.5H+), I note that the amended size of the area adds approximately 700 additional properties (from 4,751 properties to 5,466) properties. For amending Rule 14H 2.9 for new residential units in the High Coastal Hazard Area from two to one being permitted, this change will result in a reduction of 1740 potential dwellings as noted in the s32AA evaluation attached to Dr Dawe's supplementary evidence. Given that PC56 applies to over 36,000 properties, we consider that increasing the size of the Medium Hazard Area for coastal inundation and this reduction in permitted residential units in High Coastal Hazard Areas will have a minimal impact on overall development capacity.
- Costs and broader impacts (s77J(3)(c) and s77P(3)(c)). We consider that the costs and broader impacts of expanding the coastal inundation Medium Hazard Area and reducing the permitted number of residential units in the High Coastal Hazard Area to be substantially similar to those identified in the Section 32 Evaluation Report (Appendix 5), and for conciseness we do repeat these here.

7.3 Sites of Significance to Māori

427. There were numerous submissions raising concerns about the proposed approach to protecting sites of significance to tangata whenua, as protected under sections 6(e) and 6(f) of the Act. However, no person at the hearing suggested any additional sites beyond those raised in submissions, and no person at the hearing suggested that any of the proposed sites were inappropriate.

428. Accordingly, the remaining questions are over the general policy approach.

429. Ngāti Toa was the main submitter on this matter at the hearing, and raised:

a. The lack of definite mapping of SASMs,

b. The impact of intensification on marae and their surroundings

c. The cultural impacts of intensification,

d. Their view that the identification of SASMs did not constitute a partnership approach,

e. No particular regard was given to Deed of Settlement land,

f. That Council, rather than iwi, should be responsible for identifying sites,

g. That given the serious risk of acting and the lack of information, Council should refrain from applying Policy 3 and the MDRS.

430. I agree that the lack of definite mapping of SASMs is a significant issue in the operative plan's handling of those sites. However, neither the submitter nor Council is in a position to provide those definite boundaries at this stage, as the mapping is being conducted for the full plan review and is not yet complete.

431. The impact of intensification on sites directly neighbouring marae and urupā was considered in the plan change, and this inherently involves a trade-off between protecting those sites while still providing reasonable development capacity. I think the position recommended in our previous report still strikes the most appropriate balance.

432. I agree that intensification also has an impact on the wider surrounding area of marae, urupā, and other significant sites. However, these impacts include positive benefits such as more available housing, and greater population catchments for commercial and community services, so there is no inherent reason to think the net effect is negative. In my opinion, the intensification proposed by PC56 will have significant benefits for the city as a whole including tangata whenua.

433. There are also sites of significance throughout the district. Given the current lack of information on the exact location of these sites, it is difficult to evaluate the benefits and costs on limits on building height or density, if any, would be needed to address this.

434. In terms of the cultural impacts of intensification, it is possible this can form part of Council's environmental monitoring such as in the Housing and Business Development Capacity Assessment. However, cultural and demographic trends in and of themselves are not a qualifying matter where they do not relate to a specific place.

435. I agree that the Council gave no regard to whether land was covered by the Deed of Settlement. However, the practical impact of this is low. The only land in the district where I am aware that Ngāti Toa has development interests in the short term is currently subject to a separate private plan change process (PC57 – Benmore Crescent) which is currently at the pre-application stage. Deed of Settlement land is being considered as a significant factor in the assessment of SASMs being conducted for the full plan review and this is likely to be ready in time to inform any future developments to be conducted by Ngāti Toa.

436. In terms of the impact of nearby development *on* not yet sold Right of First Refusal land, it is up to Ngāti Toa to decide whether or not to buy any given site and make that decision bearing in mind the existing, permitted, and consented environment that land sits within, as with any other person considering purchasing real estate for development.

437. I agree that the Council is responsible for identifying sites of significance to tangata whenua in the general sense. The District Plan already identifies 24 specific sites of significance in the operative plan as Significant Cultural Resources, plus the seven marae and two urupā in the Community Iwi Activity Area.

438. This identification is now several decades old and requires review. However, Council can only conduct this identification by engaging tangata whenua with relevant expertise. It is doing so via the Kahui Mana Whenua task group for the full plan review, and this is simply not ready for PC56.

