BEFORE THE HUTT CITY COUNCIL

Proposed District Plan Hearings Panel – Stream 2 – Business

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Lower Hutt District Plan

STATEMENT OF REBUTTAL EVIDENCE OF STEPHEN DAVIS

ON BEHALF OF HUTT CITY COUNCIL

Senior Policy Planner

19 May 2026

1.0 Introduction

1.1 My name is Stephen Davis, and I am a Senior Policy Planner at Hutt City Council.

1.2 I have reviewed the evidence and tabled statements of:

1.2.1 Simon Cooper for Winstone Wallboards Ltd (31) – submitter statement, 8 May

1.2.2 Ashleigh Wharam for Foodstuffs North Island Ltd (239) – planning evidence, 8 May

1.2.3 Graeme McCarrison for Chorus, Connexa, FortySouth and Spark ("The Telecommunication Companies") (311) – submitter statement, 4 May

1.2.4 Andrew Cumming for the Adrian Palmer Family Trust (315) – planning evidence, 8 May

1.2.5 Kaaren Rosser for Enviro NZ Services Ltd (323, F43) – planning evidence, 8 May

1.2.6 Alice Blackwell for Seaview Marina Ltd (343, F14) – planning evidence, 8 May

1.2.7 James Beban for Moerā Community House, Inc. (348) – planning evidence, 8 May

1.2.8 David Howie for Waste Management NZ Ltd (461) – general evidence, 8 May

1.2.9 Angela Goodwin for Waste Management NZ Ltd (461) – planning evidence, 8 May

1.2.10 Georgina McPherson for BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited ("the Fuel Companies") (471) and also Z Energy Limited individually

(468) – general planning evidence, 8 May, and hazardous substances planning evidence, 8 May[1].

1.2.11 Pauline Whitney for Transpower New Zealand Ltd (504, F12) – planning evidence, 8 May

1.3 This rebuttal evidence responds only to the pre-circulated written evidence and statements received from submitters prior to the hearing and listed above. I have not had the time necessary to thoughtfully respond to the additional documents sent in from Laura Skilton (314) and the Petone Historical Society (496) which arrived on 15 May.

1.4 Other submitters may also present oral evidence or further details at the hearing. These may raise additional matters that could influence or alter the recommendations made in this rebuttal evidence.

1.5 I only cover points raised by submitters in the statements and evidence above where those relate to the matters addressed in the Commercial and Mixed Use Zones Section 42A Report and the Industrial Zones and the Seaview Marina Zone Section 42A Report. The statements and evidence relating to the Contaminated Land and Hazardous Substances Section 42A Report will be addressed by the reporting officer for that topic, Hamish Wesney.

1.6 Accordingly, I also have read but have in general not commented on the evidence of:

1.6.1 Robert van de Munckhof for Seaview Marina Ltd (343) – hazardous substances evidence, 8 May

1.6.2 Jennifer Polich for the Fuel Companies (471) and Z Energy (468) – hazardous substances evidence, 11 May

[1] Except where noted, when referring to Ms McPherson's evidence this will be the general planning evidence and not the separate document for the Hazardous Substances topic.

1.7 Some evidence cuts across the topics – in particular that of Ms McPherson for the Fuel Companies and Z Energy. Both Mr Wesney and I will discuss this evidence.

1.8 I have also addressed a minor error not raised by submitters.

1.9 Except as expressly identified in this statement, all findings and recommendations contained in my original Section 42A reports (including the errata of 7 May 2026) remain unchanged. For the sake of brevity, I will not comment on submitter statements and evidence where:

- the original Section 42A reports recommended accepting the submitter's originally requested relief, or
- the statement or evidence concur with the recommendation in the Section 42A report, or
- the statement or evidence repeats reasoning and evidence already present in the original submission

unless the issue is also in dispute from the evidence of a different submitter, or there is otherwise some reasoning or other information not covered in the Section 42A reports.

2.0 Qualifications, experience, and Code of Conduct

2.1 My qualifications and experience are set out in section 2.2 of my Section 42A Report. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

3.0 Supporting evidence

3.1 I attach as Appendix 2 advice that I have sought from counsel for the panel around the issue raised by Alice Blackwell for Seaview Marina Ltd (343) around whether the Seaview Marina falls within the definition of *infrastructure* in the Resource Management Act.

3.2 I have not sought any other external expert advice for this rebuttal, although we intend to have Miriam Moore, author of the urban design advice in the Section 42A Report[2], available for questions at the hearing.

