

Section 42A Officer's Report

Hearing Stream 2: Business

Subjects: **Commercial and Mixed Use Zones** (this report)
Contaminated Land and Hazardous Substances
Industrial Zones and the Seaview Marina Zone

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2 Introduction

2.1 Purpose and Scope

- (1) This is the section 42A Officer's Report for the Commercial and Mixed Use Zones of the Proposed Lower Hutt District Plan (the PDP).
- (2) This report is prepared under section 42A of the Resource Management Act 1991 (the RMA) to:
 - Assist the Hearing Panel in making their recommendations on the submissions and further submissions on the Commercial and Mixed Use Zone chapter of the PDP, and
 - Provide submitters with information on how their submissions/further submissions have been evaluated by the reporting officer for these chapters, and the reporting officer's recommendations to the Hearing Panel on the decisions requested.
- (3) This report considers submissions/further submissions received by Council on the Commercial and Mixed Use Zone chapter of the PDP, definitions of the Definitions chapter that primarily relate to Commercial and Mixed Use Zones, and strategic directions UDSD-O12 (Centres as Community Focal Points) and UDSD-O13 (Centres Hierarchy), and concludes with the officer's recommendations with respect to decisions requested by submitters on these parts of the PDP.
- (4) The Hearing Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information provided to them, including evidence provided to them by submitters.

2.2 Author

- (5) My full name is Stephen Davis. I am a Senior Policy Planner in the Policy Planning team at Hutt City Council (the Council).
 - (6) I hold the qualifications of Bachelor of Science from Victoria University of Wellington, and Master of Urban Planning (Professional) from the
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University of Auckland. I am an intermediate member of the New Zealand Planning Institute.

- (7) I have approximately seven years' experience in planning and resource management roles in local government, covering this district plan review, previous council-initiated and private plan changes, monitoring, and compliance.
- (8) I have been involved in the District Plan Review since 2020, including working on the Industrial Zones, Commercial and Mixed Use Zones, Seaview Marina Zone, Light, Noise, and Temporary Activities chapters, the urban design approach (cross-zone), and the maps, including their associated s32 reports. I also helped prepare and was lead reporting officer on the Council's Intensification Planning Instrument (2022-23), which previously implemented most of those parts of the District Plan Review relating to Policies 3 and 4 of the National Policy Statement on Urban Development.
- (9) I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct when preparing my written report and will follow it when I give any oral evidence.
- (10) Other than where I state that I am relying on the advice of another person, this evidence is within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- (11) Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinion. Where I have set out opinions in my evidence, I have given reasons for those opinions.

2.3 Supporting evidence

- (12) The s32 evaluation reports for these chapters still largely apply. I also attach evidence on urban design matters from UDIA Registered Urban Designer, Miriam Moore, which I adopt. This is Appendix 3 to this report.

- (13) I also reference other existing publicly available reports¹ and I have processed and analysed some existing council records (e.g. GIS maps and ratings data), which will be shown in the body of the report.

2.4 Glossary and abbreviations

Term or abbreviation	Meaning
CCZ	City Centre Zone
CPTED	Crime Prevention Through Environmental Design
FENZ	Fire and Emergency New Zealand
The Fuel Companies	The joint submission of BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd ² .
GFA	Gross floor area
GIS	Geographic Information System
HBA	Housing and Business Development Capacity Assessment
HCC or 'the Council'	Hutt City Council
HIRB	Height in Relation to Boundary
LCZ	Local Centre Zone
MCZ	Metropolitan Centre Zone
MUZ	Mixed Use Zone
NCZ	Neighbourhood Centre Zone
NPS	National Policy Statement
PDP or 'the proposed plan'	Proposed [Lower Hutt] District Plan
PHS	Petone Historical Society
Riverlink	An ongoing project that involves transformation of western parts of the Lower Hutt city centre, including flood protection, river restoration, changes to the transport network and other urban redevelopment activities (also referred to as Te Wai Takamori o Te Awa Kairangi).

¹ Which will be footnoted like so.

² Note that Z Energy Ltd also made a separate individual submission.

RMA or 'the Act'	Resource Management Act 1991
RPS	Regional Policy Statement (for the Wellington Region)
The Telecommunication Companies	The joint submission of Connexa, Chorus, FortySouth, and Spark.
UDIA	Urban Designers Institute Aotearoa

2.5 Procedural issues

2.5.1 Conferencing and minutes

- (14) At the time of writing there have not been any pre-hearing conferences, clause 8AA meetings, or expert witness conferencing in relation to the topics in this report.

2.5.2 Scope and validity

- (15) Some submissions seek changes to the plan that in themselves would be invalid – for example, by violating the National Planning Standards. I have discussed these in their relevant topics, and they should be considered to the extent that the broader aims of the submission might be achieved by some other means.

2.5.3 Assignment of submissions to hearings streams and topics

- (16) Submitters and their individual submission points have been covered in this report where:
- They explicitly seek changes to provisions in the Commercial and Mixed Use Zone chapter, or strategic directions UDSD-O12 and UDSD-O13,
 - They explicitly seek changes to maps linked to the chapters,
 - They explicitly seek changes to definitions mostly used in these chapters, or whose issues would mostly impact these chapters,
 - They seek broad relief and mainly reference or relate to the chapters,

- They seek broad relief and are more closely linked with these chapters than others, or
 - They seek broad relief and have no other obvious home. For such submissions reporting officers have attempted to group them with the aim of reducing duplication and the number of streams a particular submitter would be involved in.
- (17) Some submission points cover broad, cross-plan issues, especially structural issues, and may be covered both in this report and other topics.
- (18) For this report, submissions are divided into points on each zone, and definitions that are primarily relevant to the zones.
- (19) This report should be read alongside the other reports for this hearing stream:
- Contaminated Land and Hazardous Substances, and
 - Industrial Zones and the Seaview Marina Zone.

2.5.4 Integration with the Operative District Plan

- (20) As noted in the s42A report Hearing Stream 1 – Opening, while the Proposed District Plan was initially developed as a full district plan to replace the Operative District plan in its entirety. However, parts of the Proposed District Plan have been withdrawn, including the Historic Heritage chapter³.
- (21) As a result of this partial withdrawal of the Proposed District Plan, some parts of the Operative District Plan will need to be retained. In addition, the remaining parts of the Proposed District Plan will need to integrate with the retained parts of the Operative District Plan.
- (22) For the Metropolitan Centre Zone, there are notable issues for integration with the operative plan. While the proposed chapter does not directly contain provisions relating to historic heritage, it is designed around such provisions existing in the now-withdrawn Historic Heritage chapter relating to the also withdrawn Jackson Street Heritage Area. Accordingly, some provisions in the operative chapters 14F (Heritage Buildings and

³ See section 4.6.2 of the s42A report for Hearing Stream 1 – Opening for details on the partial withdrawal.

Structures) and 5B (Petone Commercial Activity Area) will continue to apply.

- (23) The heritage provisions in now-withdrawn parts of the Proposed District Plan are broadly comparable to those in the operative plan. The exact area identified is different but the policy approach is similar. Accordingly, I think for the most part the integration issues are mostly solved with updates to cross-references.
- (24) The City Centre Zone presents a minor integration issue with the Civic Centre heritage precinct, but this is relatively simple as the policy approach is similar to the operative plan, which also separated heritage provisions from zone provisions in the same way.
- (25) The Local Centre Zone, Neighbourhood Centre Zone, and Mixed Use Zone do not present integration issues.
- (26) I will make recommendations on how the Proposed District Plan could be altered to achieve as much integration as possible.

2.6 Statutory and Policy Context

- (27) The broader context of statutory considerations and national and regional direction remains as set out in the s32 report for the chapter. While there was a significant package of new and updated national direction in January 2026, most of it is either not relevant to the commercial centres or would be implemented through district-wide chapters.
- (28) The Central City Transformation Plan 2019 has been refreshed into the City Centre Framework 2025⁴, although this is not a major change in policy direction. There are some implications for the relative priorities for areas within the city centre.
- (29) One relatively minor but consequential change is the Resource Management (National Environmental Standards for Electricity Transmission and Electric Vehicle Charging Infrastructure Activities) Amendment Regulations 2026, which provides a range of permitted

⁴ Available at https://hccpublicdocs.azurewebsites.net/api/download/587890ba7b2542ef8532867346c3a343/_extcomms/8030ef989304f4534670a4ddd3e60526e75e

activities around electric vehicle charging, which is relevant to the discussions of the various rules for carparking in the zone chapters. As it is a fairly niche impact I will discuss this in the individual rules.

- (30) Large parts of Change 1 to the Regional Policy Statement have taken legal effect due to the settling of outstanding appeals. Where relevant, I will discuss the impact of this in individual provisions.

3 Cross-topic resource management issues

3.1 Urban design

(31) The approach to urban design in the Commercial and Mixed Use Zones forms the same structural approach as in the other urban zones with urban design objectives – an objective (CCZ-O4, MCZ-O4, LCZ-O4, NCZ-O4, MUZ-O4) that sets out the general planned character and urban built environment for the zone, and then a package of three policies which set out, respectively:

- Outcomes that are met through the use of standards, with discretionary assessment only where the standards are not met (CCZ-P8, MCZ-P8, LCZ-P8, NCZ-P8, MUZ-P7),
- Outcomes that are met through a discretionary assessment in general, although they may or may not apply in different circumstances (CCZ-P9, MCZ-P9, LCZ-P9, NCZ-P9, MUZ-P8), and
- Which methods and effects should not be considered in these assessments⁵ (CCZ-P10, MCZ-P10, LCZ-P10, NCZ-P10, MUZ-P9).

(32) Council's intent is, once it has made decisions on submissions on the plan, to develop urban design guidance that sits outside the plan as an optional resource for applicants. This guidance would be developed and updated over time in response to experience applying the plan and monitoring the plan's outcomes. To provide this guidance in a cost-effective manner, it is beneficial for different zones to use identical language wherever possible so that references and examples can be provided just once for a single outcome, even if it is sought in multiple zones. It will also assist plan users for provisions in the plan that are in

⁵ These exceptions should be considered in light of the history of urban design in predecessor plans, and as Council seeking a conscious departure from those previous approaches. They are likely of greater relevance to residential zones, although for the sake of plan usability this policy is consistent across the zones.

scope of this guidance to have names reflecting that it is part of the overall urban design approach.

- (33) Urban Edge Planning (449), Urban Plus (322), and Kāinga Ora (386) propose quite different structures for the urban design policies, such as merging policies and moving the “exclusions” policy to a note.
- (34) During the preparation of the draft plan and proposed plan Council tested a wide variety of structural options for the urban design policies, including a single urban design policy, two policies with notes, and the three policy option. The draft plan had a single-policy approach. Feedback from Council’s consents planners was that this made the policy complex to reference and were generally in favour of the three policy option, which reduced repetition and made cross-references easier to follow. It also allows the wording to be identical across different zones with otherwise different outcomes, which will reduce the complexity of future design guidance.
- (35) I attach evidence from UDIA Registered Urban Designer Miriam Moore (Appendix 3) which covers some general points about the urban design approach and specific assessment of changes requested by submitters.
- (36) As these submission points often present a range of planning issues, I will discuss them at the provision level as well.

4 Strategic Directions

4.1 Chapter Summary

- (37) As discussed in the s42A report for Hearing Stream 1 – Opening, most strategic direction will be discussed in the report for the topic most relevant to that particular strategic direction. That report also has a broader discussion of the role and intent of the strategic directions as a whole.
- (38) Two strategic directions are primarily relevant to the Commercial and Mixed Use Zones: UDSD-O12 (Centres as Community Focal Points)⁶ and UDSD-O13 (Centres Hierarchy).

4.2 Submissions and further submissions

- (39) There are four submission points on UDSD-O12 and O13 from three submitters. There are no further submissions.

4.3 Discussion of submissions and recommendations

UDSD-O12 (Centres as Community Focal Points)

- (40) The Petone Historical Society (496.12a) seek to add reference to the heritage area of Jackson Street, Petone to the objective, considering that the wording as notified excludes the Metropolitan Centre Zone.
- (41) In my view, while specific reference to Jackson Street is much too place-specific an issue for a strategic objective, I agree with the submitter that it should be covered somehow and there is no reason for the objective to apply to only two of the four “Centre” zones as it could be interpreted to

⁶ This provision should have been numbered SD-UD-O12 to meet the National Planning Standards. See the s42A report for Hearing Stream 1 – Opening for a discussion and recommendation on actioning that numbering. For continuity I will refer to the provision using the non-compliant notified reference, as this is what is used in submissions and the summary of submissions.

do. It appears to be inartful wording rather than a deliberate policy choice, particularly as “neighbourhood centre” is not capitalised, the use of “central city” rather than “city centre”, and the overall scheme of the plan makes no distinctions that apply to the City Centre and Neighbourhood Centre Zone but not the Metropolitan Centre and Local Centre Zones. I think the intention was clearly to cover all types of centres despite the odd wording.

- (42) Accordingly, I recommend the objective be updated to use the relevant defined term in the plan, “commercial centres”, which explicitly covers all four “Centre” zones and removes doubt that it applies to the Metropolitan Centre Zone, including Jackson Street:

Maintain and enhance the ~~central city and neighbourhood centres~~ commercial centres as community focal points with a wide diversity and concentration of activities.

- (43) PHS (496.12b) as an alternative sought to add a definition of “neighbourhood centre” which includes Jackson Street, Petone. My recommendation on the objective should make this a moot point and so I recommend no such definition be added.

UDSD-O13 (Centres Hierarchy)

- (44) The Ministry of Education (399.20) and Wellington Regional Council (452.29) support the objective as notified.
- (45) The Petone Historical Society (496.13) seeks in general terms that the centres hierarchy should cover Petone and suggest that the term “commercial centres” would be clearer than “business centres”.
- (46) As I discuss for UDSD-O12, I agree that use of the defined term would be clearer and so recommend altering the objective accordingly:

Establish and maintain a hierarchy of viable and vibrant ~~business~~ commercial centres that provide a focus for retail, commercial, entertainment, education and employment activities and serve the social, cultural, environmental and economic needs of the community.

5 Centres Zones

5.1 Chapter Summary

- (47) The Commercial and Mixed Use Zones chapter includes a suite of four “commercial centres”, the City Centre, Metropolitan Centre, Local Centre, and Neighbourhood Centre Zones. These work together as a package – the zones are written in the same structure and use the same language by default, with differences only where the policy intent of zones differ.
- (48) Accordingly, I have considered submissions across the zones as a whole, and submitters have often, logically, made the same submission point on equivalent provisions in each of the four zones. I will therefore frequently either group equivalent provisions together or refer back to previous equivalent provisions rather than repeat the discussion in all four zones.
- (49) Given the more significant differences in the Mixed Use Zone I will cover it separately in section 6.

5.2 Overall resource management issues

5.2.1 Scale of activities in the western end of Petone

- (50) The Petone Historical Society (496), Jackson Street Program (419), and John Donnelly (487) each seek various forms of relief with the overall goal of limiting commercial activities under a certain GFA threshold in western Petone with the general aim of supporting the vitality of Jackson Street.
- (51) Councils have a number of possible aims with a centres hierarchy, and many of these are set in the proposed plan’s objectives and regional and national direction. The strategic objective for the hierarchy is (including a recommendation to accept a submission point in part from the Petone Historical Society, see section 4.3):

Establish and maintain a hierarchy of viable and vibrant ~~business~~ commercial centres that provide a focus for retail, commercial, entertainment, education and employment

activities and serve the social, cultural, environmental and economic needs of the community.

(52) For the zone, the objective is:

The Metropolitan Centre is a key commercial, community, and civic centre for Lower Hutt, and is a location of choice for such activities with a city-wide or sub-regional catchment.

The Metropolitan Centre is supported by residential activities and a diverse range of other activities compatible with this purpose and the intended character of the zone, including activities that serve a more local community.

(53) The Regional Policy Statement provides for a policy on a centres hierarchy in Policy 30. At time of writing, this was subject to appeal but both the operative RPS and the decisions/appeals version of the proposed provisions, including any scope within appeals, create a hierarchy that sits Wellington’s city centre at the top, the Lower Hutt city centre at the next tier down, the Petone metropolitan centre either alongside or at the tier below, and then any other centres in the district below that.

(54) The NPS on Urban Development also sets out a centres hierarchy approach:

NPS-UD Provision	Relevant text (emphasis added)
Objective 3	<p><i>... district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:</i></p> <p>(a) the area is in or near a centre zone or other area with many employment opportunities</p> <p><i>(b) the area is well-serviced by existing or planned public transport</i></p>

NPS-UD Provision	Relevant text (emphasis added)
	<p>(c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.</p>
Policy 1	<p>Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: [...] (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and [...]</p>
Policy 3	<p>In relation to tier 1 urban environments ... district plans enable: ... (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys</p>

(55) There is thus strong higher-level policy direction to:

- Identify the Petone metropolitan centre as near the top of the hierarchy of centres,
- Provide for business scale and density to reflect the position in the hierarchy of centres,
- Provide for business density in a way that reflects demand for business use, and
- Support competition in the development of business land.

(56) The stated goal of the submitters' relief is to suppress development of small-size (and by implication, high-density) businesses in western Petone in order to support businesses in Jackson Street. Such a provision would only achieve anything if there were demand for such businesses and the policy would effectively suppress it.

(57) The RMA does not allow the Council to consider trade competition in making such a decision – it cannot limit business development in one area for the specific purpose of supporting the viability of businesses and commercial landlords in another. There must be effects on the wider environment that are relevant.

(58) John Donnelly (but not the other submitters) states that he might gain an advantage in trade competition through this submission and does not state that he is directly affected by an effect of the subject matter that adversely affects the environment and does not relate to trade competition. For now, the practical importance of this is low as the relief he seeks is also sought by the other submitters, but the panel should seek further information on this from the submitter if he appears at the hearing (as he has requested).

(59) It is also not a permissible approach given the direction of the NPS-UD and the direction in the Act to provide sufficient business land capacity⁷ to deliberately under-provide development capacity for the city in general, although as long as the Council is satisfied that sufficient capacity is provided overall, it could limit development in one location to achieve a permissible policy goal.

⁷ Resource Management Act 1991, s31(1)(aa).

(60) We are thus limited to considering a very localised limitation on development, only in the Metropolitan Centre Zone and not affecting other areas such as the City Centre Zone which would need to make up for the lost development capacity. It also needs to address a legitimate RMA purpose.

(61) The general purpose of the centres hierarchy is to provide for commercial and community activities that concentrate activity in suitable locations, thereby enhancing their positive effects. The plan often refers to these benefits under the defined term *co-location benefits*⁸:

... economic, social, cultural, and other benefits that arise from activities being located close to similar activities, compatible activities, related activities, or services useful to the employees, residents, students, and visitors already in a place. Co-location benefits can include, but are not limited to, benefits from:

- 1. Access to a wider range of goods and services for those employees, residents, students, and visitors already in a place,*
- 2. Easier comparison shopping,*
- 3. Easier trip-chaining,*
- 4. Economies of density,*
- 5. Greater access to business-to-business services,*
- 6. Labour pooling and matching,*
- 7. Lower transport costs,*
- 8. Knowledge spillovers,*
- 9. Specialisation, and*
- 10. The shared use of resources and infrastructure (e.g. parking spaces or public transport services).*

(62) The generally common factor across these benefits is that they are achieved through physical proximity. This is the derivation of the hierarchy of centres: the more people an activity attracts and the greater its density,

⁸ There are submission points on this definition but none that would substantially affect this issue.

the stronger the benefits are from location in a larger centre further up the hierarchy. In the plan, the City Centre and Petone are the preferred locations for activities that attract large numbers of people or people from far across the region.

- (63) There are potentially other benefits to restricting development of smaller-scale commercial activity, such as protecting development capacity for large-format commercial activities that might otherwise struggle to find locations. However, this would still mean deliberately providing for a lower density of business use than there is demand for, and if such a thing is done, the centres hierarchy would dictate that land be reserved for such activities in areas further down, or outside, the centres hierarchy. This would also not support limitations on sites that have already been subdivided down to smaller scales.
- (64) The Council is not explicitly obliged under the RPS or NPS to treat all of the commercial area in Petone as a single area⁹, and could establish a different hierarchy of centres within Petone. The only coherent policy approach in such a case would be to limit development, if anywhere, in the centre lower down the hierarchy to support the vitality of the centre further up it. The only way to square this with the submitters' relief would be to establish two centres, one for western Petone (e.g. a Local Centre Zone) and to make Jackson Street the Metropolitan Centre Zone. However, this would also entail providing for higher building heights and densities in Jackson Street, consistent with a position further up the hierarchy. This is probably not compatible with the overall direction of the heritage area provisions.
- (65) The remaining case is to consider the whole Metropolitan Centre Zone as a single area with multiple focuses, with large format commercial only in the west and small format commercial only in Jackson Street. The question is what benefits would arise from such an approach. The submitters generally see the benefits as:

⁹ And indeed it does apply multiple different commercial zones, there are also Mixed Use Zone areas around the fringes of the Metropolitan Centre Zone.

- Higher vacancies in Jackson Street could lead to a loss of income with which to fund the upkeep of heritage buildings
- Higher vacancies in Jackson Street could lead to various adverse effects from blight e.g. visual amenity, unsafe buildings
- Higher vacancies in Jackson Street would lead to lower visitor numbers in the area, reducing the vitality and vibrancy of the centre and reducing people's appreciation of the heritage values
- Consistency with the existing district plan and predecessor district schemes

(66) For the former three, I am not convinced by this reasoning. These all rely on the assumption that while Jackson Street businesses can compete with the city centre, Wellington city centre, and the other suburban centres in Lower Hutt, they could not compete with potential new competitors in western Petone, on which I do not think there is any evidence. This also obviously borders closely to considering the effects of trade competition.

(67) Jackson Street has numerous existing advantages, including proximity to buses and a larger walk-up residential catchment, much more provision of on-street parking than the western end streets, an attractive heritage fabric, council-funded streetscape enhancements, and existing path-dependency benefits by being the established centre. New competitors would need to overcome these advantages and then dominate so heavily that Jackson Street suffered significant vacancies to the point of eliminating its position as an inherently attractive destination.

(68) I think this is an extreme and unlikely scenario, but would also call into question some of the assumptions behind the zone and heritage precinct in that it would mean that customers do not actually value the existing centre and would vote with their feet to any nearby alternative. The zone assumes the centre is attractive in its own right. To attempt to force visitors to a centre they do not value by restricting one they do is I think fundamentally incompatible with the relevant objectives and policies of the NPS on Urban Development and the RPS.

(69) For the final reason given by submitters, I do not think there is any reason to preserve a plan provision simply because it has been in the plan for a long time. The purpose of a plan review is to assess existing provisions to

see if they are still fit for purpose. The business environment and policy environment have both significantly changed since it was last reviewed in Plan Change 29 (notified 2012, operative 2014).

- (70) Accordingly, I am not recommending this approach sought by submitters, both in general terms (for the submission of the Jackson Street Program, 419.3) and for the specific provision-relief requested, on which I will make individual recommendations for in the relevant provisions.

5.3 Discussion of submissions and recommendations

- (71) This section is a discussion of the submission points on the commercial centres, with my recommendations on decisions requested by submitters on this part of the chapter.
- (72) For the sake of brevity, where a submission is in support of a provision and I have not otherwise discussed it, I recommend accepting that submission point in whole or in part for the grounds set out in the Commercial and Mixed Use Zones s32 report.
- (73) For submissions that primarily relate to one of the key wide-ranging resource management issues in section 5.2, I will usually refer back to my overall recommendation rather than considering each point separately.
- (74) Many provisions are identical across the four zones, or across two or more zones, and some submitters have made the same points on them, although not necessarily all submitters. For the sake of brevity and consistency I will usually discuss these points on first appearance, except where they have interaction with other submission points.
- (75) For the sake of combining the discussions of equivalent provisions in multiple zones, where submitters have made the same point on each, provisions in this section are sorted in order of where the provisions are in the other chapters, even where numbering differs: for example, CCZ-S9 and MCZ-S10 are grouped together, even though they have different numbers, but because they are equivalent provisions. The chapters were written to have provisions in the same order, but some chapters have additional provisions not found in the others.