439. Section 32 of the RMA requires Council to assess the risk of acting or not acting when information is incomplete. I shall consider this in relation to the option of acting at a later date, at the full plan review.

440. Most sites are likely to be on public land, Māori land, or are already developed. I therefore think the risk of waiting to the full plan review is reasonably low.

441. There is also the question of what interim action would look like, given the information available and the stage in the PC56 process we are at. This is an issue the Panel specifically asked for options on.

442. As no additional sites of significance were identified since the original submissions, the options are (independently of each other):

a. Provide greater protection for already identified Significant Cultural Resources,

b. Provide greater protection for already identified marae and urupā in the Community Iwi Activity Area,

c. Provide greater protection for sites identified in submissions (e.g. Korokoro urupā),

d. Provide greater protection in a district-wide way.

443. I do not think there is any way greater protection could be provided for existing Significant Cultural Resources as the operative plan already effectively requires discretionary consent for any development (see section 8.6).

444. I believe the balance for protection with marae and urupā from development on neighbouring sites is reasonable and no new information was presented at the hearing that would suggest changing this balance.

445. In our previous report I suggested a method for additional protection for Korokoro urupā (reducing the height limit on the adjacent General Business site) and I continue to recommend that.

446. For district-wide protection, there is no reasonable permitted activity condition that could be required, and so it would need to be a new resource consent trigger or additional matters of discretion or policy for consents already required, or an expansion of notification.

447. A consent trigger or expansion of assessment that applied to almost any development would impose significant costs on applicants, the council, and iwi alike.

448. A consent trigger or expansion of assessment that only applied to major developments would have significant issues with the permitted baseline and applicants deliberately trying to avoid a consent trigger that would involve mana whenua engagement, which is viewed as time-consuming and unpredictable.

449. In either case, it would also be difficult to implement as Council would effectively be requiring a level of information from applicants for a resource consent that neither iwi nor Council itself have been able to provide for a plan change.

450. The RMA does not provide for a district rule to say that a consent must have limited notification or that any person must be considered to be an affected person (although this is possible for e.g. statutory acknowledgements, which cannot be changed in the PC56 process). Public notification for a high number of resource consents would introduce high costs, including time and uncertainty, and be contrary to the general scheme of the RMA and MDRS.

451. I therefore think there is no possible interim solution, beyond that already recommended in our previous report, without identifying specific additional sites.

7.4 The National Grid

452. The only submitter to raise the National Grid was Transpower (153), who did not appear at the hearing, but tabled a statement. I have reviewed that statement. Transpower's remaining points all relate to plan usability. Of these, the only issue where I think Transpower's reasoning identifies a significant issue is their requested relief on point 153.6, which would clarify in section 1.10.3 (Amendment 23) that qualifying matters can be in chapter 13 as well as chapter 14 and activity area chapters. I recommend adopting this requested relief.

453. As this recommendation is solely for plan legibility, I have not prepared a s32AA assessment.

7.5 Public open space

454. No submitters raised issues with the approach to the public open space qualifying matter, although many submitters raised concerns around public open space in general. These are generally discussed in the chapters relating to the provisions that would be affected by their submission points.

455. Appendix 5 of the Section 32 report notes the difficulty of applying the qualifying matter to the Hutt Bowling Club site at 6 Myrtle Street, Hutt Central. As the Club did not submit on PC56 and no final subdivision plans have been lodged with Council I think it is still not possible to fix through this process and will need to be corrected in the full review.

7.6 Other qualifying matters

456. Several submitters requested a qualifying matter for three waters and other infrastructure constraints. I do not think the material presented at the hearing provides anything new over what was considered in our previous report and so I continue to recommend that no such qualifying matter be used.

8 Other Matters

8.1 Development trends following PC43 and PC56

457. The timeline of Plan Change 43 and this plan change is shown in the table below:

November 2017	Plan Change 43 publicly notified
November 2019	Decisions on Submissions on Plan Change 43 publicly notified
April 2020	Plan Change 43 becomes operative in part
August 2020	National Policy Statement on Urban Development comes into force
February 2021	Plan Change 43 becomes operative in full
December 2021	Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 comes into force
August 2022	Plan Change 56 publicly notified, some provisions take immediate legal effect

458. The effect of Plan Change 43 is visible in the chart of quarterly building consent numbers shown in Appendix 7. This data is from Statistics NZ, retrieved 1 June 2023, and was in turn supplied to Statistics NZ by Council.