4.0 Reponses to submitter evidence and statements

4.1 The sections below respond to submitter evidence in relation to the provisions in the topics of Commercial and Mixed Use Zones, and Industrial Zones and the Seaview Marina Zone. I separate out some points that are shared across both the industrial and commercial zones, and also discuss the unique issues for the Seaview Marina Zone separately.

4.2 Appendix 1 sets out my revised and updated recommended amendments in response to submitter evidence. Within Appendix 1, my Section 42A report recommended amendments are shown in red underlined or ~~strike through~~ and further amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike through~~.

5.0 Common issues for Commercial, Mixed Use, Industrial, and Seaview Marina Zones

Servicing hours

(LIZ-R24, GIZ-R24, HIZ-R23, CCZ-R28, MCZ-R28, LCZ-R23, NCZ-R23)

5.1 Alice Blackwell provides evidence for Seaview Marina Ltd (343) which sought to delete the servicing hours rule for the Seaview Marina Zone on the basis that the Seaview Marina Zone is not within 40 metres of any of the identified zones[3]. I do not agree: the Seaview Marina Zone as proposed borders the Residential Zones

[2] Section 42A Report, Commercial and Mixed Use Zones, Appendix 3.
[3] Evidence of A Blackwell, paras 6.32-6.34.

across Marine Drive, and it is plausible that residential units could be established along Marine Drive. If this was to occur, servicing activities could have adverse effects on these nearby sensitive receivers, and the rule remains appropriate.

5.2 Georgina McPherson provides evidence for the Fuel Companies (471) and Z Energy (468) which sought changes to the servicing hours rule and matters of discretion. She generally supports the recommendations in the s42A report[4] but seeks to reword the condition to be simpler, apply the recommended changes around functional and operational needs to a wider range of zones, and correct the mismatch between the zones identified in the conditions and the matter of discretion.

5.3 I support the suggested rewording as being a simpler expression and improves clarity and usability of the rule without altering its substantive intent. This would also align with the submission points of Laura Skilton (314) which provide wider scope to make the change. I also agree that Rural Zones should be included in the matters of discretion to ensure alignment with the condition.

5.4 Errors can be corrected regardless of the presence of submissions and consequential changes can be made where a submission provides for it even if a specific provision is not mentioned. This covers the changes above and so I recommend they be made for all Commercial and Industrial Zones and the Seaview Marina Zone.

5.5 However, the addition of matters of discretion to include functional and operational needs represents a substantive change. I would support that change in all the Commercial and Industrial Zones and the Seaview Marina Zone if scope can be identified. However, to my knowledge, the Metropolitan Centre Zone, General Industrial Zone, and Heavy Industrial Zone received only submissions on the performance standards relating to hours, not the matters of discretion. The Neighbourhood Centre Zone did not receive any submissions on this issue.

[4] Evidence of G McPherson, paras.

5.6 Accordingly, I recommend adopting the reworded condition and fixing the mismatch with the Rural Zones in the rule in all zones, e.g.:

> ***LIZ-R24 (Servicing)***
>
> *1.* ***Activity status****: Permitted*
>
> *Where:*
>
> ~~*a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or*~~
>
> ~~*b. The servicing occurs only between 7:00am and 10:00pm.*~~
>
> *a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of:*
>
> *i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone; or*
>
> *ii. The notional boundary of an activity sensitive to noise in a Rural Zone.*
>
> *2.* ***Activity status:*** *Restricted Discretionary*
>
> *Where:*
>
> *a. Compliance is not achieved with LIZ-R24.1.*
>
> ***Matters of discretion are restricted to:***
>
> *1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones,* ~~*and,*~~ *Marae Zones, and Rural Zones. [make wording consistent across zones where differing].*

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

[for LIZ, CCZ, LCZ only].

5.7 The equivalent change would also be made for the other Industrial Zones, Commercial Zones, and the Seaview Marina Zone.

Section 32AA Evaluation

5.8 As this change is to correct errors and increase readability, the original s32 report and s32AA evaluation in the s42A report still apply unchanged.