(76) The zones themselves are ordered in the order of the centres hierarchy, which is also the order they are in the proposed plan:

- City Centre Zone
- Metropolitan Centre Zone
- Local Centre Zone
- Neighbourhood Centre Zone

5.3.1 Provisions not in dispute

(77) The following provisions only have submissions in support, with no changes sought:

Objectives

Provision	Supported by
CCZ-01 (Purpose of the zone)	Ministry of Education (399.85), Oyster Management (272.44), and Z Energy (468.120a)
CCZ-03 (Provision of commercial and community spaces and housing)	Oyster Management (272.44)
CCZ-04 (Planned character and planned urban built environment of the zone)	Oyster Management (272.44), and Z Energy (468.120a)
CCZ-05 (Adverse effects)	Oyster Management (272.44), and Z Energy (468.120a)
MCZ-01 (Purpose of the zone)	Oyster Management (272.58), Ministry of Education (399.91), Z Energy (468.102a)
MCZ-03 (Provision of commercial and community space and housing)	Oyster Management (272.58)
MCZ-05 (Adverse effects)	Z Energy (468.102a)
LCZ-01 (Purpose of the zone)	Ministry of Education (399.97)

Provision	Supported by
LCZ-O2 (Activities in the zone)	FENZ (374.112), Ministry of Education (399.98)
NCZ-O1 (Purpose of the zone)	Ministry of Education (399.103)
NCZ-O2 (Activities in the zone)	FENZ (374.115), Ministry of Education (399.105)

Policies

Provision	Supported by
CCZ-P1 (Enabled activities)	Oyster Management (272.45) and Z Energy (468.120b)
CCZ-P2 (Residential activities and other activities sensitive to privacy intrusion)	Oyster Management (272.45)
CCZ-P4 (Likely incompatible activities)	Oyster Management (272.45)
CCZ-P5 (Existing activities)	Oyster Management (272.45)
CCZ-P6 (Role in network of commercial and industrial areas)	Woolworths (271.3) and Oyster Management (272.45)
CCZ-P7 (Development capacity – general)	Ministry of Education (399.88) and Oyster Management (272.45).
MCZ-P1 (Enabled activities)	Ministry of Education (399.93), Oyster Management (272.61), Z Energy (468.102b)
MCZ-P2 (Residential activities and activities sensitive to privacy intrusion)	Oyster Management (272.61)
MCZ-P5 (Existing activities)	Oyster Management (272.61)
LCZ-P1 (Enabled activities)	Ministry of Education (399.99)
LCZ-P5 (Existing activities)	Z Energy (468.88)

Provision	Supported by
LCZ-P7 (Development capacity – general)	Ministry of Education (399.100)
NCZ-P1 (Enabled activities)	Ministry of Education (399.105)
NCZ-P7 (Development capacity – general)	Ministry of Education (399.106)

Rules – Buildings and Structures

Provision	Supported by
CCZ-R1 (Repair and maintenance of buildings and structures)	Z Energy (468.124)
CCZ-R2 (Demolition or removal of structures other than buildings)	Z Energy (468.125)
MCZ-R1 (Repair and maintenance of buildings and structures)	Z Energy (468.106)
LCZ-R1 (Repair and maintenance of building and structures)	Z Energy (468.92)

Rules – Land use activities

Provision	Supported by
CCZ-R12 (Food and beverage activities)	McDonald’s Restaurants (174.11a)
CCZ-R13 (Grocery stores and supermarkets)	Woolworths (271.5) and Oyster Management (272.49) in full. Foodstuffs (239.37, 239.39) specifically as the rule applies to 20 Brunswick Street and 43 Waterloo Road.
CCZ-R22 (Service stations)	Z Energy (468.131)
MCZ-R17 (Other activities not otherwise provided for)	Ministry of Education (399.95)

Provision	Supported by
MCZ-R22 (Service stations)	Z Energy (468.113)
LCZ-R9 (Food and beverage activities)	McDonald's Restaurants (174.11c)
LCZ-R12 (Other activities not otherwise provided for)	Ministry of Education (399.101)
LCZ-R17 (Service stations)	Z Energy (468.95)
NCZ-R12 (Activities not otherwise provided for)	Ministry of Education (399.107)

Standards

Provision	Supported by
CCZ-S7 (Active frontages – land uses)	Oyster Management (272.54), Ministry of Education (399.90)
MCZ-S1 (Height)	Oyster Management (272.69)
MCZ-S7 (Active frontages – land uses)	Oyster Management (272.70), Ministry of Education (399.96)
NCZ-S7 (Active frontages – land uses)	Ministry of Education (399.108)

Zone maps

Site	Zone	Supported by
20 Brunswick Street, Hutt Central	CCZ	Foodstuffs (239.36)
270 High Street, Hutt Central	CCZ	Oyster Management (272.43)
337, 339, 355, 369, 371, 373, 375 High Street, Hutt Central	CCZ	Adrian Palmer Family Trust (315.2b, 315.2c, 315.2d, 315.2e, 315.2f, 315.2g, 315.2h)
338 High Street, Hutt Central	CCZ	McDonald's Restaurants (174.19a)
555 High Street, Hutt Central	CCZ	Z Energy (468.7a)

Site	Zone	Supported by
10, 19 Pretoria Street, Hutt Central	CCZ	Adrian Palmer Family Trust (315.2m, 315.2n)
15 Raroa Street, Hutt Central	CCZ	Adrian Palmer Family Trust (315.2o)
23, 25, 27, 33, 35, 37, 39 Rutherford Street, Hutt Central	CCZ	Adrian Palmer Family Trust (315.2p, 315.2q, 315.2r, 315.2i, 315.2j, 315.2k, 315.2l)
43 Waterloo Road, Hutt Central	CCZ	Foodstuffs (239.38)
48 Hutt Road, Petone	MCZ	Bunnings (173.14)
60 Hutt Road, Petone	MCZ	Z Energy (468.6a)
2 Jackson Street, Petone	MCZ	Adrian Palmer Family Trust (315.2a)
106-110 Jackson Street, Petone	MCZ	Oyster Management (272.55)
114 Jackson Street, Petone	MCZ	Foodstuffs (239.34, 239.35)
29 Victoria Street, Petone	MCZ	McDonald's Restaurants (174.18a)
444 Cuba Street, Alicetown	LCZ	Pandion Ltd (259.1)
814 High Street, Avalon	LCZ	McDonald's Restaurants (174.20a)
834 High Street, Avalon	LCZ	Z Energy (468.8a)
14 Oates Street, Stokes Valley	LCZ	Foodstuffs (239.40, 239.41)
14 Te Ara Raukura, Wainuiomata	LCZ	McDonald's Restaurants (174.17)

(78) As these points are all thus beyond contention, they all should be accepted.

(79) Where other provisions in the chapter are not listed in this report, they did not receive provision-specific submissions.

5.3.2 Introduction and general

- (80) Summerset Group (326.24) supports the commercial centre zones as notified.
- (81) Subject to the detailed discussion of individual provisions and amendments recommended below, I recommend accepting this point.
- (82) Pandion Ltd (259.3, 259.8) supports the overall intent of the Local Centre Zone but considers that the whole Local Centre Zone chapter is too complicated and should be simplified and made more enabling. Given that the submitter also seeks specific relief and the volume of other submission points this is best addressed at a specific provision level.
- (83) John Donnelly (487.1) seeks in general terms provisions that “[disallow] development of smaller than 400m² commercial premisses in the non Heritage – Big Box Western Areas of Petone”.
- (84) I discuss this issue in general in section 5.2.1, where I do not think such an approach is warranted, and recommend no such provisions be added.

Reference to reverse sensitivity effects

- (85) The Policy Planning Team (440.3) seek to replace references to “reverse sensitivity effects” to just “reverse sensitivity” across the plan for consistency. I agree this improves the consistency of the plan and recommend making this change across the commercial centres.

Supermarkets

- (86) Woolworths (271.1b), supported by McDonald’s Restaurants (F11.12) and Foodstuffs (F17.29), seeks in respect of the City Centre Zone and Metropolitan Centre Zone “[r]econsideration of the [City Centre/Metropolitan Centre] Zone framework ... to achieve greater alignment and support of permitted activities is needed to be recognised by the objectives, policies and standards framework for the City Centre Zone. Consequential changes or amendments may be required”.
- (87) This relief in itself is too vague to be actionable. The submitter has also made more specific requests which I will discuss under the relevant provisions. The panel has scope in general to make consequential changes.

Introduction – Metropolitan Centre Zone

(88) Heritage NZ (248.68) support the introduction as proposed.

(89) PHS (496.47) seek to:

Add further explanation to acknowledge that the Zone contains the biggest, most socially and economically integrated, and highly-valued Historic Heritage Area in the City.

(90) In my view the introduction already adequately references the Jackson Street Heritage Area and directs plan users to appropriate provisions and further explanation.

(91) However, this reference needs to be corrected per the National Planning Standards and to reflect the withdrawal of the proposed Historical Heritage chapter. Accordingly, I recommend the following minor change, assuming a National Planning Standards update is made to the operative plan:

The traditional retail centre along Jackson Street is mostly within an identified heritage area, and managing its heritage values is important to the social and cultural outcomes sought for the zone. ~~However, for consistency,~~ These provisions are located in the ~~Historie~~ Historical Heritage chapter.

Introduction – Local Centre Zone

(92) Pandion Ltd (259.4) seeks in general terms to reword paragraph 4, considering it unclear what is meant by “intensive public open space”.

(93) I agree this could be clarified and recommend it be reworded as:

The planned urban built environment for the Local Centre Zone is medium or high density commercial buildings and intensively used public open spaces, while recognising there is a likely need for some space to be dedicated to parking and servicing. Residential development is expected but would be expected to be in the form of apartments above ground level.

Active street frontage standards

- (94) Pandion Ltd (259.2a) seeks in general terms that the active street frontage standards for the Local Centre Zone are simplified and made less restrictive.
- (95) Miriam Moore discusses the active street frontage standards in her evidence in Appendix 3 (para 4.2 onwards). Given that are more specific submission points, including from Pandion Ltd, I will discuss this at the provision level.

5.3.3 Invalid and unclear

Order of rules

- (96) Laura Skilton (314.60a, 314.61a) seeks that CCZ-R7, CCZ-R8, CCZ-R9, and CCZ-R11 are moved to appear after CCZ-R19: Light manufacturing and servicing, and that CCZ-R16 is moved after CCZ-R26, considering that as the zone is a commercial zone, residential activities should appear after commercial ones, and a catchall should appear last.
- (97) The submitter also seeks that the equivalent change is made in the other three commercial centre zones (314.60b, 314.60c, 314.60d, 314.61b, 314.61c, 314.61d, 314).
- (98) The National Planning Standards¹⁰ require that:
- Any rules must be ordered in the following way: permitted, controlled, restricted discretionary, discretionary, non-complying, prohibited. Where a single rule contains more than one activity status, this order must be used within the single rule.*
- (99) Accordingly, the Council does not have the option to place the permitted residential activities, or the catchall rule, after activities with a more restrictive activity status.

¹⁰ Standard 10.3, on page 41.

5.3.4 Use of zones

- (100) Laura Skilton (314.56) seeks that the five commercial zones be merged into one, considering them “effectively the same”.
- (101) I do not agree that the zones either are or should be “effectively the same”. They contain significantly different policy directions, rule frameworks, and standards, and I recommend keeping the five notified zones.

5.3.5 Objectives

- (102) Z Energy (468.86a) supports the objectives as notified.
- (103) Pandion Ltd (259.6) seek in general terms that the objectives (inferred to be for the Local Centre Zone) are amended to reduce their number and complexity. They consider that the objectives describe not just the desired end state but how to achieve it and this detail should be found in policies.
- (104) The zones each have five objectives set out in a standard structure for zones in the plan. I do not think they are too complicated in general.
- (105) With regards to whether the objectives cover matter best addressed in policies, I do not agree, and cannot discuss this much without some specific examples of what parts of the provisions are seen as unsuitable for the objectives. The submitter also seeks specific relief on LCZ-O4, which I will discuss in the section for that provision. If the submitter has additional examples they can raise those at the hearing.
- (106) Accordingly, I will consider the objectives individually based on individual submission points.

CCZ-O2, MCZ-O2 (Activities in the zone)

- (107) Oyster Management (272.44, 272.58), Z Energy (468.120a, 468.102a), and the Ministry of Education (399.86, 399.92) support the objectives as notified.
- (108) FENZ (374.106, 374.109) seeks to add an additional class of activities as so:

The [City Centre Zone / Metropolitan Centre Zone]:

a. Primarily provides for commercial activities and community activities,

b. Is supported by residential activities that:

i. Are compatible with the purpose, the planned character, and the planned urban built environment of the zone, and

ii. Are compatible with the types of amenity associated with a high density commercial centre anticipated by the zone, and

c. Provides for other activities that:

i. Are compatible with the purpose, the planned character, and the planned urban built environment of the zone, and

ii. Are compatible with the types of amenity associated with a high density commercial centre anticipated by the zone.

[xxx]. Either support the health and wellbeing of people and communities in the surrounding area and/or have an operational and/or functional need to locate in the zone.

(109) FENZ's reason for this change is to enable fire stations within the zones. I believe this is already provided for in the objective provided that the fire stations are designed to be compatible with the purpose, planned character, and planned urban built environment of the zones, and the types of amenity associated with them. I think these are achievable goals for fire stations on sites not covered by the Active Frontage overlays, and that the overlays are right to preclude fire stations on Active Frontage Overlays. There are plenty of potential locations for fire stations and there is no functional or operational need for them to be specifically in those few locations that the highest standard of pedestrian amenity is anticipated and on which fire stations inevitable create significant adverse effects.

(110) FENZ's changes are potentially much broader in effect than the reason given. If they have other broader reasons for this change, they may wish to provide this at the hearing.

(111) Accordingly, I recommend the objectives remain as notified.

MCZ-O4 (Planned character and planned urban built environment of the zone)

(112) PHS (496.49) seeks to add a further clause to the list as:

Built development and open spaces positively contribute to a commercial and community hub of activity within a well-functioning urban environment that:

[...]

[x.] recognises and protects the significant heritage values of the Jackson Street Heritage Area"

- (113) This is already adequately captured with the objectives in the operative 2003/2004 plan that will now remain after the Plan Stop withdrawals: the general heritage objectives 14F 1.1, 14F 1.2, and particularly the Petone Commercial Activity Area objective 5B 1.2.1 which states:

The significant historic heritage values, style and character of buildings and structures in the Jackson Street Heritage Precinct are retained and enhanced.

- (114) Accordingly, I recommend the objective remain as notified.

LCZ-04 (Planned character and planned urban built environment of the zone)

- (115) Pandion Ltd (259.7a, 259.7b, 259.7c) seeks to delete clauses (d), (f), and (k), which would produce the result:

Built development and open spaces positively contribute to a commercial and community hub of activity within a well-functioning urban environment that:

- a. Comprises buildings and spaces surrounding buildings, sites, streets, and neighbourhoods that are designed to achieve the desired urban design outcomes for the zone,*
- b. Has an urban built environment that is characterised by a high concentration of building densities and forms, including buildings that provide an active frontage on identified frontages and providing for building heights up to at least six storeys,*
- c. Takes advantage of and contributes positively to the opportunities of pedestrian spaces and adjoining parks and reserves,*

- ~~d. Makes efficient use of the scarce resource of space at ground level,~~
- e. Is easily legible to visitors,
- ~~f. Is healthy, safe, attractive, and accessible,~~
- g. Provides useful on-site outdoor living areas for residents, or is located in close proximity to useful public open space in the neighbourhood,
- h. Has good access within the Local Centre, to and from surrounding neighbourhoods, and to and from other commercial centres, through active and public transport modes, providing for well-connected and low emission communities,
- i. Is integrated with existing and planned infrastructure,
- j. Includes opportunities for housing and other activities that positively contribute to the function and amenity of the Local Centre, and
- ~~k. Enhances co-location benefits.~~

(116) They consider respectively that:

- There is no evidence to support that space at ground level is a scarce resource,
- It is unclear what constitutes a “healthy urban environment” and this could not be addressed through a resource consent, and
- It is unclear what co-location benefits are and how they can be achieved.

(117) Space at ground level within commercial centres is scarce due to the limited availability of land in well-located and desirable commercial centres located where visitors can easily see and interact with commercial and community activities at the site. The Housing and Business Development Capacity Assessment (HBA) 2023¹¹ forecasts demand for 266,000 additional square metres of retail space over the next 30 years and this needs to be accommodated in existing centres. While

¹¹ See Appendix 3.1 of the report at <https://wrlc.org.nz/assets/Documents/Documents/2025/09/Appendix-3.1-Demand-for-business-land-in-the-Wellington-Horowhenua-region-Report-by-Sense-Partners.pdf>, p115.

centres may be able to expand outwards, the benefits of this growth is enhanced if the growth happens in well-located centres. Retail generally attracts more visitors when it is at near the street at ground level itself and in an environment where other retail does likewise. If ground-level spaced is used by other land uses such as residential, this spreads centres outward, reducing the benefits from proximity.

(118) Miriam Moore discusses some examples of what factors can make an urban environment more healthy in her evidence in Appendix 3, at paragraph 4.50, which I agree with.

(119) Co-location benefits are defined in the plan (see discussion in section 7.1.3) and I believe adequately so. I note the support from the Telecommunication Companies (311) and the Fuel Companies (471) for that definition as clearly setting out what co-location benefits are.

(120) Accordingly, I recommend the objective remain as notified.

5.3.6 Policies – Proposed

CCZ-P3, MCZ-P3 (Potentially incompatible activities)

(121) Oyster Management (272.45, 272.61) and Z Energy (468.120b, 468.102b) support the policies as notified.

(122) McDonald’s Restaurants (174.9a, 174.10a, 174.9b, 174.10b, 174.9c, F11.4, F11.13, F11.15, F11.21, F11.29) seek to:

- Remove drive-through activities from the list of potentially incompatible activities, and
- Change “carparking at ground level” to “carparking visible at the street edge or public space” in relation to active frontages.

(123) The submitter considers respectively that:

- Drive-throughs are suitable for the zones, and
- As the policy relating to carparking is primarily an amenity issue then it should not apply if carparking is not visible.

(124) Foodstuffs (239.12, 239.13, F17.5, F17.10, F17.23, F17.30, F17.32) make essentially the same point in relation to carparking at ground level, although in more general terms without specific relief requested.

- (125) Bunnings (173.6, F18.5, F18.10, F18.14) seek the same point as McDonald's around carparking at ground level, although only in the Metropolitan Centre Zone, giving similar reasons.
- (126) Woolworths (271.2, 271.8) seeks in very general terms to be more enabling of ground-level carparking and sees the policy direction as difficult for supermarkets to achieve, and also (by implication, although explicitly for other provisions) seeks to change carparking from a standalone activity to be only considered as an accessory activity to other land uses.
- (127) It is worth noting that this policy covers activities that are *potentially* incompatible. Drive-throughs create significant risks to pedestrian amenity, street activation, and the streetscape generally and need to be considered in the context in which they are proposed, particularly on active frontages.
- (128) I do not agree with McDonald's Restaurants view that CCZ-P3's reference to carparking at ground level is primarily an amenity issue. Localised amenity values for carparking can almost always be managed (often as the submitter suggests, through screening) and are unlikely to make an activity completely incompatible with the purpose of the zones. Amenity issues are covered in policy CCZ/MCZ-P8 and CCZ/MCZ-P9.
- (129) Rather, carparking at ground level suggests an activity of a type that makes inefficient use of space and does not support the aim of the city centre to present an intensive and varied range of destinations. This is a good sign of an activity that needs more specific assessment to see if it is compatible or not, as provided for in CCZ/MCZ-S8 (which provides a restricted discretionary activity status). Alternative triggers could be devised for the same goal such as buildings below a certain site coverage or height or floor-area ratio, and there may be merit to these alternatives, but it is certainly open to Council to decide that carparking is the most practical trigger to implement and I do not think there is scope for an alternative approach.
- (130) I do not agree with Woolworths view that supermarkets do not have a pathway to consent under the policies of the plan, or that carparking is an inherent part of every activity in the city centre and metropolitan centre. Many existing businesses including supermarkets and grocery stores do not provide much or any on-site carparking, relying on customers arriving

and leaving by active and public transport, taxi/rideshare, and driving using on-street or using shared standalone commercial carparking, or trip-chaining with visits to other businesses¹². It is entirely appropriate to consider the effects of accessory carparking over and above the activity which that accessory carparking serves, and the proposed plan's structure makes it easiest to do so with a standalone rule. Many businesses do provide significant accessory carparking, and the PDP approach does not preclude this. Rather, it steers that carparking to be located and designed to reduce the impacts and ensures the effects of the parking in and of itself can be considered separate to the overall activity if necessary.

(131) Council did consider, and reject, a more lenient approach to vehicle-oriented activities in centres¹³. Generally, the classification of active frontages and other frontages is intended to steer vehicle-oriented activities into locations that will have lesser adverse effects.

(132) FENZ (374.104, 374.110) seek to add an additional class of activities as so:

1. Provide for other, potentially incompatible activities if they:

...

[xxx]. Either support the community within the zone and surrounding area and/or have an operational and/or functional need to locate in the zone.

...

(133) The list of criteria for activities in the policy is additive, not alternative. I do not think this additional criterion would add anything to the management of the zone or that there is a good reason to require activities to meet the requested test if the other elements are met.

¹² Many if not most businesses seek to actively discourage the use of the accessory carparks they provide for visitors visiting multiple destinations. If successful, this has the effect of inflating the overall number of carparks and vehicle trips needed as visitors need to drive between destinations they otherwise could have walked between, and results in lower overall utilisation of carparks as businesses tend to size (and until 2020 with the removal of parking minimums, were required to size) carparking areas to meet something close to peak demand. Accordingly, shared pools of parking such as on-street parking and standalone commercial carparks tend to make more efficient use of space, and this is a relevant environmental effect to consider in a resource consent.

¹³ See p57 of the s32 report.

- (134) If this is intended as an alternative to the proposed list, then I think this would undermine the policy's connection to the objective and particularly that almost any activity could be said to "support the community within the zone and surrounding area".
- (135) With regards to the submitter's major concern of fire stations, I believe these can meet the tests in the policy as written, if appropriately located and designed.
- (136) Accordingly, I recommend the policies remain as notified.

LCZ-P3, NCZ-P3 (Potentially incompatible activities)

- (137) Z Energy (468.87) supports the policy (for LCZ only) as notified.
- (138) McDonald's Restaurants (174.9c) (for LCZ only) seeks to remove drive-through activities from the list of potentially incompatible activities.
- (139) It is worth noting that this policy covers activities that are *potentially* incompatible. Drive-throughs create significant risks to pedestrian amenity, street activation, and the streetscape generally and need to be considered in the context in which they are proposed, particularly on active frontages.
- (140) FENZ (374.113, 374.116) seek to add an additional class of activities as so:
- 1. Provide for other, potentially incompatible activities if they:*
- ...
- [xxx]. Either support the community within the zone and surrounding area and/or have an operational and/or functional need to locate in the zone.
- ...
- (141) The list of criteria for activities in the policy is additive, not alternative. I do not think this additional criterion would add anything to the management of the zone or that there is a good reason to require activities to meet the requested test if the other elements are met.
- (142) If this is intended as an alternative to the proposed list, then I think this would undermine the policy's connection to the objective and particularly that almost any activity could be said to "support the community within the zone and surrounding area".

(143) With regards to the submitter's major concern of fire stations, I believe these can meet the tests in the policy as written, if appropriately located and designed.

(144) Accordingly, I recommend the policies remain as notified.

MCZ-P4 (Likely incompatible activities)

(145) Oyster Management (272.61) support the policy as notified.

(146) Woolworths (271.9), supported by McDonald's Restaurants (F11.16), Foodstuff's (F17.33) and Bunnings (F18.11), seek to remove vehicle crossings on Active Street Frontage Overlay B from the list of likely incompatible activities. Their reasons are in relation to existing activities with vehicle crossings.

(147) From the general thrust of what the submitter is asking for on the plan as a whole, I believe this issue is better addressed through the question of *which* frontages are classed as Active Frontage B rather than throwing out the entire concept of active frontage protection, and recommend the policy remain as notified and that this question be addressed in the submission points on the spatial identification of the overlay (see section 5.3.17).

MCZ-P6 (Role in network of commercial and industrial areas)

(148) Oyster Management (272.61) support the policy as notified.

(149) PHS seek to modify the policy as so, or similarly:

Recognise the Metropolitan Centre as second only to the City Centre as a location for activities that serve the whole city or wider region while also serving the local area, and thus provide for activities at any scale, except that small-scale retail and hospitality activities are to remain concentrated in the Jackson Street Heritage Area and discouraged elsewhere in the Zone.

(150) As I discuss in section 5.2.1 I do not think this approach is warranted and recommend the policy remain as notified.

MCZ-P7 (Development capacity – General)

- (151) Oyster Management (272.61) and the Ministry of Education (399.94) support the policy as notified.
- (152) PHS (496.51) seeks (inferred) to add specific mention of retail and hospitality activities, including food and beverage activities.
- (153) These are already covered with the reference to business. Business is not defined in the proposed plan, which would normally use “commercial activity”, but it is clear enough and the policy is designed to link with the reporting requirements of the NPS-UD and the duty in the RMA to provide sufficient business land¹⁴. Adding reference to specific types of business would create an unnecessary overlap with the function of MCZ-P1 through MCZ-P4, which gets into the details of classes of activities to be encouraged and discouraged.
- (154) Accordingly, I recommend the policy remain as notified.

CCZ-P8, MCZ-P8 (Urban design outcomes (by meeting standard or assessment)), CCZ-P9, MCZ-P9 (Urban design outcomes (all significant developments))

- (155) Oyster Management (272.46, 272.47, 272.62, 272.63) supports the policies as notified.
- (156) Heritage New Zealand (248.72), in relation to the Metropolitan Centre Zone only, support the policies as notified and also support development of design guides outside the plan, with stakeholder input.
- (157) Urban Edge Planning (449.18, 449.19) seeks to rename CCZ-P8/MCZ-P8 to “built form outcomes” or “character and amenity”.
- (158) I set out in section 3.1 why I think the three-policy structure for urban design should be retained and that the titles should all include “Urban Design Outcomes”.
- (159) The submitter considers that as the outcomes are addressed through standards these outcomes may not be met.

¹⁴ Resource Management Act 1991, s31(1)(aa).

(160) Any permitted activity standard comes with some risk that the policy outcome that underpins it might not be achieved. If a plan is to use permitted activities at all such a risk needs to be taken. For the substance of how well the standards advance the policies, this is better addressed in the submitter's points on those standards.

(161) Urban Edge Planning (449.26, 449.27) seeks that CCZ-P9/MCZ-P9 clarify what is meant by a "significant" development as they see the term as ambiguous.

(162) I believe that this is already done through the opening paragraph:

All built development is managed to achieve the outcomes in this policy through an approach demonstrated in a resource consent. Some minor development and alterations will not need resource consent.

(163) In conjunction with the various rule conditions I think it is clear that "significant" means a development that triggers a rule for which the policy is within the matters of discretion.

(164) Urban Edge Planning (449.21, 449.22) further seeks¹⁵ to "refine and clarify" the design matters:

- So that passive surveillance is ensured, rather than enabled, except under special circumstances
- So that the difference between passive surveillance and street activation matters is made clear
- To add more clarity on visual amenity in public spaces when exclusions apply
- To remove references to ensuring adequate daylight
- To clarify the policy matter about the amenity of surrounding residential zones, rural zones, and marae zones including by setting out what amenity in particular and protection to what extent
- To remove references to pedestrian dignity, seeing it as ambiguous

¹⁵ This submission point is effectively split across both CCZ/MCZ-P8 and CCZ/MCZ-P9 due to the format of the original submission.