459. A significant fraction of the increase comes from new dedicated townhouse development firms, which have started, expanded, or moved into Lower Hutt since PC43.

460. Development has accelerated faster than in other territorial authorities in the region, as shown in the table below, also from Statistics NZ. Other TAs have not made major changes to anticipated development intensity prior to the MDRS.

Number of new dwellings consented[1]

By territorial authority and Auckland local board

Territorial authority or local board[2]	Year ended April					
	2018	2019	2020	2021	2022	2023
Horowhenua district	233	309	268	312	391	314
Kapiti Coast district	273	234	221	244	335	307
Porirua city	298	290	436	312	430	199
Upper Hutt city	330	240	197	259	400	292
Lower Hutt city	333	530	545	811	1,253	1,090
Wellington city	1,007	1,041	1,442	1,159	922	1,114
Masterton district	179	212	170	226	227	218
Carterton district	119	78	103	91	87	86
South Wairarapa district	97	104	64	121	185	133

461. Prior to PC43, Lower Hutt's consent numbers were on par with Porirua, Kāpiti, and Upper Hutt, but by 2022 were comparable to Wellington City.

8.2 Providing for infrastructure

462. Many submitters raised concerns around the capacity of infrastructure to provide for growth.

463. A more detailed assessment of infrastructure capacity is included in Council's regular *Housing and Business Development Capacity Assessments*. The latest 2022 revision is available online at https://wrlc.org.nz/project/regional-housing-business-development-capacity-assessment-2022.

464. This assessment covers anticipated growth based on the district plan including PC43 as operative but does not take account of PC56. I will provide some general comments on the extension of that assessment to PC56.

465. Some network infrastructure such as electricity, gas, telecommunications, and social infrastructure such as health services and primary and secondary education is not within the control of Council, and relevant agencies and companies tend to respond reactively to growth.

466. Three waters (for now), active and private transport, libraries, parks and recreation, are within the control of council and will require further investment. To some degree, it is not possible to predict the level and areas investment will be required in, due to the wide-ranging scope of areas that PC56 enables growth. However, the likely most attractive area for intensification, where Council intends to encourage growth, and that PC56 enables the most development, is in the central city and immediately surrounding suburbs.

467. The central suburbs area is programmed for significant upgrades to the principal infrastructure constraint, the three waters network. This investment is detailed in Council's Long Term Plan and backed by a $98.9 million funding boost from central government via the Infrastructure Acceleration Fund. Council has a long term contractual commitment about delivery of relevant infrastructure and this project is expected to enable around 3,500 new units in the city centre and central suburbs.

468. Public transport is primarily the responsibility of the regional council. PC56 supports the backbone of the public transport network, the rail corridor, through the application of NPS-UD Policy 3(c) which provides for the greatest level of growth adjacent to rail stations. This network will need further investment to cater for increased passenger numbers and the pathway for doing so is covered in the Regional Public Transport Plan[19].

[19] https://www.gw.govt.nz/your-region/plans-policies-and-bylaws/plans-and-reports/transport-plans/wellington-regional-public-transport-plan-2021/

8.3 Effects of vacant and underutilised properties

469. Campbell Logan (68) raised a concern that the plan change as proposed may provide excessive development capacity and that this may have negative impacts. He chiefly discussed this in terms of property values.

470. It is well-established that the RMA does not operate to try to support the financial value of people's real estate investments. I will therefore discuss this issue in terms of environmental effects.

471. There is no national or regional direction that would discourage Council from providing more than the minimum amount of development capacity required by Policy 2 of the NPS-UD, and the NPS-UD is also clear that the Policy 2 requirement is a minimum, not a target.

472. The only reason therefore to suggest deliberately restricting development capacity to avoid over-production is the possibility of adverse environmental effects.

473. Developments do not have environmental effects if they do not happen. The only relevant risk is whether there is a likelihood of developments being built speculatively and then left incomplete, or complete and vacant, and this possibly having a negative impact, such as risks to health and safety from unmaintained buildings and amenity values.

474. The Council has well-established powers to handle vacant buildings that become unsafe or insanitary under the Building Act, and bylaw and RMA general nuisance powers to handle other safety or nuisance effects of long term vacant properties.