- (165) Miriam Moore in Appendix 3 discusses some of these issues, particularly around passive surveillance and street activation (from para 4.63), visual amenity in relation to the exclusions policy (from para 4.51), references to daylight (from para 4.29), and pedestrian dignity (from para 4.33).
- (166) I agree with her recommendations and the submitter that daylight is too difficult to measure and apply and should not be considered, and her recommendation to balancing ensuring versus enabling passive surveillance. For the issue of providing for “pedestrian dignity” I agree with her recommendation and consequently suggest also eliminating some of the duplication in the policy. With regards to visual amenity in relation to the exclusions policy I agree with her recommendation and make suggested changes to policies CCZ-P10/MCZ-P10/LCZ-P10/NCZ-P10 to address this, for which see the section below on those policies.
- (167) For the issue of the amenity of surrounding zones, I do not think specific and separate assessment methods would be useful, as the relevant standards will serve as a permitted or anticipated baseline.
- (168) Z Energy (468.121, 468.122, 468.103, 468.104) seeks that the proviso at the end of each policy be amended as follows:
- ... Where functional and operational needs, specific existing site constraints (such as topography) or other unusual factors affect the ability for built development to achieve these outcomes, the development shall meet the outcomes to the greatest degree practical. ...*
- (169) “Functional need” and “operational need” are defined terms in the plan which come from the National Planning Standard and refer specifically of the need of particular activities to locate in a particular environment. In the context of service stations I do not think they have an inherent functional need or operational need to locate in the commercial centres as they are provided for as permitted activities in the Industrial Zones. This does not preclude service stations in commercial centre zones (which are provided for as a permitted activity) but nor does it suggest the test of functional needs or operational needs would override the purpose of the urban design outcomes policies.
-

- (170) The substance of the submission relates particularly to Z Energy’s existing service stations. This is fundamentally about existing uses, not functional and operational needs. The issue is better addressed through policy CCZ-P4/MCZ-P4/LCZ-P5/NCZ-P5 on existing activities, and the associated conditions on rules and standards, on which Z Energy has made separate submission points.
- (171) I think any other activities that both have a functional or operational need to locate in commercial centres and that cannot comply with the urban design outcomes would likely fall within the scope of the Infrastructure chapter. If the submitter is concerned with any examples of activities other than service stations they could raise this at the hearing.
- (172) I thus do not recommend adding references to “functional and operational needs”.
- (173) Putting these points together, I recommend that CCZ-P8/MCZ-P8 be amended as follows¹⁶:

[CCZ/MCZ-P8]: Urban design outcomes (by meeting standard or assessment)

...

The outcomes are:

...

2. The form and scale of development protects access to sunlight ~~and daylight~~ in well-used streets and public spaces.

...

[omitted outcomes differ between CCZ and MCZ, but changes are not recommended and these outcomes are not relevant to submissions]

...

¹⁶ I will not show consequential renumbering for the sake of consistency with the numbers in submission points. A clean re-numbering of the proposed plan can be made with the decisions version of the plan.

~~[4/6]. Ensure adequate access to daylight for residential activities on adjacent residential zone sites.~~

...

(174) For CCZ-P9/MCZ-P9, I recommend amending it as follows:

[CCZ/MCZ-P9]: Urban design outcomes (all significant developments)

...

The outcomes are:

...

3. Create a safe and legible urban environment by:

a. Providing easily visible, accessible, and sheltered main entrances to buildings (other than accessory buildings),

b. Ensuring that building design enables ~~Enabling~~ passive surveillance over public and communal spaces,

c. Appropriately designing, demarcating, and lighting public, communal, and private spaces,

d. Avoiding wasted space or space of unclear function, and

e. Integrating other CPTED measures at a scale appropriate for the site.

4. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to support and promote the pedestrian circulation ~~provided for in clause (6). provide for pedestrian safety, comfort, dignity, and amenity.~~

5. Buildings provide pedestrian entrances on new and existing city laneways that enhance pedestrian safety, comfort, and connectivity.

6. There is quality, legible, safe, convenient, and efficient circulation for pedestrians accessing the site and people within the site.

7. Ensure that on-site landscaping, if any is proposed, or required by standard [CCZ/MCZ-S8]: Location and design of carparking:

a. Retains healthy and mature vegetation, where appropriate.

b. Uses planting that is appropriate for the climate and environment within the site,

c. Improves outlooks from dwellings and softens hard built surfaces, and

d. Provides one or more of functional, aesthetic, stormwater management, ecological, or urban heat mitigation benefits.

...

~~12. Ensure access to daylight for residential units on the site, and for those on neighbouring sites that is adequate in the context of the anticipated urban form of the zone.~~

...

LCZ-P8, NCZ-P8 (Urban design outcomes (by meeting standard or assessment)), LCZ-P9, NCZ-P9 (Urban design outcomes (larger developments and potentially incompatible activities))

(175) Urban Edge Planning (449.15, 449.20, 449.23, 449.16, 449.21, 449.24) and Z Energy (468.89, 468.90) (for LCZ only) make the same points as on CCZ-P8/9 and MCZ-P8/9, to which I make the same recommendations for the same reasons.

(176) Pandion Ltd (259.9, 259.10, 259.17) (for LCZ only) seek in general terms to reduce the number of policies and simplify the outcomes.

(177) I discuss in section 3.1 why I recommend retaining the three-policy structure.

(178) Their specific concerns around the design of parking and loading areas and pedestrian dignity, and modulation and variation of buildings, are

captured in the submission of Urban Edge Planning which I discuss in the context of CCZ/MCZ-P8/9, and recommend accepting this relief in part in the same way.

- (179) Pandion Ltd also questions why standards refer back to LCZ-P8 but not LCZ-P9.
- (180) LCZ-P8 contains outcomes that are intended to be met either through compliance with standards or by assessment when the standards are not met. This means that they should only be included in the discretion where the standard is not met, and in the structure of the plan that means they need to be located in the standard. A matter of discretion for LCZ-P9 is located in the matters of discretion directly in relevant rules.
- (181) Accordingly, I recommend that LCZ/NCZ-P8 be amended as follows:

[LCZ/NCZ-P8]: Urban design outcomes (by meeting standard or assessment)

The outcomes are:

...

2. Create a safe urban environment by ensuring that building design enables enabling passive surveillance.

...

5. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to support and promote quality, legible, safe, convenient, and efficient circulation for pedestrians accessing the site and people within the site provide for pedestrian safety, ~~comfort, dignity, and amenity.~~

...

~~9. Ensure adequate access to daylight for residential activities on the site and on adjacent residential zone sites.~~

...

- (182) For LCZ-P9/NCZ-P9, I recommend amending it as follows:

[LCZ/NCZ-P9]: Urban design outcomes (larger developments and potentially incompatible activities)

...

The outcomes are:

...

3. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to support and promote the pedestrian circulation

provided for in clause (4) ~~provide for pedestrian safety, comfort, dignity, and amenity.~~

4. There is quality, legible, safe, convenient, and efficient circulation for pedestrians accessing the site and people within the site.

5. Ensure that on-site landscaping, if any is proposed, or required by standard LCZ-S8: Location and design of carparking:

a. Retains healthy and mature vegetation, where appropriate,

b. Uses planting that is appropriate for the climate and environment within the site,

c. Improves outlooks from dwellings and softens hard built surfaces, and

d. Provides one or more of functional, aesthetic, stormwater management, ecological, or urban heat mitigation benefits.

...

CCZ-P10, MCZ-P10, LCZ-P10, NCZ-P10 (Urban design outcomes (exclusions))

(183) Z Energy (468.120b, 468.102b, 468.86b) (not for NCZ) and Oyster Management (272.48, 272.64) (not for LCZ or NCZ) support the policies as notified.

(184) Urban Edge Planning (449.31, 449.32, 449.28, 449.29) seek that the exclusions be restructured as a note to the other urban design outcomes policies.

(185) I discuss in section 3.1 why I think the three-policy structure is more usable and recommend the exclusions remain in a separate policy.

(186) Urban Edge Planning and Pandion Ltd (259.11) (LCZ only) further seek that the policy not exclude consideration of modulation of building form and variation of building materials, considering these valuable urban design tools. Pandion Ltd also considers that there may be situations where reducing height or density could produce better outcomes.

(187) Miriam Moore discusses this in her evidence in Appendix 3 (para 4.51 onwards). I agree that modulation and variation can be useful design tools in some circumstances, for example for achieving streetscape outcomes. The major concern with the exclusion is whether failing to have such an exclusion presents an opportunity to revisit the anticipated bulk and location standards for the zone, which is primarily captured in clause (e) of the policy:

...
(e) Limiting the height, scale, or density of developments where the height, setback, site coverage, height in relation to boundary, and density standards are met, and
...

(188) The anticipated building height, scale, and density for commercial centres zones is set in accordance with Policy 3 of the NPS on Urban Development, and can only be modified by acceptable qualifying matters within the meaning of Policy 4. These are defined matters and, in the PDP, are handled predominantly in district-wide chapters (e.g. natural hazards). Zone provisions at most reinforce these (for example, setting height limits consistent with those in the heritage area of Jackson Street).

(189) The risk therefore is that a building may be of a scale enabled and encouraged by the zone, but a resource consent decision-maker may nonetheless see the scale of the building in itself as an adverse effect requiring mitigation, without an appropriately justified qualifying matter.

(190) I think this can be addressed alongside the submitters' concerns by combining (e) and (f) to provide that modulation and variation are not excluded from consideration in and of themselves. They would not be singled out specifically but only excluded as part of design techniques in

general to the extent that they are applied for the purpose of mitigating effects relating to height and scale or perceived height and scale.

(191) Pandion Ltd (for LCZ only) raise other concerns:

- It is unclear what is meant by “where pedestrians cannot stop”
- The policy should encourage urban design assessment to consider sunlight access to solar panels

(192) I agree that “where pedestrians cannot stop” is not obvious at first glance but the interpretation is not ambiguous – pedestrians can only stop and look at a view on the footpath, not in the middle of the road or in a pedestrian crossing where they are required to keep moving.

(193) I disagree that the urban design policies (or the PDP in any way) should limit building height specifically for the sake of protecting sunlight access to solar panels. Solar panels are now cheap, portable, and provide the same benefits wherever they receive sunlight. They can be located in areas of the district where they will not be blocked by buildings, but for commercial buildings appropriate intensification is very location-specific. Limiting building height and density in key commercial centres has vastly greater negative effects than any need to relocate solar panels.

(194) Accordingly I recommend modifying the policy as follows:

For the avoidance of doubt, when applying the standards and urban design policies of this chapter, the following are not controlled, encouraged, anticipated as mitigation, or otherwise provided for by the plan:

...

e. Limiting the actual or perceived height, scale, or density of developments where the height, setback, site coverage, height in relation to boundary, and density standards are met, ~~and~~

f. ~~The use of techniques such as modulation of building form or variation of building materials to reduce the perceived scale of buildings, where the height, setback, and height in relation to boundary standards are met.~~

...

CCZ-P11, MCZ-P11, LCZ-P11 (Managing adverse effects at zone interfaces)

(195) Z Energy (468.123, 468.105, 468.91) seeks to alter the policies as follows:

Manage activities to mitigate adverse effects on other zones by:

- 1. Ensuring outdoor work, storage, loading, and parking areas are screened from level view from Residential Zones, Mixed Use Zones (where a site is used for an activity sensitive to privacy intrusion), Rural Zones, Special Purpose Zones, and Open Space and Recreation Zones, and*
- 2. Restricting servicing hours near boundaries with Residential Zones, Mixed Use Zones, Marae Zones (where a site is used for an activity sensitive to noise), and notional boundaries of activities sensitive to noise in Rural Zones.*

(196) The change to CCZ/MCZ/LCZ-P11.1 does not make sense. The purpose of the standard is not to protect the privacy of neighbouring sites, but to protect the neighbouring sites from needing to view unsightly work and storage areas. Issues around privacy are covered in Policy CCZ/MCZ/LCZ-P9.

(197) For the proposed change to CCZ/MCZ/LCZ-P11.2 I do not think it is reasonable for businesses to rely on the relatively unusual and probably temporary situation that a neighbouring site happens not to be used for an activity sensitive to noise. Most activities on those sites are likely to be sensitive to noise. When that site does get used for such an activity in future, it would then be necessary to reinstate the restriction, which could potentially be difficult if a site layout and/or contracts with operators are locked in.

(198) Accordingly, I recommend the policy remain as notified.

5.3.7 Policies – new policies sought

Vitality/vibrancy of the Jackson Street Heritage Area

(199) PHS (496.52) seeks a new policy on “ensuring the continuing vitality/vibrancy of the Jackson Street Heritage Area” that would support

restrictions on small-scale commercial activities in the zone outside the heritage area.

- (200) As I discuss in section 5.2.1 I do not think this approach is warranted and recommend no such policy be added.

5.3.8 Rules – Buildings and Structures

MCZ-R2 (Demolition or removal of structures other than buildings)

- (201) Z Energy (468.107) supports the rule as notified.
- (202) PHS (496.53) seek that demolition of structures in the Jackson Street Heritage Area should be a discretionary, rather than a permitted activity.
- (203) A rule restricting the demolition of buildings to protect heritage values would sit in the Historical Heritage chapter, and such a rule was proposed prior to its withdrawal. The operative plan also holds such a rule, 14F 2.3, which will remain after the withdrawal of the PDP Historical Heritage chapter.
- (204) Accordingly, this relief is both already provided for in the operative plan and not within scope of the Plan Stop exemption.
- (205) I recommend the rule remain as notified.

LCZ-R2 (Demolition or removal of buildings and structures)

- (206) Pandion Ltd (259.12a, 259.12b) seeks that demolition be made a permitted activity in all circumstances, and considers:
- That the rule is not managing a critical RMA issue
 - That it is not possible to avoid the creation of vacant sites
 - That a vacant site may be preferable to an unsafe or potentially earthquake prone building
 - It is unclear how demolition could affect compliance with permitted activity standards
 - Concerns around having a controlled activity for demolition depend on a permitted activity

- There are no available methods to ensure that a replacement building is constructed in a timely manner
- (207) Vacant sites create safety risks, provide places for anti-social behaviour, and can blight and reduce the vitality of centres, and so are a legitimate RMA issue. However, this should be considered in relation to a permitted activity baseline, which is an abandoned building.
- (208) I do not agree that the rule cannot discourage the appearance of vacant sites – it does so by limiting demolition activity that would produce them. Rules restricting demolition are routine for managing heritage and character issues and are found in other plans to manage commercial centres¹⁷ and successfully prevent demolition contrary to the plan’s policy.
- (209) I agree that in many circumstances a vacant site would be preferable to an unsafe or dangerous building.
- (210) I consider that there are many circumstances in which demolition could affect compliance with standards, the most direct would be demolishing the building that LCZ-S4 requires be built up to the identified active street frontage.
- (211) I do not think that there is an issue with having a condition of a controlled activity depend on a permitted activity. This is routine in, for example, controlled activity residential subdivisions which depend on the potential for a plausible permitted activity residential building to be identified.
- (212) However, I do agree that there are likely no measures available in resource consent conditions to ensure that a replacement building can be built in a timely fashion, and the Council would have no recourse or enforcement options if a resource consent for demolition was granted, exercised, and then no replacement building was forthcoming.
- (213) Accordingly, I recommend that the controlled and restricted discretionary arms of the rule be removed and those circumstances be made

¹⁷ See for example the Auckland Unitary Plan Metropolitan Centre Zone, in which demolition is a controlled activity, or the Wellington District Plan Local Centre Zone, in which demolition is permitted subject to conditions and discretionary where not met.

permitted, and an exception made for safety issues. This would be as follows¹⁸:

LCZ-R2 (Demolition or removal of buildings and structures)

1. Activity status: Permitted

Where:

~~1. a.~~ The demolition or removal does not leave the site vacant, and ~~2. in~~ in relation to each of the standards LCZ-S4: Active frontages – Buildings and structures, LCZ-S5: Active frontages – Required verandahs, LCZ-S6: Active frontages – Existing vehicle crossings, LCZ-S7: Active frontages – Land uses, and LCZ-S8: Location and design of carparking:

- i. Compliance is still achieved, or*
- ii. Where there is an existing non-compliance, it is not increased, or*

b. The site is not subject to the Active Frontage Overlay A, B, or C, or

c. The demolition or removal is required for the purposes of constructing a new building or structure, or adding to or altering an existing building or structure, that is a permitted activity under LCZ-R3, or has an approved resource consent, or

d. The demolition or removal involves a structure that is not a building, or

e. The demolition or removal is required to avoid a threat to life and/or property.

...

[Controlled and Restricted Discretionary arms LCZ-R2.2 and LCZ-R2.3 removed]

...

¹⁸ Some language here is taken from the equivalent rule in the Wellington District Plan Local Centre Zone.

~~4. 2. **Activity Status:** Discretionary~~

Where:

~~a. Compliance is not achieved with LCZ-R2.1, LCZ-R2.2, and LCZ-R2.3~~

CCZ-R3, MCZ-R3 (Demolition or removal of buildings)

- (214) Z Energy (468.126, 468.108) seeks to amend the rule so that it does not apply to existing service stations. I have assumed this means the restricted discretionary and discretionary arms of the rule. They do not give reasons¹⁹.
- (215) Demolition of a service station is probably likely to advance the policy goals set out in CCZ-P5/MCZ-P5 and CCZ-P3.2/MCZ-P3.2, in that it would at minimum trade one potentially incompatible activity for another, and would in practice likely be a prelude to redevelopment of the site. However, there are still the risks of adverse effects from a long-term vacant site over and above the effects of a service station, particularly as the site would likely need decontamination, and for a redevelopment, resource consent would be required anyway so I do not think this rule provides a significant discouragement of redevelopment, while it would aid in the management of adverse effects.
- (216) For MCZ-R3 only, PHS (496.53) seek that demolition of structures in the Jackson Street Heritage Area should be a discretionary, rather than a permitted activity.
- (217) As I discuss in MCZ-R2, this is already provided for in the operative plan heritage provisions and is not within the scope of the Plan Stop exemption.
- (218) Accordingly, I recommend the rule remain as notified.

¹⁹ This is mis-coded in the summary of submissions. The Z Energy submission often provides reasons for a submission on one zone by simply referring to a point on the equivalent provision in another zone. In the summary of submissions, this submission point is recorded as being a cross-reference to the submission point on LCZ-R1 (which is not the equivalent rule). However, in the submission, the cross-reference is actually to LCZ-R2, which is the equivalent rule, but the submitter did not request relief in relation to LCZ-R2, so this should have been recorded as "reasons not given".

CCZ-R4, MCZ-R4 (Alterations and additions to existing buildings and structures)

- (219) Woolworths (271.4, 271.10), supported by McDonald's Restaurants (F11.14, F11.17), Foodstuffs (F17.31, F17.34) and Bunnings (F18.12 – MCZ only), seeks that alternatively:
- Alterations be permitted without conditions, or
 - Alterations only be required to meet conditions (b) and (c), which would mean that alterations that do not change the external building form and are not visible from public spaces are permitted even if they breach the standards.
- (220) Z Energy (468.127, 468.109) seeks to exempt existing service stations from the requirement to meet the standards.
- (221) Both submitters give reasons along the general lines of it being hard for existing activities to meet the standards.
- (222) Go Architecture (331.28) seeks in general terms that condition (c) be liberalised to exempt a wider range of alterations, and gives the example of internal renovations to a shop that would be visible from the footpath through the windows.
- (223) For Go Architecture's point, I agree that capturing such purely internal alterations is excessive and there would be little to consider in a resource consent, and so recommend rewording it.
- (224) With regards to Z Energy and Woolworths, Policy CCZ-P5, which is beyond contest, sets out the zone's approach for existing activities: to encourage the redevelopment of activities that are incompatible with the purpose and character of the zone. One key way to do this is *not* to provide a more lenient treatment for existing activities solely because they are existing. The Council has a goal to transform the city centre into an attractive destination for people arriving by active and public transport, especially its high quality active frontages, and this is undermined by allowing existing breaks in the street fabric to persist indefinitely or worsen over time. This is not a common approach across the plan – it is taken only in the City Centre Zone, Metropolitan Centre Zone, and (for a very different end) the General Industrial and Heavy Industrial Zones. Other zones take a

more lenient stance on existing non-compliances remaining for the long term.

(225) This needs to be considered in light of the resource consent process set out in the Act, and there is little point in requiring a resource consent where there is no chance that it would be declined or conditions imposed to manage the issue. The RMA's consideration of the existing environment as often effectively a licence to continue existing non-compliances indefinitely means that a consent trigger would need to be based on a change in the type of scale of the activity being controlled. Purely internal alterations are unlikely meet this test, and so I agree with the more limited relief sought by Woolworths.

(226) Beyond this, for more substantial alterations and especially additions that increase the usable GFA of the activity, I think that all of the standards are achievable for a large range of activities in the medium term, subject to my recommended changes to both the standards and identification of which frontages are controlled in which Active Frontage Overlay (see sections 5.3.12 and 5.3.17). Neither submitter has any site in the City Centre Zone subject to Active Frontage A or B and I think the rules for Active Frontage C should be reasonably easy to achieve for their sites, in the context of a redevelopment to add GFA, and subject to the changes I recommend.

(227) For MCZ-R4 only, PHS (496.54b) seek to:

Retain these rules in relation to the Jackson Street Heritage Area, and ensure that there is a clear link between these rules and the applicable provisions in the Historical Heritage part of the Plan. Ensure that these rules are sufficient to protect frontages in the Jackson Street Heritage Area from being left vacant for long periods.

(228) As I discuss in MCZ-R2, interaction with the heritage chapter is already provided for in the operative plan heritage provisions and other than plan integration issues is not within the scope of the Plan Stop exemption.

(229) I do not think there are RMA methods that could prevent shopfronts from being left vacant for long periods of time.

(230) Accordingly, I recommend the rule be altered as follows, to provide for purely internal alterations to be permitted, and to exempt alterations in general:

1. Activity status: Permitted

Where:

a. For additions, compliance is achieved with, and for alterations, compliance is either achieved with or existing non-compliances are not worsened for:

[the standards]

b. For buildings, the external building form of the existing building remains unchanged, and

c. The alterations or additions are not visible from public spaces, or are purely internal alterations.

CCZ-R5, MCZ-R5 (New minor buildings and structures) and CCZ-R6, MCZ-R6 (New buildings and structures (except minor buildings and minor structures))²⁰

(231) Z Energy (468.128, 468.129, 468.110, 468.111) seeks that the rules not apply to existing service stations. I have assumed this means the restricted discretionary arm of the rules. They consider that the standards could potentially be difficult for existing service stations to meet.

(232) This raises somewhat similar issues to CCZ/MCZ-R4, however, given the scope of the submission points, and that there is no equivalent submission point to that raised by Woolworths on CCZ/MCZ-R4, I think that there is no potentially beneficial rewording of the rule. An unprincipled singling out of service stations risks encouraging a specific activity that the zone has a policy direction to consider potentially incompatible.

(233) For MCZ-R5/R6 only, PHS (496.54c, 496.54d) seek to:

²⁰ Discussed in Hearing Stream 1, these rule titles are recommended to be changed to "Construction of new minor buildings and minor structures" and "Construction of new buildings and structures (excluding minor buildings and minor structures)" respectively to give effect to submission points of the NZ Heavy Haulage Association, 429.3 and 429.8.

Retain these rules in relation to the Jackson Street Heritage Area, and ensure that there is a clear link between these rules and the applicable provisions in the Historical Heritage part of the Plan. Ensure that these rules are sufficient to protect frontages in the Jackson Street Heritage Area from being left vacant for long periods.

- (234) As I discuss in MCZ-R2, interaction with the heritage chapter is already provided for in the operative plan heritage provisions and other than plan integration issues is not within the scope of the Plan Stop exemption.
- (235) I do not think there are RMA methods that could prevent shopfronts from being left vacant for long periods of time.
- (236) Accordingly, I recommend the rules remain as notified.

LCZ-R3 (Construction of new buildings and structures and alterations and additions to existing buildings and structures)

- (237) Z Energy (468.93) seeks to exempt service stations from needing to comply with LCZ-S4, LCZ-S5, and LCZ-S6.
- (238) Pandion Ltd (259.13) seeks to reduce the extent of the active frontage standards.
- (239) Neither submitter gives any reasons for completely removing the standards. For their more specific concerns with the standards, I discuss these issues in the submitters' more specific submission points on those standards.

5.3.9 Rules – Land Use Activities

MCZ-R12 (Food and beverage activities)

- (240) McDonald's Restaurants (174.11b) support the rule as notified.
- (241) PHS (496.55a) seek to require a minimum floor area for food and beverage activities throughout the zone except in the Jackson Street Heritage Area.
- (242) I discuss why I do not think it appropriate to specifically limit small-scale commercial activity in western Petone in general in section 5.2.1.
- (243) Accordingly, I recommend the rule remain as notified.

MCZ-R13 (Grocery stores and supermarkets)

- (244) Oyster Management (272.65) and Woolworths (271.11) support the rule as notified.
- (245) PHS (496.55b) seek to require a minimum floor area for grocery stores throughout the zone except in the Jackson Street Heritage Area.
- (246) I discuss why I do not think it appropriate to specifically limit small-scale commercial activity in western Petone in general in section 5.2.1.
- (247) Accordingly, I recommend the rule remain as notified.

CCZ-R14 (Integrated retail activities) and CCZ-R15 (Retail activities not otherwise provided for)

- (248) Oyster Management (272.50) seeks that the permitted activity condition that the GFA not be over 4000m² be deleted and thus that integrated retail activities be permitted in all circumstances, or (for CCZ-R15 only) that the limit be raised. They do not give reasons.
- (249) 4000m² GFA is a huge development whether as a single tenancy or an integrated retail development. It is highly likely to create urban design challenges that would benefit from being assessed against CCZ-P9 and CCZ-P10, and localised effects that could affect the overall vitality of the centre. These are appropriately addressed through a resource consent.
- (250) I accordingly recommend the rules remain as notified.

MCZ-R14 (Integrated retail activities) and MCZ-R15 (Retail activities not otherwise provided for)

- (251) Woolworths (271.12) support MCZ-R14 as notified.
- (252) PHS (496.55b, 496.56b, F06.6, F06.7) seek to require a minimum floor area for retail throughout the zone except in the Jackson Street Heritage Area.
- (253) Jackson Street Program (419.1, 419.2) seek unclear relief. In context, I think it is likely the same issue as that raised by PHS.
- (254) I discuss why I do not think it appropriate to specifically limit small-scale commercial activity in western Petone in general in section 5.2.1.
- (255) Oyster Management (272.66, 272.68) seeks that the 1000m² GFA trigger for resource consent be removed.

(256) As with CCZ-R14/CCZ-R15 discussed above, although with a smaller threshold, I believe integrated retail activities above this scale are more likely to create urban design challenges that would benefit from being assessed against CCZ-P9 and CCZ-P10, and possibly localised effects that could affect the overall vitality of the centre. These are appropriately addressed through a resource consent.

(257) Accordingly, I recommend the rule remain as notified.

CCZ-R16 (Commercial activities not otherwise provided for) and CCZ-R17 (Other activities not otherwise provided for)

(258) Oyster Management (272.52) supports CCZ-R16 as notified and the Ministry of Education (399.89) supports CCZ-R17 as notified.

(259) Laura Skilton (314.59) considers that the two rules are duplicates and be merged into one.

(260) I agree that in a sense CCZ-R16 is redundant, as if it were deleted CCZ-R17 would apply. However, for the sake of plan usability I believe it causes no harm and may save some time in explaining to plan users expecting there to be a rule for commercial activity in the commercial zones why it is not there.

(261) Accordingly, I recommend the rules remain as notified.

MCZ-R16 (Commercial activities not otherwise provided for)

(262) Oyster Management (272.68), opposed by PHS (F06.8), seek that the 2000m² GFA threshold for resource consent assessment be removed.

(263) As with MCZ-R14/MCZ-R15 above, I think this is a scale at which activities are more likely to present urban design challenges and possible localised centre effects and recommend keeping the rule as notified.

CCZ-R18, MCZ-R18, LCZ-R13, NCZ-R13 (Carparking)

(264) McDonald's Restaurants (174.13a, 174.13b, 174.13c, 174.13d, F11.5, F11.23, F11.24, F11.27, F11.32), Foodstuffs (239.27, 239.28, 239.29, 239.30, F17.6, F17.11, F17.15, F17.19, F17.24) seek to provide for reconfiguration of existing carpark areas, and parking for disability access spaces and electric vehicle charging, be permitted without conditions. They do not give reasons specific to this

relief. Bunnings (173.7, F18.6, F18.17) seeks the same for the Metropolitan Centre Zone only.

- (265) I think the rule is already clear that it does cover the reconfiguration of existing parking areas, as a permitted activity subject to standards. As with any other rule and standard in the plan, the RMA provides a process for applying existing use rights and an existing environment test which provides for appropriate assessment of modifications to existing carparks that do not meet the standards. Applying a resource consent assessment also gives better effect of CCZ/MCZ-P5 (Existing activities), which is now beyond contention, and which encourages the replacement of activities incompatible with the purpose and character of the zone. For LCZ-P5 (Existing activities) the policy direction is more enabling of ongoing potentially incompatible uses, but not without limit and this can be reflected in resource consent decisions.
- (266) I do not think there are obvious reasons why disability access spaces and electric vehicle charging would not present the same potential effects as parking for other purposes or why the standards are inappropriate. For electric vehicle charging in particular, while planning reform may affect the plan's lifetime, it is still, under the RMA, expected to last at least 10 years, and I think there is a reasonable likelihood that the provision of electric vehicle charging is standard for a significant fraction of new carparking spaces by then²¹.
- (267) Since the plan was prepared, the *Resource Management (National Environmental Standards for Electricity Transmission and Electric Vehicle Charging Infrastructure Activities) Amendment Regulations 2026* have been proposed and, by the time of the hearing for this stream, will have come into force. This provides a number of permitted activity standards for "electric vehicle charging infrastructure", with significant conditions. It does provide for a district plan to be more lenient than the NES (which in

²¹ If the plan becomes operative in 2027 it should, if possible, be designed to last until 2037 before needing review. The latest Emissions Reduction Plan (<https://environment.govt.nz/assets/publications/climate-change/ERP2/New-Zealands-second-emissions-reduction-plan-Amended-January-2026.pdf>) sets a goal of increasing the number of EV charging points from about 1,250 as of September 2024 to 10,000 by 2030 – it is a straightforward leap to imagine this number continuing to increase at significant pace for the following seven years.

significant respects it is), but not more restrictive. I do not think the plan as written is more restrictive in the CCZ/MCZ zone rules. The NES does in most cases require that the charging infrastructure meet district plan zone rules for buildings and structures and/or that it be associated with a permitted or consented parking space, and the zone rules in the plan as proposed provides for electric vehicle charging in any situation in which parking in general would be permitted.

- (268) The NES will potentially affect the Infrastructure and Noise chapters, which will be discussed in their respective hearing streams.
- (269) Z Energy (468.130, 468.112, 468.94) (CCZ, MCZ, and LCZ only) seek to exclude existing service stations from the rule. Their reasons in general see the standards as difficult to achieve for existing service stations on the Active Frontage A and B overlays.
- (270) As far as I can tell, there are no existing service stations within the Active Frontage A and B overlays in the City Centre Zone and so the proposed amendment would have no effect there.
- (271) For the Metropolitan Centre Zone, there are two existing service stations that could be affected, both of which have only part of their overall frontage in the Active Frontage B overlay. I discuss this issue in connection with submission points on those specific sites.
- (272) For the Local Centre Zone, I can identify one existing service station in Avalon subject to the Active Frontage B control, which I recommend downgrading to Active Frontage C per the submitter's direct point on that site.
- (273) Pandion Ltd (259.15a, 259.15b, 259.15c) (LCZ only) seeks in general terms for the rule to be more permissive, and also specifically seeks for vehicle crossings across the Active Frontage A and B to be restricted discretionary, not non-complying, and considers that:
- It is unrealistic to think that the effects cannot be managed in a Local Centre Zone environment
 - There is inadequate evidence behind the provision
 - There is insufficient policy support
 - No other activities that involve a vehicle crossing are prohibited

- (274) I consider that providing vehicle crossings is fundamentally incompatible with a high-quality active frontage. Vehicle crossings cannot meaningfully be “managed” – they will either be present or not, and if they are they are present they have significant adverse effects on street activation, pedestrian safety and comfort. The prohibited activity status for Active Frontage A reflects that these are stretches of street with no existing lawful vehicle crossings and for the Local Centre Zone are pedestrian malls not open to motor vehicles. Even a single vehicle crossing comes with the consequence that the street must be terminated as a pedestrian mall, made permanently available for vehicles, the footpath must be kept of obstructions to vehicle traffic, and that appropriate visibility splays and manoeuvring areas cut significantly into the ability to build buildings that activate the streetscape. This would have fundamentally unacceptable adverse effects on the design and function of Hillary Court in Naenae and Scott Court in Stokes Valley.
- (275) I think there is adequate evidence to support the controls on vehicle crossings. The identification of areas is supported by existing council strategies, particularly the City Centre Framework and Petone 2040. The frontages are designed so that Active Frontage B areas will usually, and Active Frontage A areas will always, have alternative access from service lanes or rear frontages, and are found in commercial centre locations with on-street loading areas.
- (276) I consider that there is adequate policy support. It might be more accurate to describe a prohibited activity as “definitely incompatible” rather than “likely incompatible” but this would substantially complicate the policy for a very niche situation.
- (277) Carparking is the only activity for which vehicle crossings on the Active Frontage A are prohibited in the zone, although they are also prohibited in the Transport chapter. However, carparking is the main reason (and aside from loading, which is handled in the Transport chapter, close to the only reason) why one would have a vehicle crossing.
- (278) Accordingly, I do not recommend any change to the rule as proposed, other than typos identified by Pandion Ltd, in that the conditions refer to LCZ-R15 instead of LCZ-R13, which I recommend correcting.

CCZ-R21, MCZ-R21, LCZ-R16 (Drive-through activities)

- (279) McDonald's Restaurants (174.12a, 174.12b, 174.12c) seeks to amend the rule to provide for drive-through activities as a permitted activity subject to trip generation and Active Street Frontage controls.
- (280) The submitter gives their reasons that they see the zones as appropriate for drive-through activities and that the rule does not recognise the value drive-through restaurants provide the community.
- (281) Drive-through activities are already subject to trip generation and active street frontage controls. Trip generation is handled in the Transport chapter and will be addressed in that hearing stream. Active Street Frontage controls are addressed in CCZ-R6/MCZ-R6/LCZ-R3, which references the relevant standards CCZ-S4/MCZ-S4/LCZ-S4 through CCZ-S8/MCZ-S8/LCZ-S8.
- (282) For some context, I think the plan as proposed would not support a drive-through activity with access across an Active Frontage A or B overlay, with the combination of policy direction and rules around vehicle crossings and carparking in the Transport chapter and in this zone. While not crystal clear I do not think the submitter is challenging this aspect of the zone provisions and so I will limit my discussion to the areas subject to Active Frontage C or not to any Active Frontage overlay at all.
- (283) While I agree that restaurants in themselves have value to the community, offering drive-through service has additional effects beyond a standard restaurant. This includes effects on the transport network and pedestrian safety which are handled in the Transport chapter and will be discussed in that hearing. There are also effects on pedestrian and local amenity, street activation, and the streetscape, along with urban design issues, development capacity issues, and the efficient use of land, which are all handled in this zone. These effects from the point of view of pedestrians can be similar to activities such as service stations and motor vehicle servicing, which are likewise discretionary activities. It is appropriate to consider these effects over and above the permitted baseline of those effects of a dine-in or conventional takeaway restaurant in a resource consent process.

- (284) This resource consent can consider the restaurant and whether its location, design, and operation meet the tests in CCZ-P3 and adequately mitigate the drive-through's effects. Location is likely to be particularly important, and drive-throughs naturally have customers with more flexibility to drive to an alternative location.
- (285) The change proposed by the submitter would also apply to most drive-through activities other than restaurants²², which are rarer. I think the same issues are likely to present for any drive-through activity.
- (286) Accordingly, I recommend the rules remain as notified.

5.3.10 Rules – General

CCZ-R27, MCZ-R27, LCZ-R22 (Outdoor storage and work areas)

- (287) Z Energy (468.132, 468.96, 468.114) seeks to:
- Provide that the screening only be from level view of affected sites
 - Limit the application to where the neighbouring site is used by an activity sensitive to privacy intrusion
 - Provide landscaping as an option for the screening
- (288) The reasons given are with reference to the equivalent rule in the Local Centre Zone and only some of those apply to this situation. I agree with the submitter that it is impractical to screen outdoor storage and work areas from above ground floor level and so recommend accepting that part of the request. I also recommend providing a definition of outdoor storage and work areas as requested (this is discussed in the definitions section of the Industrial Zones and Seaview Marina Zone s42A report).
- (289) I do not agree with limiting the application of the rule to where a neighbouring site is used for an activity sensitive to privacy intrusion. The rule is intended at protecting visual amenity from the protected sites, not privacy on them. In addition, the various activities sensitive to privacy intrusion cover almost everything likely to be happening or soon to happen on neighbouring sites and for the sake of temporarily avoiding the

²² Note that the definition excludes among other things car sales, service stations and motor vehicle servicing, which would otherwise be the most common "drive through" activities.

cost of building half of a fence²³ it is not worth delaying that. Where the rule applies in all circumstances it can be enforced as part of standard building and resource consent processes without the Council needing to prove the privacy-sensitive activity has commenced.

- (290) I do not agree that landscaping is suitable screening. Landscaping as defined in the plan can include just grass or shrubs and will not provide any visual obstruction. Even for taller vegetation, the time for it grow, and the maintenance and upkeep likely undermine most of the benefits of the rule.
- (291) Laura Skilton (314.62) (CCZ only) seeks that the activity be changed to have an activity status of non-complying where the conditions are met and prohibited where they are not. She considers that outdoor storage and work areas are inappropriate in the City Centre Zone.
- (292) I think this is excessive. The rule mostly applies to the rear of sites or sites not covered in the highest Active Frontage Overlays, since the Active Frontage Overlays have additional and higher standards. For the situations where this rule is going to be the main constraint, the permitted activity conditions proposed are sufficient to manage the relevant effects and ensure that storage and work areas “read” to pedestrians as similar to buildings by defining public and private space. While compliance with the standards should always be possible at reasonably low cost, when the conditions are not met there are likely to be unique site-specific issues that are better considered in a resource consent rather than through a blanket prohibition.
- (293) Accordingly, I recommend the rule be modified as follows:

*1. **Activity Status:** Permitted*

Where:

a. The outdoor storage and work areas are screened from level view of any adjoining site or opposite site in a Rural Zone, Open Space and Recreation Zone, Residential Zone, Marae Zone, or Mixed Use Zone by a building or a solid or

²³ As the land user could be required to pay for half the cost of building a suitable fence under the Fencing Act 1978 regardless.

close-boarded fully opaque fence of at least 1.8m in height above ground level, and

b. The outdoor storage and work areas are screened from any street within the Active Street Frontage Overlay by a building on the site.

[...]

CCZ-R28, LCZ-R23, NCZ-R23 (Servicing)

(294) Z Energy (468.133, 468.97) (CCZ and LCZ only) seeks to:

- Limit the rule to only apply to the Mixed Use Zone where the neighbouring site is used for an activity sensitive to noise
- Add additional matters of discretion around functional and operational needs and site constraints

(295) The submitter considers that:

- The rule is so onerous it may lead to sites being unused or unused
- It is unclear how the rule would apply to existing activities or changes to buildings and structures, or changes in occupancy
- Many Mixed Use Zone sites are not likely to be affected by noise from servicing

(296) I do not think the rule is overly onerous. It does not restrict servicing for locations more than 40m from the zone boundary, or within that boundary for 15 hours a day. Non-compliance is a restricted discretionary consent that precludes public notification. Early engagement with neighbours and an adequate servicing plan would lead to granting the resource consent non-notified with either written approval or on the grounds of less than minor effects, or (perhaps more likely) would be bundled with additional resource consents, as resource consent is required in a wide range of situations in the zone.

(297) The servicing rule is not intended to stand alone, but supports the rules in the Noise chapter. In practice I think it is highly unlikely that any servicing activity within 40 metres of a relevant zone boundary could comply with the noise standards. Having the rule trigger in the zone, however, allows servicing requirements to be considered holistically at the time crucial decisions about site layout are made and before contracts are locked in. It

would be more disruptive, and add enforcement cost to the council²⁴, to take a purely reactive approach.

- (298) I agree that changes in occupancy or questions about existing activities add complexity, but I think the submitter's requested relief would make this issue worse by adding more conditions.
- (299) I agree that some discretion should be added over site limitations. I discuss the equivalent rules in more detail in the Light Industrial Zone in the Industrial s42A report²⁵. In brief, while functional needs and operational needs are relevant, I do not think site constraints are relevant. The basis of the RMA is for people causing adverse effects to avoid, remedy, or mitigate those effects, and the permitted activity conditions offer wide scope for doing so by either selecting a site that does not immediately neighbour a residential area or conducting servicing during the day.
- (300) Laura Skilton (314.63b, 314.63c, 314.63d) seeks to restructure the rule to combine the two conditions into one, and reduce the permitted hours from 7am to 10pm, to 8am to 6pm. The reasons given relate to other zones (the submission point is written to apply to multiple zones) and so I will discuss them in the zones mentioned.
- (301) I do not think the rephrasing would add anything to the plan or its implementation.
- (302) For the hours, the rule is designed to complement the noise rules and the servicing hours correspond to the Daytime Limit and Evening Limit. These are reasonable hours to expect intermittent noise from commercial servicing.
- (303) Pandion Ltd (259.16) (LCZ only) seeks to remove to reduce the separation distance and considers it incompatible with the active frontage rules as servicing access at the rear may mean it is closer to adjoining Residential, Mixed Use, and Marae Zones.

²⁴ It is significantly more expensive in equipment and staff time to prove a noise standard breach than to prove the mere presence of heavy vehicles.

²⁵ See LIZ-R24

(304) I agree that this is a potential tension but one that is best addressed in a resource consent application that can weigh up the competing values case by case.

(305) Accordingly, I recommend adopting similar language to the Light Industrial Zone and so modifying the rule as follows:

[...]

Matters of discretion are restricted to:

1. The night-time amenity of sensitive activities in the surrounding area in the Mixed Use Zone and in Residential Zones, and Marae Zones.

2. The functional needs and operational needs of the activity.

[...]

MCZ-R28 (Servicing)

(306) Z Energy (468.115) supports the rule as notified.

(307) Laura Skilton (314.63a) as with CCZ-R28 seeks that the rule be rephrased and the hours be limited to 8am-6pm. As with CCZ-R28, I think these requested hours are too restrictive and do not align with the noise standard the rule is intended to reinforce.

(308) Accordingly, I recommend the rule remain as notified.

5.3.11 Rules – New rules sought

(New rule) All commercial centre zones – Emergency Service Facilities

(309) FENZ (374.68g, 374.68h, 374.68i, 374.68j) seek a rule that would permit emergency service facilities, with no conditions.

(310) In the plan as proposed, emergency service facilities would fall under the catch-all rules, CCZ-R17/MCZ-R17/LCZ-R12/NCZ-R12, which is permitted subject to compliance with standard CCZ-S7/MCZ-S7/LCZ-S7/NCZ-S7: Active Frontage – Land uses.

(311) This standard is an appropriate one and there is no reason for emergency service facilities to be exempt from it, if it applies at all, which would

depend on the details of what is proposed. It is open to FENZ to apply for a resource consent if they propose a fire station that does not meet the standard, or given that the active street frontages rule applies to only part of the four zones, to select a different and likely more appropriate location.

(312) Accordingly, I recommend no specific emergency service facilities rule be added.

5.3.12 Standards – Proposed

LCZ-S2 (Height in relation to boundary – adjoining zones)

(313) Pandion Ltd (259.18) seeks to remove reference to the Rural Zone and Marae Zone on the grounds that there are no boundaries with these zones in the proposed maps.

(314) This is a standard rule for all commercial and industrial zones. There is an advantage in maintaining consistency across the zones:

- To avoid the implication that there is an intentional difference in policy approach because of different wording in different zones,
- To aid plan users who regularly work with multiple similar zones in the plan, and
- To reduce the chance of mistakes if this issue is not re-evaluated in rezonings or submissions seeking zone changes and new zone boundaries arise. There are increasingly frequent new fast-track processes and other RMA systems that bypass councils, as well as a potential new planning system that will treat this PDP as a transitional document. I do not think it is implausible that this rule could be overlooked in such processes.

(315) These are all very minor benefits, but I think outweigh the even more minor benefit of deleting the rule, which would be solely to make the plan slightly shorter. Accordingly, I recommend the rule remain as notified.

(316) Pandion further seek that the matters of discretion are “simplified and refined” to be better targeted to the issues that the standard is managing.

(317) In my view, incorporating the relevant policy (LCZ-P8) by reference rather than repeating it in the matters of discretion is preferable, to ensure alignment between the matters considered in the notification and

substantive decisions. The standard is primarily implementing the policy which sets out an overall approach that can be met either through meeting the standard or a detailed case-by-case resource consent assessment.

(318) Accordingly, I recommend the standard remain as notified.

CCZ-S3, MCZ-S3, LCZ-S3, NCZ-S3 (Setbacks – adjoining zones)

(319) FENZ (374.108, 374.111, 374.114, 374.117) seek to add a matter of discretion around “the ability for emergency services to safely and efficiently access the site”.

(320) This standard applies in relatively limited circumstances – only to sites that directly adjoin other certain non-commercial zones. It is not designed to aid emergency service access and compliance, and it is not likely to have any significant impact one way or another on emergency service access. There is also no supporting policy for resource consent decision-makers to apply in deciding whether a departure from the standard would be appropriate in relation to emergency service access, and the submitter has not sought one. If the standard is breached, it is a boundary activity under the Act, and FENZ would be precluded from being notified²⁶. No resource consent of any kind would be required if the neighbour gives written approval to a deemed permitted boundary activity.

(321) In general, I think emergency service access is better left to the Transport and Subdivision chapters, which FENZ has also submitted on, the building code, and the Health and Safety at Work Act.

(322) Pandion Ltd (239.19) (LCZ only) seeks to remove references to the Rural Zones and Marae Zones. I discuss this point in more detail in relation to LCZ-S2 and recommend it not be accepted for the same reasons.

(323) Accordingly, I recommend the standard remain as notified.

CCZ-S4, MCZ-S4, LCZ-S4 (Active frontages – buildings and structures), CCZ-S5, MCZ-S5, LCZ-S5 (Active frontages – required

²⁶ Except on the off chance that FENZ itself was the neighbour.

verandahs), CCZ-S6, MCZ-S6, LCZ-S6 (Active frontages – existing vehicle crossings)

- (324) Aspects of these standards are evaluated by Miriam Moore in her evidence in Appendix 3, with which I generally agree.
- (325) Oyster Management (272.53) supports CCZ-S4 as notified.
- (326) McDonald's Restaurants (174.14a, 174.14b, 174.15a, 174.15b, 174.15c, 174.5d, F11.6, F11.7, F11.18, F11.22, F11.25, F11.26, F11.30, F11.31) and Bunnings (173.8a, 173.8b, F18.7, F18.8, F18.13, F18.15, F18.16) (for MCZ only) seeks to:
- Limit the standard to only apply to new buildings
 - Relocate the condition about shutters and grilles to sit within the clause around "featureless façades".
- (327) I think exemptions for additions and alterations are better handled at the rule level, on which there are specific submission points. I discuss this in section 5.3.8.
- (328) I do not agree with relocating the shutters and grilles standard as this risks the word "façade" being interpreted as only applying to the "featureless façades".
- (329) Z Energy (468.134, 468.135, 468.136, 468.116, 468.117, 468.118, 468.98, 468.99, 468.100) seeks to exempt service stations from the standard. As I discuss in CCZ/MCZ-R5/R6, I do not think such an exemption is warranted.
- (330) Foodstuffs (239.17, 239.18, 239.19, 239.20, 239.21, 239.22, F17.7, F17.8, F17.13, F17.16, F17.17, F17.25, F17.26, F17.35) opposes the standard but does not request specific changes. They generally give reasons in connection with their existing supermarkets, and the need for on-site parking in association with supermarkets. I mostly think their concerns are better addressed with the mapping of active frontages rather than the standards, so I discuss this further in section 5.3.17. However, I agree with the submitter that there is inconsistency between the Active Frontage C standards and carparking standards. I recommend aligning these so that the Active Frontage C buildings and structures standard aligns with the permitted standard for carparking.

- (331) Woolworths (271.6, 271.13, 271.14) seeks to delete the matter of discretion around existing activities, seeing it as inappropriate to consider effects of an activity ceasing.
- (332) The matter of discretion is intending to allow a weighing exercise between the adverse effects of a non-compliance and foregone positive effects should the activity not be able to comply and be forced to cease operating. This is not clear in the wording and so I recommend abbreviating it to avoid confusion.
- (333) Woolworths (271.15) (MCZ only) seeks to delete the matter of discretion for MCZ-S6 of:

Effects on the current or potential future ability of the road to be closed to general motor vehicle traffic.

- (334) The submitter considers that this matter is not supported by any explanation in the introduction or objectives and policies.
- (335) I agree that there is no specific support for the matter in the introduction or objectives and policies. The matter would be assessed in much more general terms such as MCZ-O4 seeking that built development “...[provides] a high amenity experience walking between Jackson Street and the Pito One Railway Station”, and “positively [contributes] to a commercial and community hub of activity”, and MCZ-P9 seeking to “encourage community interaction through a positive relationship of commercial activity, community activity, and residential units with the street”. It does not aid plan implementation to have a much more specific matter of discretion. I recommend deleting it and that it is instead better considered as part of the matter of discretion cross-referencing MCZ-P9.
- (336) Pandion Ltd (259.20, 259.21, 259.22) seeks to consolidate the standards into a single standard as follows:

LCZ-S4- Active Street frontages

1. On any site subject to an Active Street Frontage Overlay A or B all buildings must be built up to and oriented towards the identified building line and provide a verandah that:

a. Extends along the entire length of the building frontage;

- b. Provides continuous shelter with any adjoining veranda; and
- c. Has a minimum setback of 500mm from any kerb face.

No verandah shall be required:

- d. For any scheduled heritage building
- e. Where the verandah would encroach on the dripline of an existing tree, or
- f. On any portion of a frontage with an existing vehicle crossing.

2. On any site subject to an Active Street Frontage Overlay A or B:

- a. At least 55% of the ground floor building frontage must be display windows or transparent glazing; and
- b. The principal public entrance to the building must be orientated to the front boundary.

3. On any site subject to an Active Street Frontage Overlay C:

- a. At least 35% of the ground floor building frontage for non-residential activities must be display windows or transparent glazing.

Matters of discretion if the standard is breached:

1. The relevant matters in policy LCZ-PX (Urban Design Outcomes)
2. Any topographical or other site constraints that make compliance with the standard impractical
3. Any on-site functional needs or operational needs that make compliance with the standard impractical.
4. Whether the building promotes a positive interface with the street, creates visual interest or otherwise enhances the streetscape.

(337) Miriam Moore discusses this potential change in her evidence in Appendix 3 (para 4.7). I agree with her recommendation that the change not be accepted.

(338) Putting these together, I recommend the matters of discretion for CCZ/MCZ/LCZ-S4 and CCZ/MCZ/LCZ-S5 be amended as follows:

...

Where the non-compliance relates to an existing activity, the ability of that activity to continue functioning if it were to comply, ~~and the scale of the non-compliance in relation to the effects of that activity no longer occurring at the site.~~

...

(339) I also recommend that CCZ/MCZ/LCZ-S4 be amended as follows to remove inconsistency with the carparking location standard:

...

3. The requirement in 1. above does not apply at all on sections of the front boundary or riverbank frontage:

...

c. On the Active Street Frontage Overlay C, to the degree necessary to provide for a vehicle crossing, manoeuvring area, ~~and~~ visibility splays, landscaping, and parking spaces provided for by CCZ-S8 (but not ~~parking spaces or loading spaces~~):

...

(340) I recommend that MCZ-S6 be amended to remove the following matter of discretion:

...

~~5. Effects on the current or potential future ability of the road to be closed to general motor vehicle traffic.~~

...

LCZ-S7 (Active frontages – Land uses)

(341) The Ministry of Education (399.102) supports the standard as notified.