475. In my view, there may be amenity effects of very long term vacancies. One is aesthetic issues from possibly deteriorating and unmaintained (but not unsafe) buildings and sites, but these are in my view minor and not a significant enough issue to require addressing in the district plan, particularly if they would have to be handled indirectly - as the scope of the plan change to address this is limited.

476. The other is the amenity issue of a lack of people in a neighbourhood, which undermines the vitality and sustainability of community and commercial facilities. As the purpose of the plan change is to increase the permitted level of density, the plan change will have positive, not negative, impacts in this field.

477. It is also worth noting that the idea of significant numbers of long-term vacancies are speculative. There is a strong economic incentive not to build units that won't sell, and vacancy rates historically have been low. At the 2018 census, only 2.3% of dwellings were unoccupied. The census does not record how long dwellings have been vacant for.

8.4 Parking

478. Many submitters raised parking as an issue.

479. Policy 11 of the NPS-UD strongly encourages tier 1, 2, and 3 local authorities to "manage effects associated with the supply and demand of car parking through comprehensive parking management plans". In my view this is the appropriate course of action and the primary and most efficient and effective way Council should manage negative impacts from parking.

480. Council's current Parking Policy[20] dates from 2017 and clearly sets out Council's approach to managing parking in Council-managed land, such as on-street and in council facilities. Council is currently reviewing the Parking Policy to see if it needs updating.

481. Parking can also be an issue where provided by other agencies (e.g. park-and-rides provided by the regional council) or the private sector. The district plan's primary tool for dealing with these issues is Chapter 14A – Transport. This chapter was comprehensively reviewed relatively recently and became operative in 2018. It addresses traffic impacts of significant developments by triggering a resource consent assessment over set thresholds for trip generation.

482. This is a flexible and district-wide system for managing transport issues that was designed to apply in areas with no parking minimums and does not depend on the underlying density of developments. In my view it remains fit for purpose.

8.5 Encroachment Licences and Leases

483. The panel asked officers to report on the encroachment licence process and the interaction between the transport and planning departments of HCC.

484. I have discussed the process with Council officer Blair Stanfield, Consultant – Traffic Engineer who processes applications for encroachments in the road corridor.

485. Encroachment licences are governed by the Local Government Act rather than the RMA. They are issued at the discretion of council and there is no obligation to grant them. Council could have a flat policy of refusing any application, and if it does decide to grant them, can consider any matters it chooses.

486. Council's current policy for addressing encroachments is governed by the Policy on Private Use of Hutt City Council Land[21]. This is quite a flexible policy and grants a wide latitude of discretion to decision-makers, recognising that each encroachment application is likely to be quite different. Council generally takes a case-by-case approach. Some things that would usually be considered include:

a. Council's desire to formalise existing unauthorised uses of Council land, by judging them as though they are new applications, and if they would have been declined, requiring the unauthorised use to cease,

b. Council's overall position that Council's land is held for a particular public purpose, and this takes priority over any proposed private use,

c. Whether the applicant could use alternative land (e.g. on their own site),

d. Whether there are legal impediments to the proposal,

e. Whether there are better alternatives to the proposal,

f. The results of consultation with anyone who may be affected,

g. Whether the proposal would be consistent with Council's intended use of the land,

[20] https://hccpublicdocs.azurewebsites.net/api/download/dca10d32fed24fb48c89a051398ef73e/_CM9-WE/937d069c128aa8c4587aed4941b4a5a7d4c
[21] https://hccpublicdocs.azurewebsites.net/api/download/dca10d32fed24fb48c89a051398ef73e/_CM9-WE/0ae18caf192c8cb42239fca346e4408c42c

h. All likely impacts of the use including on public access, impact on council assets and other utility services, amenity impacts, and long-term benefits to the community (e.g. environmental, social, economic, and cultural).

i. Safety, nuisance, or liability issues.

487. Applicants are guided in issues that might be considered through the prompts in the *Guide to Completing the Application for Private Use of Council Land* (attached to this report).

488. The policy grants wide flexibility to consider any other relevant issues.

489. Mr Stanfield informed me that it would be routine to consult other relevant teams in Council for any application, one example being the Parks team where street trees or vegetation would be affected. This could include the planning team, although usually it would be sufficient to consult the District Plan itself.