(342) Pandion Ltd (259.23, 259.14j, 259.14k, 259.14a, 259.14c, 259.14e, 259.14g, 259.14h, 259.14b, 259.14d, 259.14f, 259.14i) seeks alternatively to either completely delete or replace the standard as follows:

[LCZ-Sxxx] Location of residential units

On any site subject to an Active Street Frontage Overlay

1. Any residential units and habitable rooms must be located above ground floor.

Matters of discretion are restricted to:

1. The amenity and quality of the streetscape; and

2. The promotion of community safety and visual interest at the pedestrian level;

3. The ability for future conversion of the residential unit to commercial use.

(343) For the idea of deleting the active frontage land use controls in general, the reasoning for these is set out in the section 32 report, and discussed by Miriam Moore in her evidence in Appendix 3 (para 4.2 onwards).

(344) For the proposed replacement standard, this would in part be more restrictive than the proposed standard, in preventing residential units at ground level at the rear of the site, which I do not think is compatible with the reasons in the submission that the standard is too restrictive.

(345) The standard would also remove the defined terms “activity sensitive to privacy intrusion” and “light manufacturing and servicing activity” and replace it with “habitable room”. The submitter considers that too many activities would be restricted.

(346) I do not think the list of activities covers a significant fraction of the commercial activity likely in commercial centres, and do not think this limitation is justified in light of the objectives and policies of the zone, which seek to restrict the location of all activities that are likely to want separation and privacy from street life, given the negative effects on street activation.

(347) I accordingly recommend the standard be retained as notified.

CCZ-S8, MCZ-S8, LCZ-S8 (Location and design of carparking)

- (348) McDonald's (174.16a, 174.16b, 174.16c, F11.8, F11.28, F11.33), Foodstuffs (239.31, 239.32, 239.33, F17.9, F17.14, F17.18, F17.27), and Bunnings (173.9, F18.9, F18.18) (MCZ only) seek that the standard not control the location of carparking as long as it is not visible from the street edge or public space.
- (349) Miriam Moore discusses this issue in her evidence in Appendix 3 (para 4.66 onwards). I agree with her conclusions that the change is not warranted. I also add that the primary purpose of the controls is to provide for pedestrian access as the primary means of access to businesses on active frontages, rather than as a visual or amenity issue, and this is unaffected by screening of carparking.
- (350) Z Energy (468.137, 468.119, 468.101) seeks to exempt service stations from the standard. As I discuss in CCZ/MCZ-R5/R6, I do not think such an exemption is warranted.
- (351) Pandion Ltd (259.54) seeks generally that the standard is amended and simplified, considering it unnecessary and creating uncertainty.
- (352) I consider that the standard is justified by the objectives and policies of the chapter and manages likely adverse effects.
- (353) Accordingly, I recommend the standard remain as notified.

MCZ-S9, NCZ-S9, LCZ-S9 (Outdoor living space)

- (354) Go Architecture (331.29, 331.31, 331.30) seeks that the standards be amended as follows:

[...]

*1. Have a private outdoor living space at ground level with an area of at least 20m² ~~with a minimum dimension of 3m,~~
which can contain a circle with a diameter of at least 3m*

[...]

- (355) They consider that this would provide more flexibility in design. I agree that this offers more flexibility in non-rectilinear building layouts, although this is balanced against the possibility of poorer outdoor living space designs that still technically meet the standards, where only the part containing the 3m circle is adequately dimensioned.

(356) The outdoor living space standard is adapted from the equivalent standard in the Medium Density Residential Standards, which apply in the residential zones. This would be a relatively minor change but would complicate the plan and its administration by having slightly different assessment methods for the dimensions of outdoor living areas in different zones. I think this outweighs any benefit, if any, from a more flexible standard. Good quality designs not meeting the standard can also be provided for in resource consent applications. Given that in practice any building triggering this standard is also reasonably likely to need resource consent under MCZ-R4 or MCZ-R6, it is not a significant burden to do so.

(357) Accordingly, I recommend the standards remain as notified.

CCZ-S9, MCZ-S10, LCZ-S10, NCZ-S10 (Outlook space)

(358) Laura Skilton (314.55c, 314.55d, 314.55e, 314.55f) seeks that the outlook depth for rooms other than the principal living room be increased from 1 metre to 2 metres. This submission point is common across a large number of zones and I think that the reasons given are only applicable to residential areas.

(359) For some context, this standard is identical to that in the Medium Density Residential Standards (MDRS), which apply in the Medium Density and High Density Residential Zones. These are not binding on commercial zones, although I do not think there is a case for a stricter rule in commercial areas, where the expected amenity values largely derive from proximity to commercial and community services, rather than on-site amenity.

(360) I do not think a difference in outlook of 1 metre versus 2 metres will make any difference to amenity values in an apartment. It may make a slight difference to levels of daylight received in the apartment, but this is controlled by the Building Code, not district plans. While there is no side setback in the zone, a 1 metre outlook standard is redundant, given the requirements in the building code. Being identical to the Medium Density Residential Standards, it also assists plan users who will be familiar with the standard from other zones and plans. However, a 2 metre standard would remove this advantage.

- (361) While I think the standard is pointless in relation to non-principal rooms, and I would recommend complete deletion of the standard for non-principal rooms, there is no scope to do so. Accordingly, as the best option available, I recommend it remain as notified.

5.3.13 Standards – New standards sought

(New standard) Firefighting water supply

- (362) Fire and Emergency NZ (374.69g, 374.69h, 374.69i, 374.69j) seek a new standard in all four commercial centre zones relating to firefighting water supply.
- (363) In the structure of the proposed plan, this is outside the scope of zone chapters and needs to be discussed in the Three Waters and Subdivision chapters, on which FENZ has also made an equivalent submission.

Multiple standards – emergency service towers and communications poles

- (364) Fire and Emergency NZ (374.70g, 374.70h, 374.70i, 374.70j) seek in general terms that emergency service towers and communication poles up to 15 metres in height are exempt from standards for building height, height in relation to boundary, and setbacks.
- (365) Most of the Centres zones have either no height limit (most of the City Centre Zone, parts of the Metropolitan Centre Zone), or a height limit of 15 metres or over, and so would already be permitted in the situations sought by FENZ.
- (366) For the remainder of the zones (the Neighbourhood Centre Zone and some parts of other zones with Specific Height Controls), and for the height in relation to boundary and setback standards, there is no good case made by the submitter that the effects are any different to structures in general or that emergency service towers and communication poles have a good reason in most circumstances to need to be put close to the boundary with residential zones. Where there are, violation of the standards is a restricted discretionary boundary activity, and it is not unreasonable for FENZ to seek a deemed permitted boundary activity or resource consent.

(367) Accordingly, I do not recommend making any relevant changes to the standards to implement this relief.

5.3.14 City Centre Zone – Civic Precinct

(368) Heritage NZ (248.67) supports the precinct as notified.

(369) The Policy Planning Team of the Hutt City Council (440.68) seeks the introduction be amended as follows:

[...] Everywhere in the precinct is also contained in either the Lower Hutt Civic Centre Heritage Area (see the Historic Historical Heritage chapter) or..."

(370) This would have corrected errors in the plan as originally notified, prior to the Plan Stop withdrawal of the Historical Heritage chapter.

(371) With the withdrawal, the introduction should be amended to refer to the equivalent, very similar provisions in the 2003/2004 operative plan. If we assume they too will be updated to meet the National Planning Standards, when the proposed plan becomes operative, and merges with the 2003/2004 plan, the names should be the same as their now-withdrawn equivalents in the PDP.

(372) I expect this issue will need to be considered holistically in the wrap-up hearing to ensure consistent cross-references. For now, I recommend accepting the relief sought by the Policy Planning Team.

5.3.15 Metropolitan Centre Zone – Jackson Street Character Transition Precinct

(373) Submitters generally either supported the precinct as a whole or opposed the precinct as a whole, so I will consider the precinct, its maps, and its provisions together.

(374) Z Energy (468.6b, 468.102c), Heritage New Zealand (248.69, 248.70, 248.71) support the precinct and various provisions as notified.

(375) Petone Historical Society (496.48, 496.57, 496.58) supports the precinct in general but seeks various pieces of relief to the end that the precinct be removed from eastern end of Jackson Street in conjunction with their

submission points to extend the heritage area to cover it instead. As the heritage provisions have been withdrawn the heritage area from the operative plan remains, and its boundaries are not within scope of the plan. I agree with the submitter on the overall principle that the heritage area and Character Transition Precinct should not overlap or have gaps between them. As there is no scope to alter the extent of the heritage area, I therefore do not recommend a change to the extent of the Precinct in the eastern end of Jackson Street.

- (376) I assume this is very unlikely given the general thrust of their submission but if the submitter has different reasons for pursuing this change and nonetheless wishes to see the precinct removed from the eastern end of Jackson Street without being inserted into the heritage area instead, they are still able to present reasons for that in the hearing.
- (377) Oyster Management (272.56, 272.57, 272.59, 272.60) opposes the precinct as a whole. The Adrian Palmer Family Trust (215.15) opposes MCZ-PREC1-P1 which effectively is the main provision implementing the precinct.
- (378) The submitters opposed to the precinct generally consider:
- That the provisions are overly onerous in an environment dominated by large format retail
 - That there are no significant existing heritage values in the area to protect
 - That the Jackson Street heritage area is sufficient to protect heritage values
- (379) The proposed Precinct is not intended to protect any existing historical heritage within the Precinct. It is also not intended to limit building height or density compared to the base zone, which is explicitly set out in the policy. Its goals are to advance the amenity values of the precinct and produce a new character, style, and built form that is inspired by existing and lost heritage in the wider area, with the aim of advancing the overall goals of the Metropolitan Centre. It may at best indirectly aid heritage values by encouraging more visitors to the heritage area.
- (380) Miriam Moore discusses the Precinct in her evidence in Appendix 3, and I agree with her discussion.

- (381) I think the Precinct has significant potential to enhance the amenity of the western end of Jackson Street and improve the linkage between the railway station and the traditional heritage area, encouraging more people to arrive by public transport and experience the area.
- (382) The additional design criteria apply only in resource consents that would be required regardless of the precinct. Meeting the intent of the policy may however have additional costs over a bare-bones design. As an area with amongst the highest regional accessibility and demand in the city²⁷ I think the area is amongst the best-placed to absorb these costs, and the area is one where “character” commercial space is likely to be valued by potential tenants. Recent new developments in the area such as 73 Jackson Street have tended to incorporate higher-end aesthetic elements even without explicit District Plan policy requirements.
- (383) On balance, I think that the precinct remains appropriate and recommend it be retained as notified.

5.3.16 Zone maps

All commercial zones - general

- (384) Laura Skilton (314.57a, 314.57b, 314.57c, 314.57d, 314.58a, 314.58b, 314.58c, 314.58d) seeks in general terms that areas that are zoned residential in the Operative District Plan, and are zoned in a commercial centre in the Proposed District Plan, are rezoned to a residential zone.
- (385) The submitter does not give any site-specific reasons but considers that overall provision of additional commercial space will have a detrimental effect on the Lower Hutt city centre.
- (386) Council has a duty to provide sufficient development capacity and support competitive land development markets. The adjustments to individual sites in commercial centres the proposed plan reflect, in my opinion, logical extensions of centres or reflect established commercial uses that defacto already form part of a centre.

²⁷ See for example the Housing and Business Development Capacity Assessment 2023, at https://wrlc.org.nz/assets/Documents/Documents/2025/09/HBA3-CHAPTER-3-Hutt-City_16.02.24.pdf, which assesses the relative strengths of commercial areas in an expert multi-criteria assessment,

- (387) The submitter also seeks (314.7) that where a certain zone covers three properties or less, these properties are rezoned to the zone of adjacent properties.
- (388) I do not think this is a useful criterion. Centres can still be coherent destinations even if held in single ownership or covering only a small number of shops.
- (389) Accordingly, I do not recommend any changes based on this submission. If the submitter has any site-specific reasons for these changes she may want to consider providing these at the hearing.

Local Centre Zone – 308 Waiwhetū Road

- (390) Urban Plus Ltd (322.37) and Kāinga Ora (386.1a, F26.49) seek that 308 Waiwhetū Road be rezoned from Local Centre Zone to Mixed Use Zone.
- (391) They consider that:
- The site is separated by the road from the remainder of the local centre and would be the only site on the eastern side of the road
 - The abutting sites on the same side of the road are Mixed Use Zone
 - The Mixed Use Zone is explicitly intended for unique or unusual sites and the current tenant, “the Remakery” is such a business
 - The Local Centre Zone is too restrictive and it would align with the submitters’ development goals for the site.
- (392) I do agree with the first three reasons in general, and the first two are a case (although not conclusive) for a rezoning to the Mixed Use Zone. However, I think both zones are similar in terms of providing for the current use of the site.
- (393) However, I do not agree with the last point, and I think that the submitters’ development aspirations are probably not as well suited to the Mixed Use Zone. The Local Centre Zone has much more permissive land use rules for a wide range of commercial and community activities and similar provisions for residential, aside from on Active Frontages (the submitters have a separate submission point on the Active Frontage Overlay for the site, which I will discuss in section 5.3.17). It also has more generous bulk and location standards depending on the use of neighbouring sites.

- (394) I think that the Fairfield centre in general has potential for growth in the coming years as the surrounding residential area is a desirable one and planned for and suited for residential intensification. The subject site and other Mixed Use Zone sites to the north form a logical extension of the centre, with an existing range of non-residential uses.
- (395) Urban Plus, although not Kāinga Ora, seeks this rezoning in conjunction with a large number of submission points that would, in general, provide a much larger scale of development in the Mixed Use Zone generally, comparable to at least the Neighbourhood Centre Zone if not the Local Centre Zone.
- (396) I believe the submitters' interest in the Mixed Use Zone is essentially site-specific, and their reasons primarily relate to this site, so I think it is better to address their relief in a site-specific way rather than making changes that would affect the entire Mixed Use Zone.
- (397) The combination of both parties' relief therefore, if it were all granted, would be to both rezone the site from the Local Centre Zone to the Mixed Use Zone, and then alter the provisions of the Mixed Use Zone to be more enabling, like the Local Centre Zone already is.
- (398) The far simpler way to achieve this is simply to leave the site in the Local Centre Zone. The submitters' concerns about the Active Street Frontage I will address in section 5.3.17.
- (399) The submitters do also raise a question of consistency with the sites to the north, which have the same advantages as an extension of the existing centre. I think such consistency would be better achieved by upzoning the sites to the north to Local Centre rather than downzoning the subject site. There is however no scope from submissions to do so.
- (400) Accordingly, I recommend that the submitter's relief be rejected, although their overall goals be supported, by retaining the site in the Local Centre Zone.
- (401) This recommendation is based on the reasons set out in the submissions. If submitters wish to pursue the rezoning on other grounds than those given in their submissions, they may wish to provide those reasons in the hearing.

5.3.17 Active Street Frontage Overlay maps

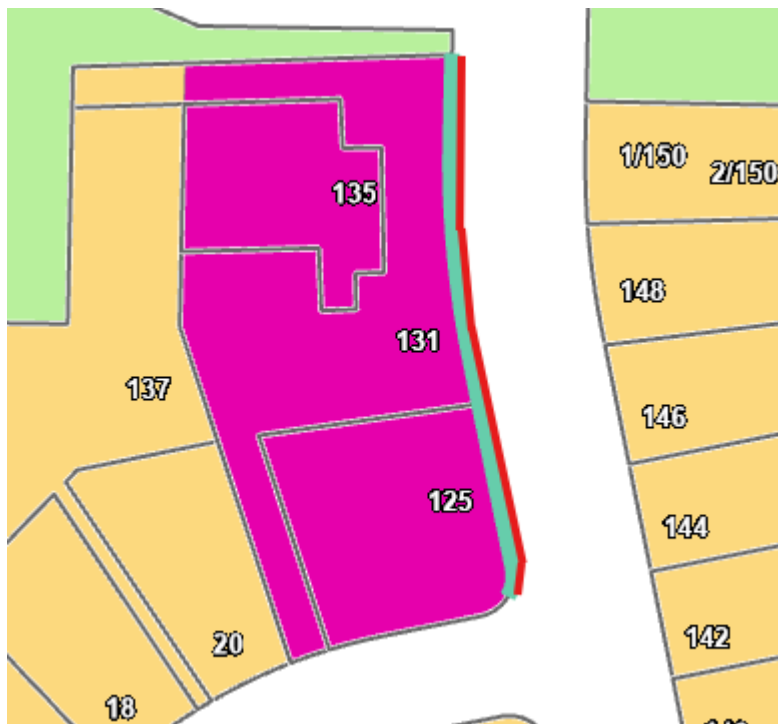
Mixed Use Zone sites

(402) The Policy Planning Team (440.93) seek to remove the Active Street Frontage Overlay from:

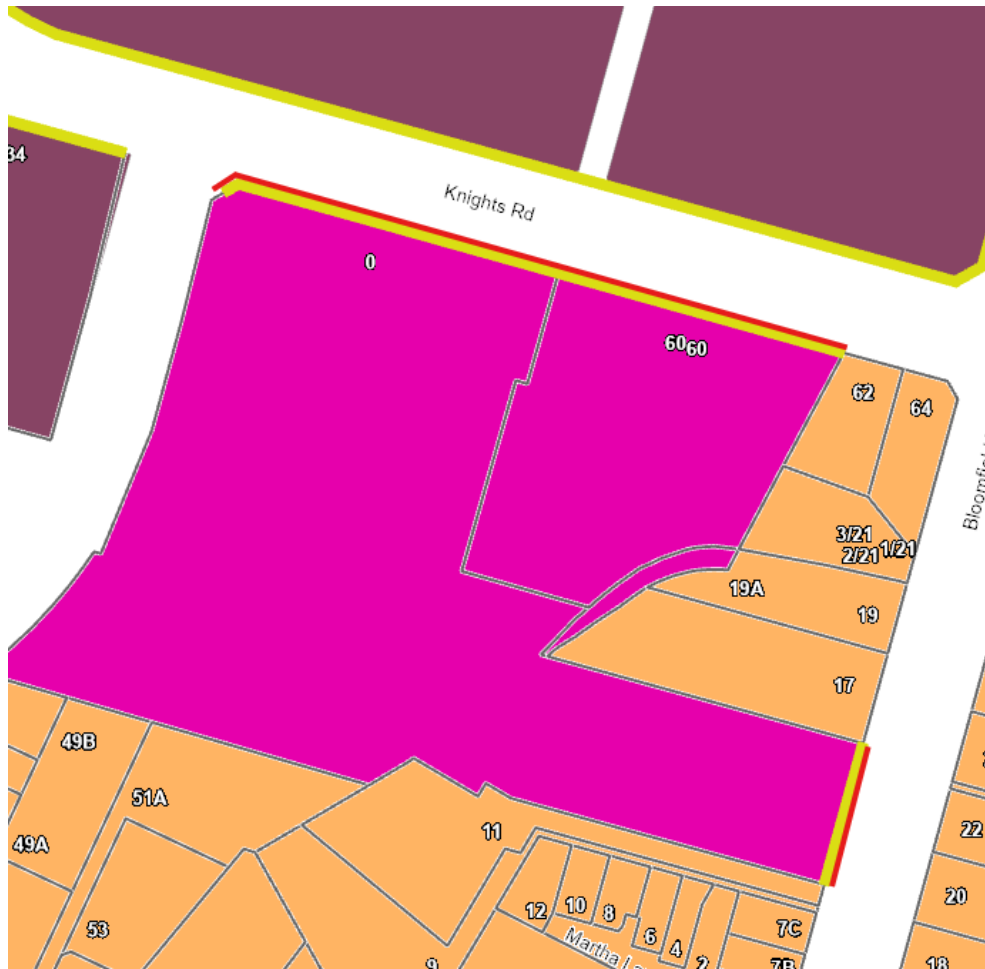
- 125-135 Dowse Drive, Maungaraki
- 60 Knights Road, Hutt Central
- Ss Peter and Paul School, Hutt Central

(403) They consider it redundant given that there are no relevant provisions in the Mixed Use Zone that are affected by the overlay.

(404) I agree, and recommend removing the overlay from these sites as shown. Deletions are shown in red:



Dowse Drive, Maungaraki



60 Knights Road, and Ss Peter and Paul School, Hutt Central

General Points

- (405) A range of submitters request general changes to the application of the Active Street Frontage Overlay.
- (406) Laura Skilton (314.10) seeks to merge Active Frontage A and B, and rename Active Frontage C to B and considers the A and B overlays to be too similar.
- (407) I do not agree that the two categories are the same or too similar – the Active Frontage A and B differ in:
- Which side is to be used for the principal entrance
 - The level of sunlight protection in the City Centre Zone
 - The level of wind assessment

- Whether vehicle crossings are non-complying or prohibited, with the latter being harder to justify.

(408) I accordingly recommend retaining the three-category structure.

(409) Pandion Ltd (259.5) seeks that the application of the Active Street Frontage Overlay is reviewed and amended based on urban design evidence. They consider the overlay too complicated and restrictive, and that there is a lack of justification and urban design evidence.

(410) I will consider the provisions themselves in the submission points also made by the submitter on individual objectives, policies, rules, and standards.

(411) For the application of the Active Frontage Overlay, I think this is worth considering as a whole (as requested by the submitter) and alongside the various site- and area-specific submission points on the overlay (set out in the below sections).

(412) The urban design advice from Miriam Moore (see Appendix 3) sets out some general considerations around active frontages. I agree and add that in my view, it is appropriate to take a tiered view to streets – identifying the highest quality existing streets and those with best potential to achieve a high level of activation at the highest tier, and those with the lowest quality and potential at the lowest tier. Considerations for identifying frontages include:

- The existing quality of the active frontage
- Council strategies (e.g. the City Centre Framework) and budgets for streetscape upgrades (e.g. through Riverlink)
- Current and expected visitor numbers
- Forming connected and coherent walking routes
- Considering whether and how there is separate access to sites for servicing

(413) I generally think the application of the Active Frontage overlays is roughly right. There are some places where I think adding the overlay, or moving to a higher category of overlay, would be warranted, but there is no scope on submissions to consider this.

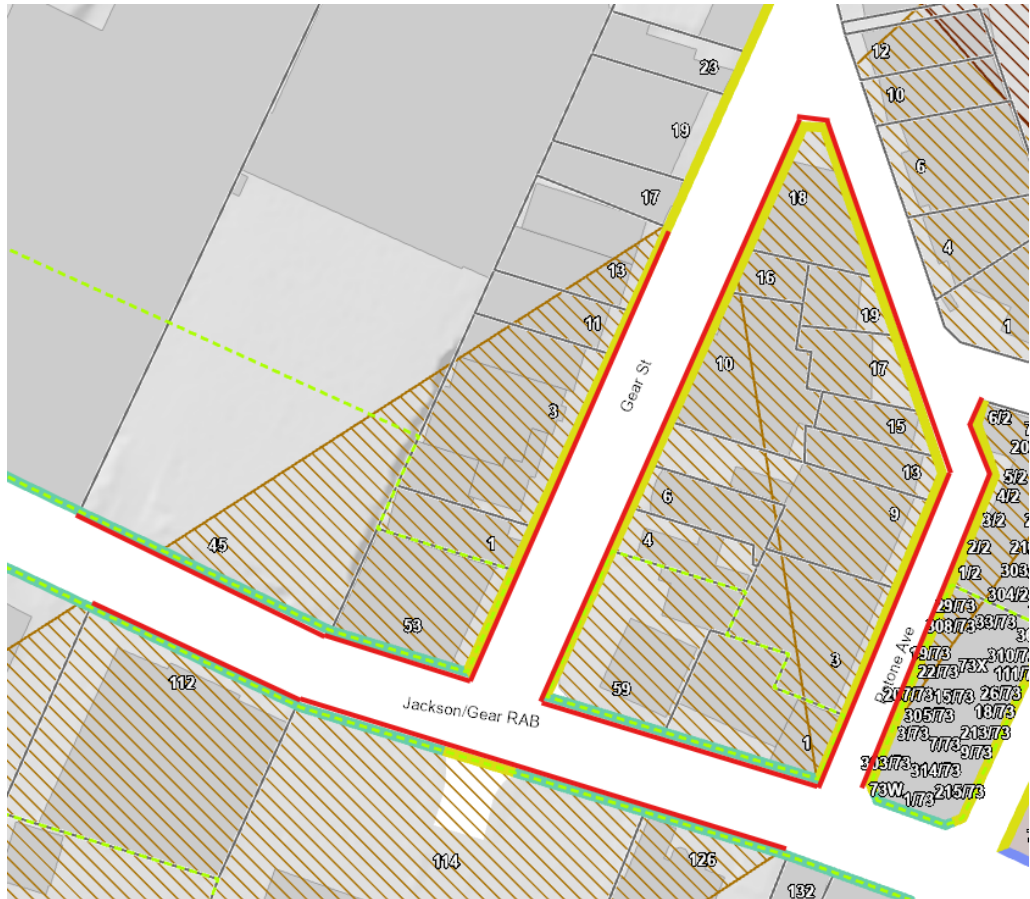
(414) There are also two main areas of weakness. The first is not for a reason raised by submitters, but it is in scope of submissions. I consider that the Active Frontage controls are difficult to meet and probably counter-productive in the Fault Location Area, where the location of buildings will need to primarily be dictated by natural hazards considerations. This applies to the following frontages in Petone:

- The Esplanade from Armidale Street to no. 79
- 112-126 Jackson Street
- The whole eastern side of Gear Street, and the western side from no. 13 southwards.
- All of Petone Ave

(415) I thus recommend the active frontage overlays be deleted as shown in the map below. Given the level of uncertainty in the fault overlay and the ability to readdress the issue in a resource consent, I think it appropriate to also snap the edges to property boundaries. Red lines show Active Frontage Overlays to be deleted under this recommendation:



The Esplanade



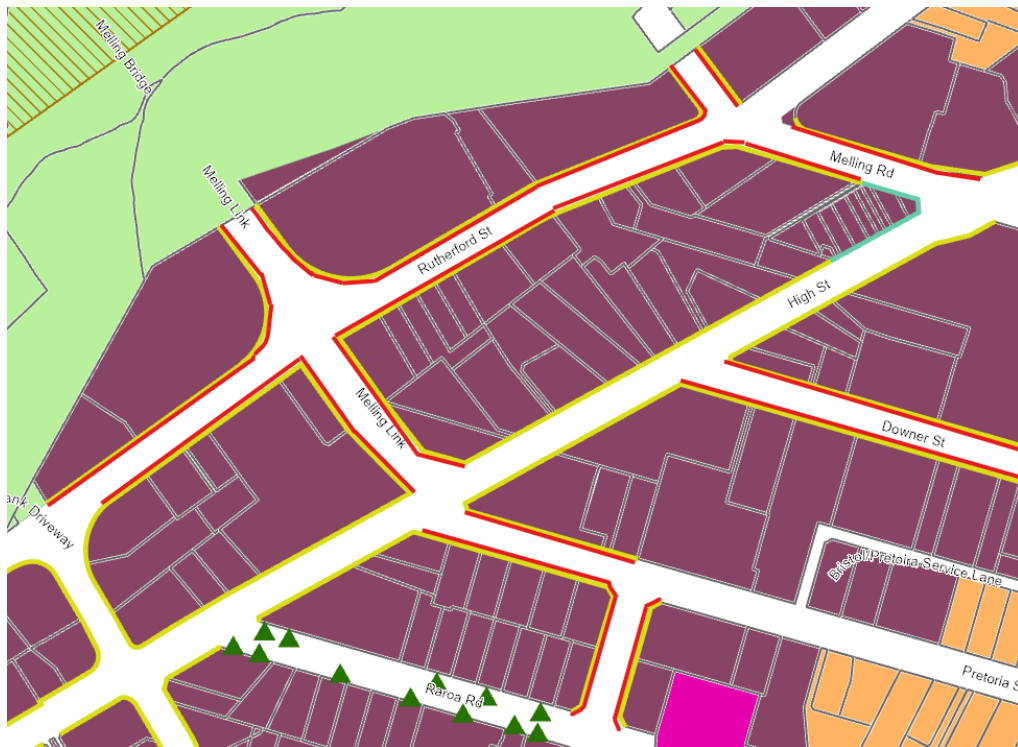
Jackson St, Gear St, Petone Ave

(416) I also consider that Active Frontage C is too generous in the northern end of the City Centre as it applies to many quite minor streets that are unlikely to become major pedestrian destinations, will not see substantial change from Riverlink, and are primarily used for service access or low visitor-count activities. I do think that the Active Frontage overlay should be retained southeast of the new Riverlink road bridge (which will land at the intersection of Queens Drive and Rutherford Street) and Kings Crescent and southwards to align with the City Centre Framework, but to the north of this there is probably not value in having the overlay except on the main pedestrian and public transport route into and out of the northern city centre, High Street. This would entail removing the Active Frontage Overlay from:

- Rutherford Street, northeast of Queens Drive
- All of Melling Link
- All of Pretoria Street

- Cornwall Street between Raroa Road and Pretoria Street
- Downer Street
- Melling Road, except for the Active Frontage B section.

(417) This is shown in the map below. Recommended deletions are marked in red:



(418) Finally, some concerns around Active Frontage C can be addressed through alterations to the zone active frontage and carparking standards to remove inconsistencies. I will discuss this in the parts of this report on the relevant provisions.

(419) Accordingly, I recommend accepting Pandion's submission in part by cutting back the Active Frontage B and C Overlays in and around the Fault Location Area as shown above, and the Active Frontage C Overlay in the northern City Centre Zone.

(420) This also effectively is a recommendation to accept the submission point from Foodstuffs (239.26) which asks for the active frontages to be removed from 114 Jackson Street, Petone.

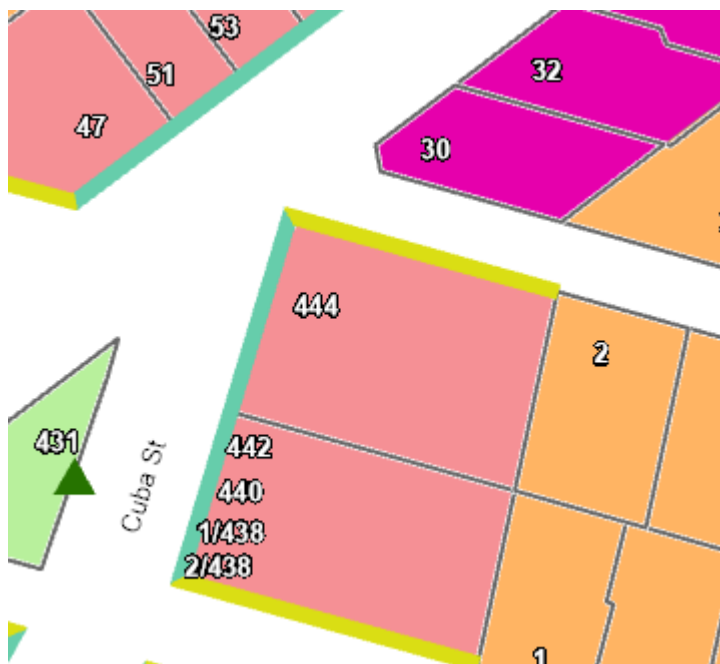
20 Brunswick Street, Hutt Central, 14 Oates Street, Stokes Valley, and 43 Waterloo Road, Hutt Central

- (421) Foodstuffs (239.26) seeks that the overlay be removed from their sites in the Stokes Valley local centre and on Brunswick Street and Waterloo Road in the city centre. As the reasons given are not site-specific, I will consider the three sites together. The submitter considers that centres and commercial areas should have a mixture of street typologies and levels of activation by implication that their sites should be identified at the lowest level of activation.
- (422) I agree with the submitter that well-functioning centres should have a mix of street types and activation levels. The proposed plan does so, by using the overlay to identify particular frontages, rather than applying a single standard across the zone (as the operative plan does in the Suburban Mixed Use Activity Area). I discuss some considerations about the identification of frontage in "General Points", above, and Miriam Moore does likewise in her evidence in Appendix 3.
- (423) The Stokes Valley site is in a town centre designed from scratch as a cohesive whole with shared parking. The active frontages of the supermarket sit on designed pedestrian walkways, the Scott Court Walkway and Oates St Walkway, and are and always were intended as the key activated areas of the shopping centre. The sites, including the subject site, have dedicated loading and back-of-house provision through service lanes and separate carparks.
- (424) The Brunswick Street site in the proposed plan has identified frontages on High Street and Downer Street, but not Brunswick Street. As I discuss in the submission of Pandion Ltd (in "General Points", above) I recommend removing the overlay from Downer Street.
- (425) I do not consider that High Street should be identified as the lowest level of activation. The Active Frontage C is the second-lowest level, which I think should be the minimum considered for High Street, the main pedestrian and public transport route into the city centre from the north, which has the highest existing level of activation of the northern city centre streets, and the best potential to become a continuously activated frontage.

- (426) For the Waterloo Road site, there are proposed active frontages on Waterloo Road and Kings Crescent. As I discuss in the submission of Pandion Ltd (in “General Points”, above) I recommend removing the overlay from Kings Crescent.
- (427) I think it is appropriate to retain the Waterloo Road active frontage. This is one of the main walking routes into the city centre from the east and the immediate neighbours form a connected active frontage that continues into the heart of the city centre. It is called out in the City Centre Framework as a key transport connection and priority area for mixed-use development. Waterloo Road is also planned as the likely future location of a major east-west cycling corridor from Waterloo Station to the city centre.
- (428) Accordingly, I recommend the overlay be removed from Downer St and Kings Crescent (as shown on the maps in “General Points”, above) but otherwise be retained as notified.

444 Cuba Street, Alicetown

- (429) Pandion Ltd (259.2b) seeks that the Active Street Frontage C be removed from 444 Cuba Street, Alicetown as being unduly onerous. This is the northern frontage onto Valentine St shown below:



- (430) The subject site already largely complies with the Active Frontage C control in terms of building layout, subject to the submission points on the

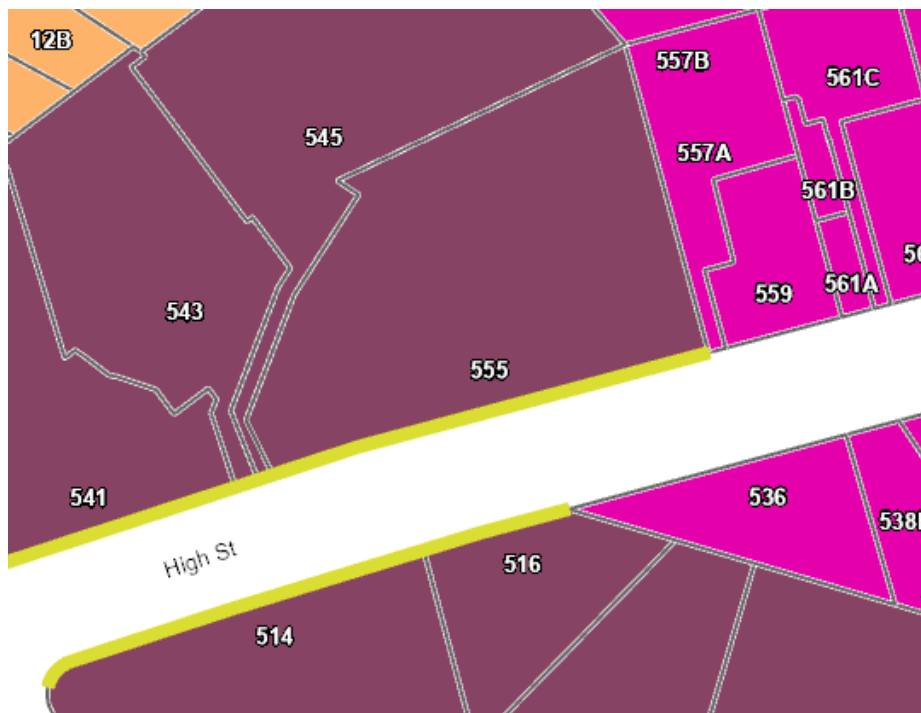
consistency of that overlay with the carparking standard, and so I do not think this application is overly burdensome.

338 High Street, Hutt Central

- (431) McDonald's Restaurants (174.18b) seek that the overlay be removed from the site, if their alternative relief to exempt additions and alterations from compliance with the standards is not accepted.
- (432) The existing restaurant has some extremely minor non-compliances with the proposed Active Frontage C standard but otherwise already meets it and meets the general intent. I think this issue is better addressed in the details of the standard, particularly around the treatment of landscaping. Accordingly, I recommend retaining the overlay to the frontage of the site.

555 High Street, Hutt Central

- (433) Z Energy (468.7d) seeks that the overlay be removed from 555 High Street, Hutt Central. The submitter's reasons essentially revolve around the site and its immediate neighbours currently not meeting the standard:



555 High Street and environs

- (434) The intent of the active frontage controls is not just to preserve existing active street frontages but to produce an improvement in the built environment of the commercial centres over time, and increase their

attractiveness and practicality. High Street is the main public transport and walking route into the city centre from the north and the subject site forms the immediate transition from the residential and mixed use areas to the north into the spine of the city centre. Active Frontage C is the lowest tier of the active frontage controls, and can be complied with by a wide range of vehicle-oriented businesses with good design.

- (435) I therefore recommend retaining the Active Street Frontage Overlay C on the site.

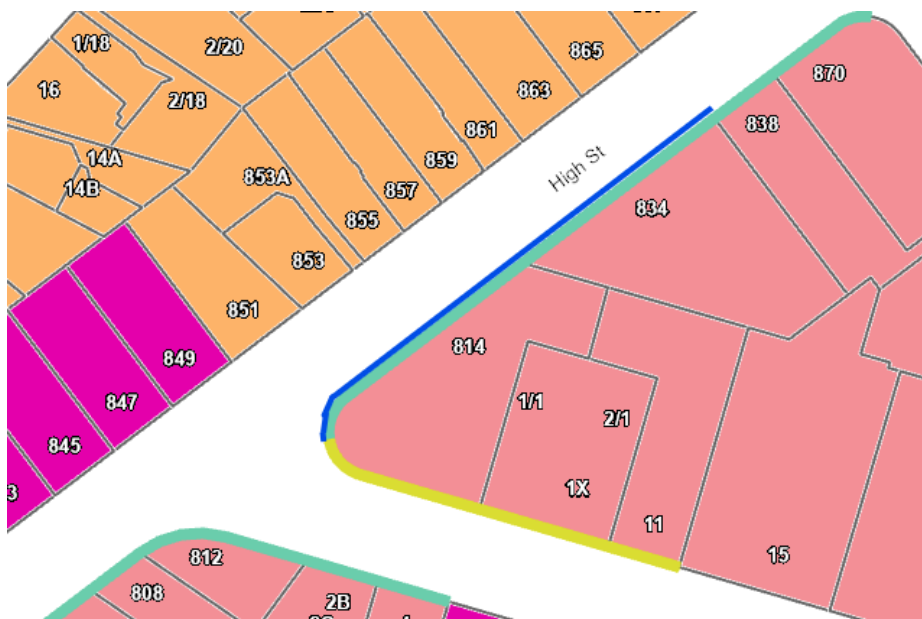
814 and 834 High Street, Avalon

- (436) McDonald's Restaurants (174.20b) seeks removal of the overlay from 814 High Street and Z Energy (468.8b) seeks removal of the overlay from 834 High Street, which is adjacent.
- (437) McDonald's considers that the overlay should not be applied if the relevant rules apply to alterations and additions.
- (438) Z Energy consider that the overlay is incompatible with the needs of service stations and would make continued operation of the existing service station on site impossible, and cite the verandah requirements as an example.
- (439) I do not agree that service stations are inherently incompatible with the verandah or canopy requirements. Service stations routinely provide weather protection for their customers at the pumps and can exist in conjunction with a canopy on the footpath. This example from a (now-demolished) service station in Wellington provides one potential method:



Google Street View – corner Featherston and Whitmore Streets, Dec 2018

- (440) However, the frontage is at the fringe of the Avalon centre and does not tie in particularly well with an existing active frontage area, being separated from the heart of the centre by Park Ave and the buildings to the north being set back from the street, of which the only one with anything close to an active street presence is no. 838.
- (441) It does however have potential as part of a key pedestrian route into and through the centre, and being a major public transport corridor.
- (442) Accordingly, I recommend accepting the requested relief in part by downgrading the overlay to Active Frontage C on the subject sites, which does not prevent vehicle crossings. This is shown below (blue denotes a shift from Active Frontage B to Active Frontage C):



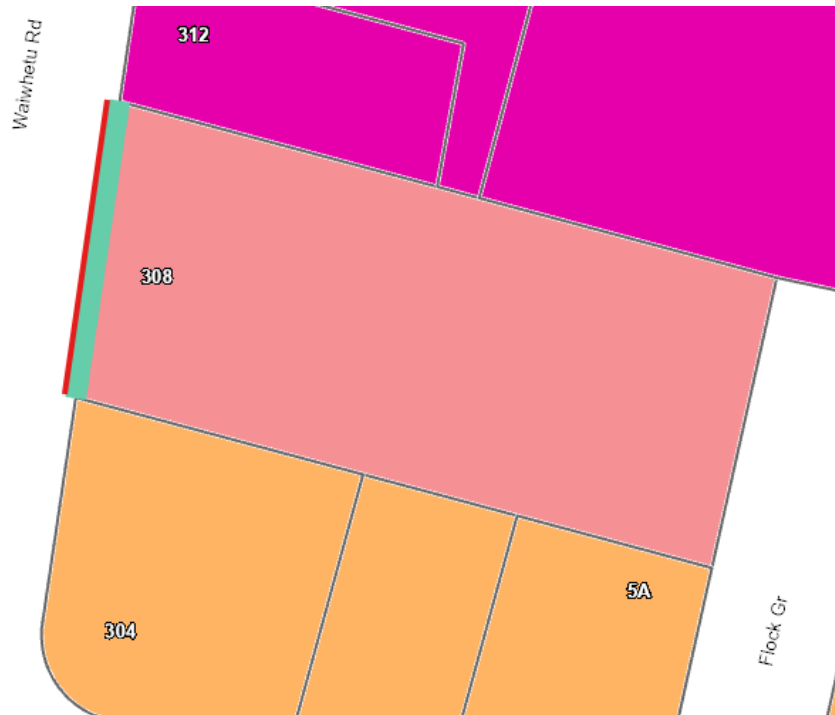
60 Hutt Road, Petone

- (443) Z Energy (468.6c) seeks that the overlay be removed from the southern side of Hutt Road between The Esplanade and Jackson Street.
- (444) I agree with the submitter that the area is not currently a significantly activated street and does not present an opportunity to make connections.
- (445) Accordingly, I recommend removing the overlay as shown in the map below (red indicates deletion):



308 Waiwhetū Road, Fairfield

- (446) Kāinga Ora (386.1b) and Urban Plus (322.38) seek that the overlay be removed from 308 Waiwhetū Road, considering among other things that the site is isolated from other active frontages, and does not currently have active frontage features, and so does not contribute to a useful connected overall area.
- (447) I agree, and recommend removing the overlay from the site as shown (deletion in red):



29 Victoria Street, Petone

- (448) McDonald's Restaurants (174.18b) seek that the overlay be removed from the site, if their alternative relief to exempt additions and alterations from compliance with the standards is not accepted.
- (449) The existing restaurant technically does not comply with the proposed Active Frontage C standard but is relatively close to the general intent. I think this issue is better addressed in the details of the standard. Accordingly, I recommend retaining the overlay to the frontage of the site.

6 Mixed Use Zone

6.1 Chapter Summary

(450) The Mixed Use Zone is part of the Commercial and Mixed Use Zones chapter in the proposed plan, but does not form part of the *commercial centres* defined in the plan. It takes a different policy approach and has a different range of submitters to the centres zones. I will therefore discuss this zone separately.

6.2 Overall resource management issues

6.2.1 Relationship of the zone to commercial centres

(451) Urban Plus (322) and to a lesser degree Kāinga Ora (386) have a very different vision for the zone from the notified plan, and seek in general terms that it enable a significantly greater scale and range of activities, and enable commercial activity at a level comparable to the Neighbourhood Centre Zone and Local Centre Zone.

(452) Their reasons and concerns primarily relate to a site at 308 Waiwhetū Road, Fairfield. Assuming this is their major concern, I think this issue is dealt with in the submission point on the zoning of that site, rather than altering the entire zone which, as notified, is applied to a much more varied range of circumstances than the Urban Plus and Kāinga Ora version of the zone would suit. The submitters have not sought re-zoning of any other Mixed Use Zone sites, which I think would be a necessity in response to the scale of changes proposed.

(453) I thus recommend not accepting the submission points on the following rules, which have no other submitters and which if accepted would primarily advance this relief of providing for a larger scale of development at 308 Waiwhetū Road. These would be better effected by simply leaving the subject site zoned as Local Centre Zone:

Provision	Submission points
MUZ-R8 (Health care activities)	Urban Plus (322.21)
MUZ-R9 (Marae)	Urban Plus (322.21)
MUZ-R10 (Community facility)	Urban Plus (322.21)
MUZ-R11 (Educational facilities (including Kohanga Reo))	Urban Plus (322.21)
MUZ-R12 (Food and beverage activities)	Urban Plus (322.22)
MUZ-R13 (Grocery stores and supermarkets)	Urban Plus (322.23a, 322.23b)
MUZ-R15 (Standalone office activities)	Urban Plus (322.25a, 322.25b)
MUZ-R16 (Commercial activities not otherwise provided for)	Urban Plus (322.26a)
MUZ-R17 (Other activities not otherwise provided for)	Urban Plus (322.26b)
MUZ-R18 (Carparking activities)	Urban Plus (322.27)

(454) If the submitters have other reasons that are not specific to 308 Waiwhetū Road for seeking these changes, I suggest they provide those reasons at the hearing.

6.3 Discussion of submissions and recommendations

(455) This section is a discussion of the submission points on the Mixed Use Zone chapter, with my recommendations on decisions requested by submitters on this chapter.

(456) For the sake of brevity, where a submission is in support of a provision and I have not otherwise discussed it, I recommend accepting that submission

point in whole or in part for the grounds set out in the Seaview Marina Zone s32 report.

- (457) For submissions that primarily relate to one of the key wide-ranging resource management issues in section 6.2, I will usually refer back to my overall recommendation rather than considering each point separately.

6.3.1 Provisions not in dispute

- (458) The following provisions only have submissions in support, with no changes sought:

Provision	Supported by
MUZ-O3 (Provision of commercial and community spaces and housing)	Urban Plus (322.8), Kāinga Ora (386.51)

- (459) As these points are all thus beyond contention, they all should be accepted.

- (460) Where other provisions in the chapter are not listed in this report, they did not receive provision-specific submissions.

6.3.2 General

- (461) Urban Plus (322.17) seeks consequential relief on their other points to move detail from objectives to policies.

- (462) The Adrian Palmer Family Trust (315.29) seeks that the provisions be simplified.

- (463) I will discuss this point in relation to individual provisions.

6.3.3 Introduction

- (464) Urban Plus (322.1, 322.5) expresses some general support for the introduction and zone generally.

- (465) Urban Plus (322.2), supported by Kāinga Ora (F26.43), seeks to add/replace the introduction with the following text:

The planned urban environment for the Mixed Use Zone is for a mix of residential and non-residential activity, including commercial, community, light industrial, recreational and residential activity and other compatible activity. The combination and/or predominance of particular activities may vary significantly from place to place and over time, in response to market and community demand.

Commercial, community and light industrial activities shall be of a small or specialised nature, or that primarily serve their immediate surroundings so as not to undermine the role of commercial centres in the City Centre Zone, Metropolitan Centre Zone, or Local Centre Zone. The Mixed Use Zone is not expected to be managed to support the role of the Neighbourhood Centre Zone. Significant vehicle-oriented businesses are not encouraged.

Residential activity may be of medium or high density and may encompass a range of dwelling typologies and forms.

While the planned urban environment is for smaller scale non-residential activity, and residential activity of varying density, a permissive framework for built development is proposed to ensure efficient use of land, to accommodate a mix of activities within a site, and to facilitate multiple smaller tenancies within a single building.

- (466) I do not think this rewriting of the introduction would advance the implementation of the plan or assist plan users.
- (467) Urban Plus (322.3), supported by Kāinga Ora (F26.44), seeks that the introduction include references to light industrial activity, as they consider this would better align with the National Planning Standards.
- (468) The zone does not primarily provide for light industrial activity, which is provided for only under limited circumstances and is not a purpose of the

zone. The National Planning Standards and the zone descriptions are not intended to dictate a policy approach, and encourage use of standard terms where possible. The Mixed Use Zone as proposed is still far more closely aligned with the National Planning Standards description of the Mixed Use Zone than any other and I do not think a Special Purpose Zone would be warranted for this minor difference.

- (469) Urban Plus (322.4) points out errors in the introduction where the “Local Centre Zone” is referred to and I recommend removing these. Otherwise, I recommend the introduction remain as notified.

6.3.4 Invalid and unclear

Order of rules

- (470) Laura Skilton (314.60e, 314.61e) seeks that residential rules are moved to sit after non-residential rules and the catch-all rule is moved to the end.
- (471) The National Planning Standards²⁸ require that:

Any rules must be ordered in the following way: permitted, controlled, restricted discretionary, discretionary, non-complying, prohibited. Where a single rule contains more than one activity status, this order must be used within the single rule.

- (472) Accordingly, the Council does not have the option to place the permitted residential activities, or the catchall rule, after activities with a more restrictive activity status.

6.3.5 Objectives

MUZ-01 (Purpose of the zone)

- (473) The Ministry of Education (399.109) supports the objective as notified.
- (474) Urban Plus (322.6) and Kāinga Ora (386.59, F26.45) seek on the grounds of clarity to replace the objective with:

²⁸ Standard 10.3, on page 41.

The Mixed Use Zone contributes to a well-functioning urban environment by accommodating a mix of residential and non-residential uses that support the social, economic, and cultural wellbeing of people and communities in the surrounding area.

- (475) I do not think this expresses monitorable goals for the zone as clearly as the notified objective, which I recommend retaining.

MUZ-O2 (Activities in the zone)

- (476) FENZ (374.118) and the Ministry of Education (399.110) support the objective as notified.

- (477) Urban Plus (322.7) and Kāinga Ora (386.50, F26.46) seek to replace the objective with:

The Mixed Use Zone provides flexibility for any combination of commercial, community, light manufacturing and servicing, recreational, residential, and other compatible activities, while reflecting the Mixed Use Zone's role and function in relation to the hierarchy of centres.

- (478) They consider that this detail is better expressed in policies.
- (479) The objective is written in a standard style common to zones across the plan and this aids in interpreting district-wide provisions that refer to, for example, predominant activities in a zone.
- (480) Otherwise, I do not think this expresses monitorable goals for the zone as clearly as the notified objective, which I recommend retaining.

MUZ-O4 (Planned character and planned urban built environment of the zone)

- (481) Urban Plus (322.9a), supported by Kāinga Ora (F26.47), seeks to replace the objective with:

The character and urban built form of the Mixed Use Zone is of a scale and quality that is compatible with the amenity level of medium to high density mixed use development. Built development is adequately serviced by

network infrastructure or addresses any infrastructure constraints.

- (482) Urban Plus (322.9b, 322.17), supported by Kāinga Ora (F26.48), further seeks to remove the detail that would be removed be inserted into the policies.
- (483) These are both on the grounds that they consider the factors in the objective are better suited to policies.
- (484) I do not agree, and think that objective is monitorable and removing the detail risks making the objective too vague.
- (485) Accordingly, I recommend leaving the objective as notified.

6.3.6 Policies

MUZ-P1 (Planned character and planned urban built environment of the zone)

- (486) The Ministry of Education (399.111) supports the policy as notified.
- (487) Urban Plus (322.10) and Kāinga Ora (386.52) seek in general terms to amend the policy to incorporate material they seek to delete from objective MUZ-O2.
- (488) As I do not recommend deleting that material from the objective, and I believe it is already adequately addressed in the policy, I do not recommend making this change.