490. Council does not yet keep a centralised register of all encroachment licences but is currently compiling one. Mr Stanfield estimated the number of applications at present as around 2 per month. They were usually granted, and mostly related to residential areas. A common situation is formalising established yards and gardens that are treated as private in practice but in fact encroach on parts of the road reserve not otherwise in use.

491. He also said that Council never granted encroachment licences for simply using an area of road reserve for parking, although it would occasionally grant a licence for a parking structure where necessary such as a car deck in a hilly area.

492. Council also has the power to revoke encroachment licences with two months' notice and can do this if the encroachment is no longer suitable.

493. Based on this, my view remains that Council has adequate ability to deal with environmental and amenity issues through the encroachment licence process, and there is no need to "double up" by also requiring resource consent for all encroachments. If the approach to encroachments does not deliver reasonable outcomes, Council can update its policy and revoke unsuitable licences.

8.6 Significant Cultural and Natural Resources (SNRs)

494. During the hearing, reference was made to areas of Significant Cultural and Natural Resources (SNRs) and associated provisions in the Operative District Plan. This reference in particular arose for requests to rezone properties in the Hill Residential Activity Area to another zone. The Hearing Panel sought comment on SNRs and their provisions, and how they related to the provisions in PC56.

495. Firstly, it is noted PC56 does not propose any changes to SNRs and their associated provisions. In addition, no submissions were received seeking changes to SNRs and their associated provisions, therefore, any changes to SNRs and their provisions are out of scope of this plan change.

496. In response to the Hearing Panel's question, all identified SNRs and associated provisions are contained in Chapter 14E of the Operative District Plan. SNRs are areas specifically identified in this chapter based on three categories:

a. Natural resources: Significant natural and geological features, flora, fauna, wetlands, lakes, habitats and the coastal environment.

b. Cultural resources: Sites and features of significance to Māori.

c. Archaeological resources: Sites of significant archaeological value.

497. Under the rules in Chapter 14E, the following is a restricted discretionary activity (emphasis added):

Rule 14E 2.2

(a) Any activity or site development works identified on or within the boundaries of a significant cultural or archaeological resource, listed under the headings 'Significant Cultural Resources' and 'Significant Archaeological Resources' in Appendix Significant Natural, Cultural and Archaeological Resources 1 and shown on the Map Appendices Significant Natural, Cultural and Archaeological Resources 1A, 1B, 1C and 1D.

498. Therefore, under this rule, any activity or site development works within an identified cultural or archaeological resource requires resource consent as a restricted discretionary activity. The matters of discretion relate to the effects of the proposal on the values of the SNR. It is noted there are a few exemptions to the above rule for a few specific sites. None of these exemptions or specific sites relate to the areas raised through PC56 as they are in rural locations.

499. For 'significant natural resources', the rules state they cease to apply from 31 December 2005 on property in private ownership apart from a few exemptions. None of these exemptions or specific sites relate to the areas raised through PC56 as they are in rural locations. Therefore, no significant natural resources rules apply to land sought to be rezoned from Hill Residential Activity Area to another zone in PC56.

500. Notwithstanding no rules applying for areas identified as significant natural resources, the objectives and policies would apply in assessing any rezoning request. The relevant objective and policies are:

Objective 14E 1.1 To identify and protect significant natural, cultural and archaeological resources in the City from inappropriate subdivision, use and development.

Policy 14E 1.1 (c) That any activity or site development shall not modify, damage or destroy a significant natural, cultural or archaeological resource.

Policy 14E 1.1(i) That any activity or site development shall not modify, damage or destroy the intrinsic values of the ecosystems of a significant natural, cultural or archaeological resource.

501. This policy direction has been considered in the evaluation of the rezoning requests above.

8.7 Maintaining and protecting trees and shrubs

502. Mary and Michael Taylor expressed concern about the loss of trees and shrubs when sites are redeveloped or intensified. They sought all trees and shrubs taller than 2m in height be restricted from clearance as of right. They sought existing trees and shrubs be assessed through the resource consent process for new development.

503. The Operative District Plan contains rules restricting the removal of vegetation (trees and shrubs) within certain parameters. These rules came about via Plan Change 36 which was a specific plan change for protecting vegetation (including notable trees) in urban areas as a result of a change to the RMA limiting the types of rules District Plans can contain for protecting vegetation in urban areas.