MUZ-P2 (Potentially incompatible activities)

- (489) Urban Plus (322.11) seeks in general terms to amend and simplify the policy. They raise specific concerns that:
- The policy refers to *commercial centres*, including the Neighbourhood Centre Zone, despite this being excluded in the introduction
 - The rules allow residential accessory parking but the policy suggests all carparking is potentially incompatible
 - Suggesting that visitor carparking is potentially incompatible limits community facilities that may struggle to locate in other zones

- The reference to reverse sensitivity is too strong.
- (490) Kāinga Ora (386.53) asks for the same in relation to reverse sensitivity.
- (491) I agree with Urban Plus's and Kāinga Ora's points around commercial centres and reverse sensitivity for the reasons given.
- (492) I do not agree in relation to carparking. The policy sets out that carparking is *potentially* incompatible, not that it is always incompatible, thus setting up that a detailed assessment at resource consent stage is necessary. It explicitly applies only to visitor carparking. I also do not agree with the interpretation that visitor parking is "otherwise non-complying or prohibited within other commercial centres". That only applies to on-site parking on the Active Frontage A and B overlays, which apply to only a small minority of commercial streets. It does not apply to street parking. However, for the avoidance of doubt I recommend that the policy explicitly refer to non-residential visitor parking.
- (493) FENZ (374.119) seeks to amend the policy to add:
- 1. Provide for other, potentially incompatible activities if they:*
- ...
- [x.] Either support the community within the zone and surrounding area or have an operational and/or functional need to locate in the zone.*
- (494) The list of criteria for activities in the policy is additive, not alternative. I do not think this additional criterion would add anything to the management of the zone or that there is a good reason to require activities to meet the requested test if the other elements are met.
- (495) If this is intended as an alternative to the proposed list, then I think this would undermine the policy's connection to the objective and particularly that almost any activity could be said to "support the community within the zone and surrounding area".
- (496) With regards to the submitter's major concern of fire stations, I believe these can meet the tests in the policy as written, if appropriately located and designed.
- (497) Putting that together, I recommend amending the policy as follows:

1. Provide for other, potentially incompatible activities if they:
 - a. Maintain and enhance the amenity of the mixed use area, as it affects both residential and non-residential uses,
 - b. Do not detract from the Mixed Use Zone's ability to meet the zone's planned purpose,
 - c. Do not result in land being used in a significantly inefficient way,
 - d. Are designed and managed to be consistent with the planned character of the Mixed Use Zone,
 - e. Avoid significant adverse effects on residential activities, commercial activities, community activities, and recreation activities enabled in the zone,
 - f. Avoid creating significant and unreasonable reverse sensitivity effects,
 - g. Do not undermine the role of ~~commercial centres~~ the City Centre Zone, Metropolitan Centre Zone, and Local Centre Zone, and
 - h. Do not form a significant city-wide or regional destination.
2. Potentially incompatible activities include:
 - a. ~~Non-residential a~~Activities with visitor carparking,
 - b. Industrial activities,
 - c. Integrated retail,
 - d. Yard-based retail,
 - e. Drive-through activities,
 - f. Service stations, and
 - g. Motor vehicle servicing.

MUZ-P3 (Incompatible activities)

- (498) Urban Plus (322.12) seeks to generally clarify the policy, raising specific concerns around the meanings of particular words such as "significant", "large", and compatibility of the policy with the rules for car parking and offices.
- (499) Kāinga Ora likewise (386.53) seeks to amend the policy to clarify the use of "incompatible", "significant", and "large", and delete the word "likely".

- (500) I believe the word “incompatible” has an obvious meaning in the context of zone rules in a district plan – activities that are incompatible are those that should not be located together.
- (501) “Significant” and “large” are intended to, and likely to, be interpreted in light of the thresholds in rule conditions and considered relative to permitted baselines.
- (502) I do not agree that the word “likely” should be deleted. To say that two activities are definitely incompatible implies that one of them should be outright prohibited. This is not the case for any of these activities, all of which can still be judged on their merits.
- (503) I do not think the policy is incompatible with the rules. The policy aids in assessing resource consent applications, as well as providing the basis for the rule structure. The thresholds in the plan are intended as triggers for assessments.
- (504) Accordingly, I recommend the policy remain as notified.

MUZ-P4 (Existing activities)

- (505) Urban Plus (322.13) seeks that the policy be deleted and considers it redundant given that existing use rights are provided for in the Act.
- (506) I do not agree. Existing use rights only apply when certain conditions are met, particularly that in most cases “the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified”. Existing activities may well require resource consent when expanding, intensifying, or changing in character, and it is appropriate for the plan to provide policy direction for how accommodating to be around the evolution of existing uses.
- (507) I accordingly recommend the policy remain as notified.

MUZ-P5 (Role in network of commercial and industrial areas)

- (508) Urban Plus (322.14) seeks to remove reference to “cumulative adverse effects” as they do not think it likely that activities of the scale provided for as permitted activities could have cumulative adverse effects on the transport network’s capacity and efficiency.

(509) This is perhaps the reverse of the issue at stake in MUZ-P3. The policy is considering the cumulative adverse effects that could come from activities that exceed the permitted activity thresholds, and is supporting the existence of those thresholds.

(510) Accordingly, I recommend the policy remain as notified.

MUZ-P6 (Development capacity – general)

(511) The Ministry of Education (399.112) supports the policy as notified.

(512) Urban Plus (322.15) seeks to delete the policy or remove reference to “changing and unpredictable needs” on the grounds that needs will be identified and predicted by the market.

(513) The policy sets out that needs are unpredictable *at the time the plan is written*, not that they are permanently unknowable.

(514) Accordingly, I recommend the policy remain as notified.

MUZ-P7 (Urban design outcomes (by meeting standards or assessment)), MUZ-P8 (Urban design outcomes (larger developments and potentially incompatible activities)), MUZ-P9 (Urban design outcomes (exclusions))

(515) Urban Edge Planning (449.20, 449.25, 449.30) raise the same concerns as in CCZ-P8/9/10/MCZ-P8/9/10 regarding:

- The idea of pedestrian dignity
- Whether passive surveillance is ensured or enabled
- How the exclusions apply to visual amenity in public spaces
- Whether the policy should have outcomes around daylight
- How the policy should clarify requirement for protecting amenity in neighbouring zones

(516) The discussion in CCZ/MCZ-P8/9/10 applies here, and I make the same recommendations.

(517) Urban Edge Planning (449.17), Kāinga Ora (386.55, 386.57) and Urban Plus (322.16) seek that the three policies be combined into one. Kāinga Ora also seeks that the matters in the policy be moved/copied into matters of discretion. I discuss in section 3.1 why I think the three-policy structure

should be retained. Urban Plus further considers that the outcomes should be simplified and has the following concerns:

- The policies should not distinguish based on the size of the activity
- There is no need for a policy for built development that meets relevant standards
- The policy refers to active frontages despite the Active Frontage Overlay not being used in the zone
- Similar concerns around pedestrian dignity to Urban Edge Planning
- Views the outdoor living standards as inadequate because only one of the options needs to be achieved

(518) I disagree that size should not be used as a trigger for assessment as I consider that larger developments have greater risks if inadequately designed.

(519) I do not agree with that the interpretation that MUZ-P7 only applies to developments that meet the permitted activity standards. Its chief value is in assessing developments that do not meet the standards, as it is incorporated into the matters of discretion of relevant standards.

(520) I agree that the policy should not refer to active frontages as they are not identified in the zone.

(521) I agree that the outcomes around outdoor living space should be additive not alternative – only the last option should be an alternative.

(522) Kāinga Ora (386.56) seeks that the policy be transformed into assessment criteria with the following amendments to the policy:

...

The outcomes are:

1. The extent to which the proposal creates ~~Create~~ a safe and legible urban environment by:

a. Providing easily visible, and accessible, ~~and sheltered~~ main entrances to buildings (other than accessory buildings),

...

d. ~~Avoiding wasted space or space of unclear function, and~~

...

2. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to provide for pedestrian safety, comfort, ~~dignity~~, and amenity.

...

(523) The submitter considers that:

- The matters are better included as matters of discretion under each standard
- An “avoid” policy should only be used where no other option is available

(524) I do not agree that the policy should be transformed into assessment matters. They already apply as matters of discretion due to cross-references, and the policy itself needs to remain as direction for the substantive resource consent decision.

(525) I do not think that the word “avoid” is excessive given the subjective nature of what is being avoided (“wasted space or space of unclear function”).

(526) Putting this together, I recommend that MUZ-P7 be amended as follows:

...

The outcomes are:

...

1. Create a safe urban environment by ensuring that building design enables enabling passive surveillance.

...

3. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to support and promote quality, legible, safe, convenient, and efficient circulation for pedestrians accessing the site and people within the site provide for pedestrian safety, ~~comfort, dignity, and amenity.~~

...

5. The form and scale of development protects access to sunlight ~~and daylight~~ in well-used streets and public spaces.

...

~~7. Ensure adequate access to daylight for residential activities on the site and on adjacent Mixed Use Zone or Residential Zone sites.~~

...

9. Ensure residential units have access to outdoor living spaces that:

- a. Ensure on-site landscaping, where it is required by a standard or proposed as a mitigation of other effects: ~~b. Retains~~ retains healthy and mature vegetation, where appropriate ~~or, and~~
- b. Are located and oriented to ensure good access to sunlight, and ~~or~~
- c. Are of a functional size and configuration, and ~~or~~
- d. Provide screening or landscaping to contribute to privacy, or
- e. Alternatively, public open space is located nearby that is accessible and functional for residents.

...

~~11. Balance the provision of privacy for residents of ground-floor residential units on identified Active Frontages, where provided for, with the provision of an attractive streetscape.~~

...

(527) I recommend that MUZ-P8 be amended as follows:

The outcomes are:

1. Create a safe and legible urban environment by:

...

b. Enabling Ensuring that building design enables passive surveillance over public and communal spaces,

...

2. Vehicle parking and loading areas, accessways, and garages do not visually or physically dominate public and communal spaces or access to buildings and are designed to support and promote the pedestrian circulation provided for in clause (3) ~~provide for pedestrian safety, comfort, dignity, and amenity.~~

3. There is quality, legible, safe, convenient, and efficient circulation for pedestrians accessing the site and people within the site.

4. Ensure on-site landscaping, where it is required by a standard or proposed as a mitigation of other effects:

a. Retains healthy and mature vegetation, where appropriate

...

(528) I recommend that MUZ-P9 be altered as follows:

For the avoidance of doubt, when applying the standards and urban design policies of this chapter, the following are not controlled, encouraged, anticipated as mitigation, or otherwise provided for by the plan:

...

e. Limiting the actual or perceived height, scale, or density of developments where the height, setback, site coverage, height in relation to boundary, and density standards are met, ~~and~~

~~f. The use of techniques such as modulation of building form or variation of building materials to reduce the perceived scale of buildings, where the height, setback, and height in relation to boundary standards are met.~~

...

6.3.7 Rules – Buildings and Structures

MUZ-R1 (Repair and maintenance of buildings and structures), MUZ-R3 (Construction of new buildings and structures and additions and alterations to existing building and structures)

- (529) Urban Plus (322.18a) seeks that additions and alterations should be located in MUZ-R1 rather than MUZ-R3.
- (530) This would complicate the structure of the plan and be inconsistent with other zones for no good reason.
- (531) Urban Plus (322.18b) further seek that alterations that do not alter the external building form should be permitted even where they do not meet the standards.
- (532) I discuss this issue in the commercial centre context for rule CCZ-R4 in section 5.3.7.
- (533) The standards are considerably more enabling than the zone provisions that applied to zone sites in predecessor plans, and so I doubt that there are a significant number of existing non-compliances.
- (534) However, we should also consider what is likely in the case that there is, and whether a resource consent taking into account the existing environment would be likely to be declined or impose significant conditions. I suspect that is unlikely and it would mostly form an administrative burden.
- (535) Accordingly, I recommend changing the conditions as follows, using the same recommended language as for CCZ-R4:

*1. **Activity status:** Permitted*

Where:

a. For additions, compliance is achieved with, and for alterations, compliance is either achieved with or existing non-compliances are not worsened for:

i. MUZ-S1: Height,

ii. MUZ-S2: Height in relation to boundary,

iii. MUZ-S3: Setbacks – Adjoining zones,

- iv. MUZ-S4: Location and design of carparking,*
- v. MUZ-S5: Outdoor living space, and*
- vi. MUZ-S6: Outlook space.*

6.3.8 Rules – Land Use Activities

MUZ-R4 (Residential activities)

- (536) Kāinga Ora (386.58) supports the rule as notified.
- (537) Urban Plus (322.19) seeks that some threshold be set for resource consent assessment based on the number of units, suggesting four or six units as options.
- (538) The submitter contrasts the approach with the Medium Density Residential Standards framework in the Medium Density Residential and High Density Residential Zones, and considers that permitted activity status will not assist high quality outcomes in the zone.
- (539) The Mixed Use Zone is specifically designed for flexibility and does not have the same amenity goals as the residential zones. As a non-residential zone, the Mixed Use Zone is also not obliged to implement the Medium Density Residential Standards²⁹. In this context, I do not think that the number of units is a particularly valuable threshold for resource consent assessment for the matters included in the zone³⁰, and the zone's standards are a better trigger. This is the approach in the other commercial zones for residential activity.
- (540) Accordingly, I recommend the rule remain as notified.

MUZ-R5 (Retirement villages), MUZ-R6 (Supported residential care facilities), MUZ-R8 (Health care activities)

- (541) Urban Plus (322.20, 322.21) contrasts the approach to retirement villages and supported residential care, which have no GFA threshold, with health care activities, which does. I have generally interpreted this relief as being

²⁹ Although it is not forbidden from doing so, and where there is value in plan-wide consistency, for example with assessment methods, the Mixed Use Zone as proposed does align with the residential zones.

³⁰ Although it may be of use in for example the Three Waters chapter, which has separate rule triggers.

to remove the threshold for MUZ-R8, which I do not recommend accepting as discussed in section 6.2.1.

(542) For completeness, I think the differing approach is appropriate. Health care activities within retirement villages and supported residential care are accessory activities for residents, and do not form the sort of potential regional destination that a large-scale standalone outpatient healthcare facility would do.

(543) I accordingly recommend leaving the rules as notified.

MUZ-R11 (Educational facilities (including Kohanga Reo))

(544) The Ministry of Education (399.113) seeks to alter the rule for educational facilities over 200m² GFA to be restricted discretionary rather than discretionary, as follows:

...

2. **Activity status:** ~~Discretionary~~ Restricted Discretionary

...

Matters of discretion are restricted to:

1. The effects on the amenity of the surrounding area.

2. The effects on pedestrian safety and the safe and efficient movement of vehicles and other road users.

3. The extent to which site layout and any proposed landscaping helps avoid or minimise effects on surrounding rural areas, the streetscape, and adjoining public space.

4. The matters in policies:

a. MUZ-P1: Enabled activities

b. MUZ-P2: Potentially incompatible activities

c. MUZ-P7: Urban design outcomes (by meeting standard or assessment)

d. MUZ-P8: Urban design outcomes (larger developments and potentially incompatible activities)

(545) Educational facilities over 200m² would form potentially a significant city-wide destination and are beyond what is generally anticipated by MUZ-P1 and MUZ-P2. This makes the potential effects less predictable at the plan-making stage. Accordingly, I do not consider that the effects are

necessarily limited to those proposed by the submitter and full discretion is warranted. I recommend not accepting this change.

MUZ-R14 (Light manufacturing and servicing)

(546) Urban Plus (322.24) seeks that the condition that light manufacturing and servicing be more than 40m from a Residential Zone, Rural Zone, or Marae Zone be removed, considering that as residential and marae activities are permitted in the zone itself, there is no need for such a restriction.

(547) I agree with the submitter for the reasons given and recommend deleting the condition:

1. Activity status: *Permitted*

Where:

a. ~~The activity is not within 40 metres of a Residential Zone, Rural Zone, or Marae Zone, and~~

b. The activity has a gross floor area of no more than 200m².

...

MUZ-R19 (Emergency service facilities)

(548) Fire and Emergency NZ (374.68k, 374.120) seeks that emergency service facilities be permitted with no conditions to recognise the critical importance of emergency services to communities.

(549) Emergency services facilities are critical to communities but still have adverse effects that vary by location and situation and may need to be managed. Some locations may not be suitable for emergency service facilities or need conditions to manage effects, particularly where streets are unsuitable or there may be safety interactions with the vehicle crossings. I think the associated matters of discretion all warrant consideration for a proposed emergency service facility.

(550) Accordingly, I recommend the rule remain as notified.

MUZ-R21 (Drive-through activities), MUZ-R22 (Service stations)

(551) Urban Plus (322.29a, 322.29b) seeks that drive-through activities and service stations be made restricted discretionary and that the zone be

made more enabling in general of drive-through activities. They consider that as other commercial zones have active frontage requirements the Mixed Use Zone is an appropriate location for drive-throughs.

- (552) Drive-through activities are highly likely to be a city-wide or region-wide destination which does not fit with the policy direction for the zone to encourage small-scale local services in a mixed urban environment and not undermine the role of commercial centres. It is not intended for vehicle-oriented services, which are better located in the City Centre Zone and Metropolitan Centre Zone. The Active Frontage controls only apply to a fraction of the streets in those zones, and of those most are the Active Frontage C control that does not preclude vehicle crossings or vehicle-oriented services.
- (553) Service stations also do not fit with the policy direction of the zone to encourage small-scale local services in a mixed urban environment, and are primarily provided for in Industrial Zones.
- (554) Both drive-through activities and service stations are likely to have significant amenity effects in the context of the planned character and built environment of the zone and thorough assessment of their effects is warranted.
- (555) Accordingly, I do not think the zone should be made more permissive of drive-through activities or service stations and recommend the relief be rejected.

MUZ-R24 (Emergency service facilities)

- (556) Urban Plus (322.28) notes that the rule duplicates MUZ-R19 with a different activity status and seeks that it be deleted.
- (557) I agree and recommend deleting the rule.

6.3.9 Rules – General

MUZ-R30 (Servicing)

- (558) Laura Skilton (314.63e) as with CCZ-R28 seeks that the rule be rephrased and the hours be limited to 8am-6pm. As with CCZ-R28, I think these hours are too restrictive and do not align with the noise standard the rule is intended to reinforce.

(559) Accordingly, I recommend the rule remain as notified.

6.3.10 Standards

(560) Urban Plus (322.33a) seeks to add minimum requirements for landscaping and glazing.

(561) I do not agree that landscaping is a desirable end in itself in what is intended to be an urban zone providing local shops and services. Landscaping may be required as a potential mitigation of other effects, as required by, for example, the carparking standard.

(562) I agree that glazing would help aid potential positive street frontages and passive surveillance, but this needs to be balanced against the zone's purpose of providing for flexibility and evolution. One major potential advantage of the zone as notified is the ability for home businesses to evolve or small businesses to start in existing residential buildings. A glazing standard would generally prevent this kind of adaptive reuse of buildings.

(563) Accordingly, on balance, I recommend no such standards be introduced.

MUZ-S2 (Height in relation to boundary)

(564) Urban Plus (322.30) seeks in general terms to:

- Clarify the application of the exception for common walls as to whether only the portion of the boundary with the common wall or the entire wall is exempt
- Generally make the rules more restrictive and more similar to the residential zones
- (Inferred) remove the exemption for where the neighbouring building has an existing breach of the recession plane as this would be difficult to enforce
- Specify that the exemptions must not exceed the height in relation to boundary control measured vertically (as opposed to another direction).

- (565) I consider that the exemption for common walls is already clear that it applies to “any part of a boundary” and not the entire boundary between two sites, and the submitter’s requested relief would make it less clear.
- (566) I do not think that the rules are significantly more enabling than the High Density Residential Zone except where an existing more dense fabric is already emerging, which is a goal for long term evolution of the zone (see MUZ-O4).
- (567) I do not share the submitter’s concerns around enforcement as Council can and routinely does issue warrants to enforcement officers to enter private property without needing permission from the occupiers where it suspects a breach of the district plan.
- (568) I agree that clause (g) should for clarity use the same language as clause (h) about measuring breaches.
- (569) Accordingly, I recommend amending the standard as follows:

...

g. Chimney structures not exceeding 1.1m in width on any elevation, provided these do not exceed the height in relation to boundary by more than 1m measured vertically, and

...

MUZ-S3 (Setbacks – adjoining zones)

- (570) Urban Plus (322.31) seeks to amend the standard as follows:

...

~~2. This standard does not apply to site boundaries where there is an existing common wall between two buildings on adjoining sites with a common wall existing or proposed.~~
This standard does not apply to site boundaries where there is an existing or proposed common wall.

...

- (571) I agree that this language is clearer and recommend accepting this change.

- (572) FENZ (374.121) seeks to add a matter of discretion around “the ability for emergency services to safely and efficiently access the site”.
- (573) This standard applies in relatively limited circumstances – only to sites that directly adjoin other certain non-commercial zones. It is not designed to aid emergency service access and compliance, and it is not likely to have any significant impact one way or another on emergency service access. There is also no supporting policy for resource consent decision-makers to apply in deciding whether a departure from the standard would be appropriate in relation to emergency service access, and the submitter has not sought one. If the standard is breached, it is a boundary activity under the Act, and FENZ would be precluded from being notified³¹. No resource consent of any kind would be required if the neighbour gives written approval to a deemed permitted boundary activity.
- (574) In general, I think emergency service access is better left to the Transport and Subdivision chapters, which FENZ has also submitted on, the building code, and the Health and Safety at Work Act.

MUZ-S4 (Location and design of carparking)

- (575) Urban Plus (322.32a) seek to amend the standard as follows:

...

3. Parking areas must be designed so they can only be accessed by vehicles from a formed vehicle crossing.

...

- (576) I agree that this would clarify the intent of the standard and recommend accepting this change.
- (577) Urban Plus (322.32b) further seeks that the standard clarify “where the landscaping should be provided – within or abutting, and visible from, the carparking or vehicle manoeuvre area.”, considering that the standard might allow landscaping to be positioned in an area where it does nothing to address the visual effects of the carpark.

³¹ Except on the off chance that FENZ itself was the neighbour.

- (578) I agree that this is a potential concern but I do not think it is necessarily possible to craft a standard to ensure landscaping is used well. For carparking used as standalone parking or as commercial accessory carparking, resource consent is required and this can be addressed in a holistic and discretionary way.
- (579) If the submitter has particular suggested wording they may wish to provide this at the hearing.

MUZ-S5 (Outdoor living space)

- (580) Go Architecture (331.32) seeks that the standards be amended as follows:

[...]

*1. Have a private outdoor living space at ground level with an area of at least 20m² ~~with a minimum dimension of 3m,~~
which can contain a circle with a diameter of at least 3m*

[...]

- (581) They consider that this would provide more flexibility in design. I agree that this offers more flexibility in non-rectilinear building layouts, although this is balanced against the possibility of poorer outdoor living space designs that still technically meet the standards, where only the part containing the 3m circle is adequately dimensioned.
- (582) The outdoor living space standard is adapted from the equivalent standard in the Medium Density Residential Standards, which apply in the residential zones. This would be a relatively minor change but would complicate the plan and its administration by having slightly different assessment methods for the dimensions of outdoor living areas in different zones. I think this outweighs any benefit, if any, from a more flexible standard. Good quality designs not meeting the standard can also be provided for in resource consent applications.
- (583) Accordingly, I recommend the standard remains as notified.

MUZ-S6 (Outlook space)

- (584) Laura Skilton (314.55g) seeks that the outlook depth for rooms other than the principal living room be increased from 1 metre to 2 metres. This submission point is common across a large number of zones and I think that the reasons given are only applicable to residential areas.

- (585) For some context, this standard is identical to that in the Medium Density Residential Standards (MDRS), which apply in the Medium Density and High Density Residential Zones. These are not binding on commercial zones, although I do not think there is a case for a stricter rule in commercial areas, where the expected amenity values largely derive from proximity to commercial and community services, rather than on-site amenity.
- (586) I do not think a difference in outlook of 1 metre versus 2 metres will make any difference to amenity values in an apartment. It may make a slight difference to levels of daylight received in the apartment, but this is controlled by the Building Code, not district plans. While there is no side setback in the zone (other than at zone boundaries), a 1 metre outlook standard is redundant, given the requirements in the building code. Being identical to the Medium Density Residential Standards, it also assists plan users who will be familiar with the standard from other zones and plans. However, a 2 metre standard would remove this advantage.
- (587) While I think the standard is pointless in relation to non-principal rooms, and I would recommend complete deletion of the standard for non-principal rooms, there is no scope to do so. Accordingly, as the best option available, I recommend it remain as notified.

6.3.11 Standards – New standards sought

(New standard) Firefighting water supply

- (588) Fire and Emergency NZ (374.69k) seek a new standard in all four commercial centre zones relating to firefighting water supply.
- (589) In the structure of the proposed plan, this is outside the scope of zone chapters and needs to be discussed in the Three Waters and Subdivision chapters, on which FENZ has also made an equivalent submission.

Multiple standards – emergency service towers and communications poles

- (590) Fire and Emergency NZ (374.70k) seek in general terms that emergency service towers and communication poles up to 15 metres in height are

exempt from standards for building height, height in relation to boundary, and setbacks.

- (591) Most of the Mixed Use Zone has a height limit of 15 metres or over, and so would already be permitted in the situations sought by FENZ.
- (592) For the remainder of the zone, and for the height in relation to boundary and setback standards, there is no good case made by the submitter that the effects are any different to structures in general or that emergency service towers and communication poles have a good reason in most circumstances to need to be put close to the boundary with residential zones. Where there are, violation of the standards is a restricted discretionary boundary activity, and it is not unreasonable for FENZ to seek a deemed permitted boundary activity or resource consent.
- (593) Accordingly, I do not recommend making any relevant changes to the standards to implement this relief.

6.3.12 Zone maps

Rezoning sought to Sport and Active Recreation Zone

- (594) Moerā Community House Inc (348.1) seeks that 105-107 Randwick Crescent, the Moerā Neighbourhood Hub, be rezoned to Sport and Active Recreation Zone. They consider this zone better suited for community facilities and think it is inappropriate to provide for residential and light industrial on the site.
- (595) The primary purpose of the reserve is to provide for community facilities, not to provide open space. The site is mostly built up, and would substantially exceed the permitted activity standards for the Sport and Active Recreation Zone.
- (596) Zoning land does not override restrictions imposed by the Reserves Act or oblige the landowner (the Council) to undertake any activity on it, and these are the primary ways for the community to decide how to use publicly owned land. The fact that the zone provides for residential and light manufacturing and servicing on the site – as does the surrounding land in the commercial centre – is not relevant. These may not be suitable activities for the site, but not on resource management grounds.

(597) Accordingly, I recommend the site remain in the Mixed Use Zone as notified.

Rezoning sought to Residential Zones

(598) Many submitters seek for individual sites or areas in the zone to be zoned as residential:

Site	Relief sought	Submitter
Any areas that were zoned residential in the operative plan	Rezone to a residential zone	Laura Skilton (314.57e)
Any areas surrounded by residential zones (inferred)	Rezone to a residential zone	Laura Skilton (314.58e)
Mixed Use Zone areas in Petone	Rezone to another zone (non-specific requested)	Petone Community Board (502.9)
Britannia Street, Petone	Rezone to a residential zone	Petone Historical Society (496.59c), supported by Merran Baker (F01.3)
Cuba Street, Petone	Rezone to a residential zone	Petone Historical Society (496.59a), supported by Merran Bakker (F01.1)
1/564-9/564 High Street, Boulcott	Rezone to a residential zone	David Surrey (427.1d)
682A-682E, 684, and 686 High Street, Boulcott	Rezone to a residential zone	David Surrey (427.1e)
701A-701D (part site) High Street, Boulcott	Rezone to a residential zone	David Surrey (427.1f)
1115A-1119E High Street, Taitā	Rezone to a residential zone	David Surrey (427.1b)

Site	Relief sought	Submitter
Hutt Road, Petone	Rezone to a residential zone	Petone Historical Society (496.59b), supported by Merran Baker F01.2
1-53 McGrath Way, Taitā	Rezone to a residential zone	David Surrey (427.1c)
1 Military Road, Boulcott and “surrounding properties to the west”	Not exactly clear ³² , but clearly to rezone to a residential zone	Francis Family Trust (443.1)
45, 46, and 47 Oxford Terrace, Hutt Central	Rezone to a residential zone ³³	Joanne Gallen and Kevin Doyle (99.1), Mary Walker and Robin Walker (121.1)
128A-128D Randwick Road, Moerā	Rezone to a residential zone	David Surrey (427.1a)

(599) Reasons given include:

- The Mixed Use Zone provides too much development capacity and will compete with commercial centres, particularly the Petone Metropolitan Centre.
- Activities enabled by the Mixed Use Zone are unlikely to occur because of fragmented ownership or owners who do not wish to redevelop
- Concerns about transport network and parking impacts
- Concerns about noise, signage, residential character and amenity generally

³² The submitter seeks to “[i]eave our property & those in the surrounding area as medium density (existing classification)”. The existing zoning in the operative plan is High Density Residential Activity Area.

³³ The submitter also seeks relief in relation to rezoning residential areas between High Density Residential and Medium Density Residential, which would be relevant if this site is rezoned. However, this should be done in accordance with high level principles better suited to the Residential hearing stream.

- Development would not be sympathetic to surrounding areas
- Various concerns about process and engagement
- Specifically for 45, 46 and 47 Oxford Terrace – that zone boundaries should generally occur at streets, not mid-block
- Specifically for 45, 46 and 47 Oxford Terrace – that the zoning for this site was previously considered in Plan Change 43.

(600) Given the very wide scope in the submission of Laura Skilton, and that the reasons given by submitters are mostly either not site-specific, or would apply to a large number of similar sites, I will consider the application of the Mixed Use Zone as a whole.

(601) For context, the Council's approach in choosing a Mixed Use Zone and where to apply it, especially the supporting council strategies and regional and national direction, is set out in the s32 report. In general, the goals of applying the zone to the area proposed are:

- To ensure adequate development capacity
- To enable flexibility and resilience over the 10 year review-period lifetime of the plan
- To enable more people to live, work, and access commercial and community services in and near desirable and well-located parts of the city

(602) The Council has a duty under the RMA³⁴ and NPS-UD³⁵ to provide sufficient development capacity and cannot intentionally underprovide it. The question is whether the distribution of commercial development capacity and thus commercial activity supports or does not support a well-functioning urban environment. Key issues are:

- Whether the commercial activity occurs in places that are well-located and desirable

³⁴ Resource Management Act 1991, s31(1)(aa).

³⁵ NPS-UD, Objective 2 and Policies 1 and 2.

- Whether the commercial activity reinforces the advantages of clustering together in centres (referred to in the plan under the umbrella of *co-location benefits*), and
- Whether the commercial activity occurs in appropriate places considering potential effects on the environment.

(603) The Council's overall approach in applying the zone was to use it:

- Immediately around popular centres with growth potential
- Along key public transport corridors in areas identified for growth in strategic documents (e.g. the Sustainable Growth Framework, Petone 2040, the Central City Framework)
- On and immediately around existing commercial and community facilities in plausible locations for future centres to establish
- For various unique and unusual sites, to avoid a proliferation of site-specific provisions. (None of these are specifically singled out by submitters, but would be within scope of the broader submissions – examples include railway stations, some community facilities and places of assembly, and sites laid out in the original subdivision of the suburb as intended for a local shopping centre but not so far built).

(604) I believe this is an appropriate approach and helps to ensure that the zone is applied in locations that are desirable and well-connected.

(605) Turning to the submitters' reasons, in turn:

(606) I do not agree that there is a significant likelihood of effects on the hierarchy of centres. The zone only provides for a very small scale of commercial activities, unlikely to form destinations that are attractive to people from significant distances away. For the zone directly around the Petone Metropolitan Centre, that centre is one of the most desirable destinations in the city as it is and has substantial growth potential.

(607) I do not think it relevant whether current subdivision patterns support, and current owners desire to redevelop sites. The zone is intended to provide for a mix of uses and it is entirely consistent with this goal for a large majority of the zone to remain developed exactly as it is now.

(608) Issues around parking and the transport network are primarily dealt with in the Transport chapter. To aid integration and ensure that land uses happen on streets suitable for that type of activity, the zone provisions limit vehicle-oriented activities and visitor carparking, and require resource consent to assess whether the location is suitable (through the cross-references in MUZ-R18 (Carparking) to the appropriate policy tests in the policies TR-P3 and TR-P7 of the Transport chapter.

(609) Noise and Signs are dealt with in their respective chapters. Both treat the Mixed Use Zone separately to other commercial zones, recognising the zone's role in balancing residential-style amenity values with a denser urban environment.

(610) Residential character is only one possible goal of the plan, and needs to be considered in light of the direction of NPS-UD Objective 4 that:

New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

(611) And in Policy 6(b) that:

...
the planned urban built form in [a district plan] may involve significant changes to an area, and those changes

i. may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types

...

(612) Amenity values evolve over time, and in well-located and desirable areas it is natural that amenity values from a lack of buildings, or small-scale buildings, are over time substituted for amenity values that derive from greater access to recreation, commercial activity, and community facilities.

- (613) Submitters mostly sought rezoning to the residential zone in the surrounding area, which is typically High Density Residential. The scale and form of buildings in that zone are broadly similar to those in the Mixed Use Zone, since it also provides for, typically, buildings of at least six storeys.
- (614) Accordingly, I do not think that concerns around effects on the wider area from intensification are particularly different whether zoned Mixed Use or High Density Residential. The difference is mostly in the enabled land use activities.
- (615) With regards to process and engagement, the engagement process prior to notification is captured in the overall s32 report for the plan and included:
- High-level issues-based engagement online and with in-person events
 - Public council meetings and workshops throughout development of the plan
 - A complete draft plan circulated for feedback
- (616) The plan is also progressing under the standard Schedule 1 Part 1 process of the RMA, which provides for a greater level of participation than any other available process.
- (617) With regards to 45, 46, and 47 Oxford Terrace specifically, submitters refer to the rezoning of the sites proposed in Plan Change 43 and ultimately, not progressed by Council.
- (618) The current situation is very different, as the zoning proposed in that plan change, while also called the Suburban Mixed Use Activity Area, was much more akin to a commercial centre zone in the current PDP. That proposal included equivalents to active frontage controls, and limits on residential at ground level. It did not provide the flexibility to continue use of sites as purely residential. That plan change also was largely decided prior to the NPS-UD taking effect.
- (619) Submitters also raise a report from Jacobs NZ prepared during Plan Change 43 that outlined the view that:

...It should be noted that a change in 'intensification type' generally does not occur mid block to avoid adverse boundary effects.

- (620) I do not agree with that view but more importantly I do not think that this is relevant to the current situation. Unlike in Plan Change 43, the general scale of buildings is the same in the Mixed Use Zone as the neighbouring High Density Residential Zone, and so there is no difference in "intensification type" at the zone boundary.
- (621) This covers the reasons given by submitters in original submissions. Based on that information, I do not recommend any change to the zone maps. Submitters may wish to raise more site-specific concerns at the hearing.

7 Definitions

7.1 Discussion of submissions and recommendations

- (622) This section is a discussion of the submission points on definitions that are either primarily relevant to the Commercial and Mixed Use Zones chapter, or raised by submitters primarily interested in the Commercial and Mixed Use Zones chapter, with my recommendations on decisions requested by submitters.
- (623) For the sake of brevity, where a submission is in support of a provision and I have not otherwise discussed it, I recommend accepting that submission point.
- (624) Definitions are usually consequential on the decisions made on the substance of objective, policies, and rules, and submitters have usually submitted on those provisions as well, so I will generally call back to the discussions in the Commercial and Mixed Use Zone sections.

7.1.1 National Planning Standards

Commercial activity

- (625) This definition is supported by Foodstuffs (239.3) (inferred), Z Energy (468.10o), and the Fuel Companies (471.17).
- (626) PHS (496.9a) seeks that the definition be replaced with the definition of “commercial activity” in the 2003/2004 operative district plan.
- (627) That definition reads:

any activity of a commercial nature which principally comprises:

provision of office, financial, professional or other business services; including theatres, cinemas, video parlours, other places of entertainment, visitor accommodation, funeral

parlours, showrooms, radio stations, television stations, car parking buildings, veterinary clinics, and any other use of a similar commercial nature

but which excludes:

retail activity, industrial activity, rural activity, recreational activity and residential activity; and

service stations, commercial garages, car sales yards and licensed premises.

- (628) The definition of “commercial activity” is a mandatory National Planning Standards definition and cannot be modified.
- (629) The flow-on effect of the PHS definition would affect the activity status of some activities in the Commercial Zones, particularly retail activities. As they have more specific submission points on relevant provisions those are better discussed in those provisions.

7.1.2 Definitions not in dispute

- (630) The following definitions only have submissions in support, with no changes sought:

Provision	Supported by
Activity sensitive to privacy intrusion	Ministry of Education (399.5)
Commercial and Mixed Use Zones	Fuel Companies (471.18)

- (631) As these points are all thus beyond contention, they all should be accepted.

7.1.3 Definitions – Proposed

Co-location benefits

- (632) The definition is supported by the Telecommunication Companies (311.4) and the Fuel Companies (471.16).
- (633) Enviro NZ (323.7) seek that “Easier trip-chaining” be replaced with “Easier trip length and coordination”, considering the term “trip-chaining” to be jargon and might be confusing.
- (634) Trip-chaining is definitely jargon, as are some of the other terms in the definition like “labour pooling”, “economies of density”, and “knowledge spillovers”. For any readers of this report not familiar with it, trip-chaining is reducing overall travel by conducting multiple tasks in a series of journeys, rather than returning home between tasks. For example, driving from home to the gym, from the gym to work, from work to the supermarket, then finally from the supermarket back home would be a single trip chain. Trip-chaining can be particularly beneficial for public transport, where it may make it possible to take one trip into a commercial centre then walk between multiple destinations once there, without needing a separate public transport trip between each destination. This reduces vehicle travel requirements compared to a hypothetical where a separate home-to-destination-and-back trip was made for every task.
- (635) The purpose of including it in the definition of co-locations benefits is that the proximate location of land use activities – particularly, whether they are clustered in centres – can affect the viability of trip-chaining, and thus the benefits in reduced vehicle travel from, for example, lower carbon emissions, lower infrastructure requirements, and less air pollution.
- (636) Jargon is not necessarily a bad thing. It is typically more consistently used by technical authors and in this case, it is by far the clearest term available for the concept. The change requested by submitters would have a less clear but very definitely different meaning.
- (637) The term is only used in objectives, policies, and matters of discretion, in a scenario where it is inviting a resource consent applicant in a complex commercial application to provide potential positive effects of their

activity. In my view these plan users can be expected to know or easily figure out what trip chaining is.

(638) Accordingly, I recommend the definition remain as notified.

Drive-through activity

(639) Z Energy (468.12) and the Fuel Companies (471.62) support the definition as notified.

(640) McDonald's Restaurants (174.1b) (inferred) seek that the definition be deleted or combined with others in connection with their request to introduce a definition of "drive-through restaurant"³⁶.

(641) As the term "drive-through activity" is used in the plan for activities other than drive-through restaurants it needs to be retained, whether or not a separate definition of "drive-through restaurant" is introduced.

Food and beverage activity

(642) McDonald's Restaurants (174.1a) (inferred) seek that the definition be deleted or combined with others in connection with their request to introduce a definition of "drive-through restaurant".

(643) As the term "food and beverage activity" is used in the plan outside the context of drive-through restaurants it needs to be retained, whether or not a separate definition of "drive-through restaurant" is introduced.

Grocery store, Supermarket

(644) Foodstuffs (239.1, 239.2) consider that the definition of supermarket is redundant and the GFA threshold could be expressed in rules.

(645) While this is true, plan users will arrive with preconceptions from the plain English meaning of these terms and probably will not expect to see, for example, a full-size Pak n' Save store as a "grocery store", despite that being the case under the plan definitions. Retaining both terms, and using both in the title of all the relevant rules, aids with plan usability and so I recommend keeping both definitions as proposed.

³⁶ Requests for a new definition of "drive-through restaurant" is discussed in section 7.24 of this report.

Heavy motor vehicle

- (646) The Fuel Companies (471.68) seek that the definition be deleted, on the belief that it is not used in the plan.
- (647) The term “heavy motor vehicle” is however used in the definitions of “*light manufacturing and servicing*” and “*servicing*”, and so I recommend it be retained as notified.

Light manufacturing and servicing

- (648) Enviro NZ (323.12) seek that the definition be amended as follows:

means an industrial activity where articles, goods or produce are made, prepared and/or repaired repurposed for sale or rent and [...]

- (649) They consider that this will better provide for light recycling activities that might not otherwise require resource consents.
- (650) I agree that adding “repurposing” would be within the spirit of the definition and provide more clarity for recycling/reuse activities, and recommend adding it to the definition (with a slight grammatical correction):

means an industrial activity where articles, goods or produce are made, prepared, ~~and/or~~ repaired and/or repurposed for sale or rent and [...]

Minor building, minor structure

- (651) Z Energy (468.18) and the Fuel Companies (471.71) seek that the definitions be deleted.
- (652) Without the definition, I think that the relevant rules in the City Centre Zone and Metropolitan Centre Zone (CCZ-R5, MCZ-R5) would be more confusing to plan users as the scope of what is a “minor building” or “minor structure” would be unclear. No submission point has substantially opposed the idea that there should be a more enabling framework for minor buildings and structures in those zones, and so I think the definitions should be retained.

Service station

- (653) Z Energy (468.21) and the Fuel Companies (471.78) seek to amend the definition as follows:

means a commercial activity of the refuelling, refilling, cleaning, pressurising of tyres, or fitting of end user-replaceable parts (e.g. wiper blades) to motor vehicles, or the retail sale of fuels and oils (other than in sealed containers) and/or the charging of electric vehicles. An electric vehicle charging station is not, in itself, a service station.

- (654) The Council's aim in crafting the definition is to ensure that electric vehicle charging stations that are *not* associated with liquid fuel stations are not caught by the typically more restrictive activity status and conditions associated with the defined term of "service station". Where electric vehicle charging is provided along with liquid fuel sales, the plan as proposed is designed to handle this situation by having multiple definitions and thus multiple rules apply.

- (655) For example, a typical new service station of the kind operated by the submitters in the Neighbourhood Centre Zone and that included electric vehicle charging would trigger rule NCZ-R16 (Service Stations) for the liquid fuels part of the business, which is discretionary, and NCZ-R11 (Commercial activities not otherwise provided for) for the electric vehicle charging, which is permitted. Meanwhile, in the Light Industrial Zone, it would fall under LIZ-R12 (Service stations, including ancillary retail activities) for the liquid fuels, which is permitted subject to standards, and LIZ-R16 (Commercial activities not otherwise provided for) for the electric vehicle charging, which is also permitted³⁷.

- (656) I am not aware of any situations in the plan as notified where adding electric vehicle charging would move an application for a service station into a more onerous activity status, policy direction, or suite of matters of

³⁷ They would also likely fall under a number of other permitted activity rules such as for *grocery stores, carparking, and construction of new buildings and structures* in the zone rules, along with various other rules in for example the Three Waters, Signs, Noise, Light, and Wind chapters.

discretion. If submitters have identified some, I recommend they bring this up at the hearing, as I agree with the broader concern that service stations should not be discouraged by the plan from providing electric vehicle charging as part of their suite of services.

(657) I note that the relevant rules will also be affected by the *Resource Management (National Environmental Standards for Electricity Transmission and Electric Vehicle Charging Infrastructure Activities) Amendment Regulations 2026* which will apply to both standalone electric vehicle charging and that associated with service stations. Had this NES been available prior to notification of the plan, I think the cleaner solution would have been to include electric vehicle charging in the definition of *carparking*, which has a permitted activity rule in most zones, although there is no scope to do that now.

(658) Accordingly, I recommend that the definition remain as notified.

7.1.4 Definitions – New definitions sought

“Drive-through restaurant”

(659) McDonald’s Restaurants (174.1c) seek to introduce a definition in conjunction with their request to introduce rules for “drive-through restaurants” in the City Centre Zone, Metropolitan Centre Zone, and Local Centre Zone.

(660) I discuss this issue in more detail in the provisions in those zones. As I do not recommend introducing rules for “drive-through restaurants” separate to the rules for “food and beverage activities” and “drive-through activities” the definition is unnecessary.

“Large format retail”

(661) The Foodstuffs submission (239.5) (inferred) seeks a definition of “large format retail”, although no specific text is sought.

(662) “Large format retail” is only used in policies in the plan: the urban design policies in each of the four commercial centres, and policy MUZ-P3 (Incompatible Activities). I do not think a precise definition is needed as the policies are underpinned by rules that set more specific conditions for the term to become relevant.

Various definitions

- (663) PHS (496.9b) seeks to "reinstate ... all definitions associated with" the definition of commercial activity in the operative district plan (see also submission point 498.9a), specifically mentioning "retail activity" and inferred this also relates to the operative plan definitions of visitor accommodation, showroom, veterinary clinic, industrial activity, residential activity, service station, commercial garage, licenced premises, and recreation/recreational activity.
- (664) The definition of "commercial activity" is a mandatory definition of the National Planning Standards, which I discuss in section 7.1.1.
- (665) The plan should only incorporate definitions if the term is used in the plan. Some of these defined terms have equivalents in the plan as proposed (e.g. "visitor accommodation", and "service station" to replace "commercial garage"). There are also definitions of new subtypes of commercial activity (e.g. "grocery store", "food and beverage activity"). For other terms that are not defined, there are no rules in the plan that treat that particular sub-type of commercial activity differently. The other submission points from PHS generally do not seek that activities such as retail are treated differently to other commercial activities, but rather that all such commercial activities are treated differently in the rule framework. If the submitter's relief on those points were to be granted, there would still not need to be separate rules for "retail activities" and other terms, as one rule for "commercial activities" would still cover it.
- (666) Accordingly, I do not recommend any of the definitions associated with commercial activity in the operative plan be added into the proposed plan (except to the extent the plan as notified already does so).
- (667) This also raises a potential integration issue – some definitions in the operative plan are likely to still be necessary as provisions that use them may be retained. If this is the case for any relevant definitions here, I think at this point the cleanest solution is to have separate definitions chapters, one applying to the 2003/2004 plan and other to the currently proposed plan, although this can be further addressed in the wrap-up hearing.

8 Section 32AA Assessment

(668) Of the changes I recommend the large majority are clarifications, corrections, alterations of definitions, or minor changes that do not alter the policy approach of the plan, or are changes to avoid resource consent requirements in circumstances where they would almost certainly be granted, and so the original section 32 report for the zones still applies to these unchanged, with the exceptions that:

- There are additional economic benefits from reduced administrative costs from unnecessary resource consents, and
- There are additional economic, social, and cultural benefits from beneficial activities that, because of not needing resource consent, are not deterred from operating.

(669) There are no recommendations that make substantial changes to the policy direction of the PDP but some may change the weighting of costs and benefits. These are discussed in individual provisions.

(670) The remaining changes that will meaningfully affect the plan are assessed below. Where factors in section 32 of the Act are not discussed, I consider that the original section 32 report still applies to that factor. This is particularly the case where the original report did not quantify costs and benefits as I consider that the qualitative assessment still applies.

8.1.1 Urban design amendments

(671) I recommend amendments to the urban design policies CCZ-P8, CCZ-P9, CCZ-P10, MCZ-P8, MCZ-P9, MCZ-P10, LCZ-P8, LCZ-P9, LCZ-P10, NCZ-P8, NCZ-P9, NCZ-P10, MUZ-P7, MUZ-P8, and MUZ-P9 to:

- Remove references to daylight
 - Remove references to pedestrian dignity in favour of more concrete terms such as convenience
 - Reduce the scope of the exclusion around modulation and variation of building form and materials
-

- (672) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:
- Reduce the administrative burden from consents
 - Increase certainty and predictability in consent applications
 - Enhance the plan's ability to advance its objectives of enhancing amenity values in public spaces

8.1.2 Demolition

(673) I recommend amendments to LCZ-R2 to provide for demolition of existing buildings in more circumstances.

- (674) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:
- Remove provisions that are likely difficult to enforce
 - Reduce the administrative burden from consents
 - Reduce the adverse health and safety effects from dangerous buildings

8.1.3 Additions and alterations

(675) I recommend amendments to CCZ-R4, MCZ-R4, and MUZ-R3 to remove the requirement for alterations (i.e., changes that do not add gross floor area) to comply with the standards, as long as the existing non-compliances are not worsened.

- (676) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:
- Reduce the administrative burden from consents
 - Increase certainty and predictability in consent applications
 - Allow more flexible adaptive reuse of existing buildings

8.1.4 Servicing

(677) I recommend amendments to CCZ-R28 to allow consideration of functional needs and operational needs in a resource consent application.

(678) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:

- Reduce the administrative burden from consents
- Better provide for the functioning of businesses with functional and operational needs

8.1.5 Active frontages standards

(679) I recommend changes to CCZ-S4, MCZ-S4, LCZ-S4 to reduce the portion of the active frontage where a building needs to be erected to allow for some carparking beside the building.

(680) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:

- Reduce the administrative burden from consents
- Better provide for the functioning of businesses with on-site carparking

And that these advantages will outweigh the disadvantages of lower levels of streetscape activation and pedestrian amenity, as they are identified as Active Frontage C by virtue of having low existing activation and only moderate potential for improvement.

8.1.6 Active frontages maps – Fault location area

(681) I recommend changes to the PDP maps to remove the Active Street Frontage Overlay from sites within the Fault Location Area.

(682) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:

- Reduce the administrative burden from consents
- Better provide for the reasonable use of land affected by natural hazards
- Avoid the potential for blight and abandoned sites and buildings

8.1.7 Active frontages maps – Other

- (683) I recommend changes to the PDP maps to remove or alter the Active Street Frontage Overlay on sites in the northern city centre or identified by submitters which have low existing levels of activation and low potential to have improved levels of activation, or that are suitable for land uses with fewer visitors, or that are suitable for vehicle-oriented businesses.
- (684) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:
- Reduce the administrative burden from consents
 - Support the functioning of businesses not suited for active street frontage environments
 - Have relatively low impacts on streetscape and amenity due to the existing and likely future environment.

8.1.8 Incompatible activities in the Mixed Use Zone

- (685) I recommend changes to MUZ-P2 to reduce the scope of some potential activities that could be considered incompatible:
- That they only need to avoid reverse sensitivity if it would be significant and unreasonable
 - That they are not incompatible by undermining the role of the Neighbourhood Centre Zone, as opposed to the other higher-tier commercial centres
 - That only non-residential visitor carparking is potentially incompatible
- (686) I recommend changes to MUZ-R14 to remove conditions about the proximity of light manufacturing and servicing activities to Residential and Marae Zones.
- (687) I consider that these are the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as they will:
- Reduce the administrative burden from consents
 - Support the provision of local shops and services in areas well-suited for and expecting intensification
-

- Provide employment opportunities
- Improve plan consistency

8.1.9 Emergency service facilities

(688) I recommend removing rule MUZ-R24 for consistency and to correct a non-minor error. This will have the side effect of removing the considerations in a resource consent for emergency service facilities, potentially being more enabling of them.

(689) I consider that this is the more appropriate way to achieve the purpose of the RMA compared to the plan as notified as it will:

- Reduce the administrative burden from consents
- Support the provision of emergency service facilities and their associated economic, social, and health and safety benefits
- Increase employment opportunities

9 Conclusion

- (690) This report has provided an assessment of submissions received in relation to Hearing Stream 2 for Commercial and Mixed Use Zones, related definitions, and the strategic direction on UDSD-O12 and UDSD-O13.
- (691) Sections 3, 4, 5, 6, and 7 assess and provide recommendations on the decisions requested in submissions. I consider that the submissions on Hearing Stream 2 – Commercial and Mixed Use Zones should be accepted, accepted in part, or rejected, as set out in my recommendations of this report and in Appendix 2.
- (692) I recommend that provisions be amended as set out in Appendix 1 for the reasons set out in this report.
- (693) I consider that the amended provisions will be efficient and effect in achieving the purpose of the RMA, the relevant objectives of the PDP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken in section 8 of this report.

10 Attachments

Appendix 1: Recommended amendments to the Proposed District Plan

Appendix 2: Recommended decisions on submissions on Commercial and Mixed Use Zones and associated definitions

Appendix 3: Urban Design Evidence of Miriam Moore