504. The existing rules in the Operative District Plan are proposed to be carried over to the residential zones in PC56 – see Amendments 76 (Rule 4F 4.1.11) and 144 (Rule 4G 4.1.11). These rules restrict the removal of indigenous vegetation, unless they meet certain parameters where removal is permitted. Trees and shrubs permitted to be removed are those within a 'Urban Environment Allotment'. 'Urban Environment Allotment' has the same meaning as in the RMA, being:

an allotment within the meaning of section 218—

(a) that is no greater than 4,000m^2; and

(b) that is connected to a reticulated water supply system and a reticulated sewerage system; and

(c) on which there is a building used for industrial or commercial purposes or as a dwellinghouse; and

(d) that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.

505. This definition means the removal of indigenous vegetation, including trees and shrubs, is permitted on a high number of properties in the Medium and High Density Residential Areas. The exception to this rule are individual or groups of trees specifically identified in the District Plan as Notable Trees which are protected by specific rules.

506. While these rules permit the removal of vegetation, there are two development standards in the Medium and High Density Residential Areas which require assessment of existing vegetation if these standards are not complied with.

507. Rules 4F 4.2.6 and 4G 4.2.8 relating to outdoor living space state the following matter of discretion for assessing applications that do not meet the requirements for outdoor living spaces:

Any positive effects that not meeting the standard has on the retention of vegetation or other site features that add to the amenity of the site and surrounding residential area.

508. Similarly, Rules 4F 4.2.13 and 4G 4.2.15 relating to landscaped areas include the following matter of discretion:

The accommodation of any visually prominent or established vegetation on the site into the landscaping design and the visual effects from the loss of any existing visually prominent or established vegetation on the local streetscape and visual amenity values of the local area.

509. The current approach is the most appropriate approach within the legislative requirements for vegetation removal provisions.

8.8 Additional information requirements for qualifying matter – existing individual heritage listings

510. Sections 77J and 77P of the Act require certain additional information to be provided in a section 32 report when accommodating a qualifying matter. In general, this information is found in Appendix 5 of the section 32 report. However, the Council failed to provide an assessment for the qualifying matter of existing individual heritage listings.

511. No submitter raised this omission in a submission and therefore the provisions relating to individual heritage listings cannot be challenged on this basis per s32A of the Act.

512. However, for completeness and context, an assessment is provided in the table below. This uses the alternative process available under sections 77K and 77Q of the Act, in the format used in the section 32 report. This assessment should be read alongside appendix 5 of the section 32 report, particularly the section titled "additional information for protection of historic heritage from inappropriate subdivision, use and development".

Individual heritage listings (an existing qualifying matter) **Additional information under sections 77K and 77Q of the RMA**
1(a) Location of existing qualifying matter
The individual heritage listings apply to the sites mentioned in Appendix 1 and Appendix 2 of the proposed plan change (i.e., after applying Amendments 396-398 of the proposed plan change). These are identified by name, address, and legal description, and are indicated on the district plan maps with a star.
1(b) Alternative density standards proposed
The proposed plan change continues the existing policy framework for heritage items, which requires resource consent for most alterations, repairs, modifications, or demolitions to or of a scheduled heritage item. This does not include specific standards for building height or density but the effects of proposed building height and density on heritage values would be assessed for any consent.
1(c) Why the territorial authority considers the existing qualifying matter applies to those areas identified
The individual heritage listings identify a range of locations that were identified during the development of the District Plan in the 1990s and early 2000s, and in subsequent plan changes, as having significant historic heritage values. Given the significant diversity of sites and possible developments, an assessment of the greatest level of development that is compatible with those historic heritage values can only be made case by case in a resource consent assessment.
1(d) Description for a typical site, the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3
There is a significant diversity of sites covered by this qualifying matter, of different sizes, environments, and existing built form. They fall in a variety of different activity areas which accordingly have different levels of development that would be permitted by the MDRS and policies 3(a), 3(b), 3(c), and 3(d). In general, the provisions are likely to limit development to roughly the scale that exists at present, as opposed to the general approach of the activity area, which depending on the area would generally provide for unlimited height, 22 metres, 12 metres, or 11 metres at site coverages of 50% or 100%.