6.0 Commercial and Mixed Use Zones – responses to submitter evidence and statements

Existing non-compliances with standards

(CCZ-R4/R5/R18, MCZ-R4/R5/R18, LCZ-R3/R13, NCZ-R3/R13, CCZ-S4/S5/S8, MCZ-S4/S5/S8, LCZ-S4/S5/S8, NCZ-S4/S5/S8)

6.1 Georgina McPherson provides evidence for Z Energy (468) on the activity status for alterations to existing activities and new minor buildings for existing activities that do not comply with standards. Z Energy in its submission sought that service stations as a category of activity be exempt from standards for additions and alterations. As I set out in the s42A report[5] I do not support this relief. A blanket exemption for a specific activity type is not an effects-based approach, and there is not clear justification for treating service stations differently from other activities. This approach is also inconsistent with the policy framework of the Centres zones, which does not generally support service station activities.

6.2 While Ms McPherson's evidence reiterates the points in the original submission of Z Energy, I note that in the s42A report[6] I recommended related relief in response to Woolworths (271). That recommendation enables alterations (but not additions) where they

[5] Section 42A Report, Commercial and Mixed Use Zones, paras 231-232.
[6] Section 42A Report, Commercial and Mixed Use Zones, paras 219-230

do not worsen an existing non-compliance with standards, without triggering resource consent. However, that relief is limited to the scope of the Woolworths submission, which addressed rules relating to additions and alterations. There is no equivalent scope to extend this approach to rules applying to new minor buildings and structures.

6.3 Ashleigh Wharam provides evidence for Foodstuffs (239) seeking that some additions and alterations are not required to comply with Active Street Frontage standards in particular – CCZ/MCZ-R4 as it references CCZ/MCZ-S4 and CCZ/MCZ-S5. This relief would need to be advanced through the scope of the Woolworths, Go Architecture, and Z Energy/Fuel Companies submissions as the original submission from Foodstuffs only sought that the Active Street Frontage overlay be deleted from specific sites[7]. I do not think Ms Wharam's evidence raises any additional matters beyond those already covered in Ms McPherson's evidence and the s42A Report.

6.4 Ms McPherson addresses the recommendation for CCZ-R4/MCZ-R4 in her evidence[8] but further seeks that the rule's condition of "*the alterations or additions are not visible from public spaces, or are purely internal alterations"*[9] be deleted. I agree this condition captures a wide range of alterations for which resource consent is unlikely to add value, either through refusal or the imposition of additional conditions. This relief would be in scope of the submissions of Woolworths (271) and Go Architecture (331), rather than Z Energy and so there is only scope to delete the condition for alterations, but not for additions. I therefore recommend deleting this condition insofar as it applies to alterations, which would also

[7] The submission purports to "[reserve] the right to seek relief with respect to [the standards] in their evidence". As the Council advised the submitter at the time it was lodged, the scope of a submission is based on what relief a submitter asks for in the original submission. Any additional relief would be a late submission, which would need the panel's approval and require the Council to renotify an additional summary of submissions for a further submission period.
[8] Evidence of G McPherson, paras 10.27-10.30.
[9] This is the s42A wording, rather than the PDP, which includes a recommended change to the condition to implement the relief sought in the submission of Go Architecture (331).

supersede my recommended amendment in the s42A report[10] for the similar submission point of Go Architecture. This would reword CCZ/MCZ-R4 as follows:

> …
>
> *c.~~The alterations or~~ ~~a~~A~~dditions are not visible from public spaces, ~~or are purely internal alterations~~.*
>
> …

Carparking

6.5 Ms McPherson also raises this issue in the context of particular standards in the Local Centre Zone, which does not raise new reasoning but does present a new example of an existing carpark being reorganised to replace a general space with a mobility space. In my view, this scenario would come under the carparking rules rather than buildings and structures.

6.6 Ms Wharam raises similar concerns regarding the reconfiguration of existing carparking areas[11].

6.7 The RMA provides for existing activities (i.e. existing carparking facilities) to continue operating, providing their effects are "*the same or similar in character, intensity, and scale to those which existed before the rule became operative*"[12] without needing resource consent.

6.8 In my view, it is not usually necessary to duplicate or restate these existing use rights within land use rules. Some PDP rules (e.g. TR-R3) do include explicit thresholds or conditions that relate to modifications to existing activities where the plan departs slightly from a pure existing use rights approach, but this is not common. In my view, the plan's buildings and structures rules appropriately distinguish between new development and alterations to existing development, where that distinction is relevant to managing effects.

[10] Section 42A Report, Commercial and Mixed Use Zones, para 223.
[11] Evidence of A Wharam, paras 6.2-6.9.
[12] Resource Management Act 1991, s10.

The carparking rule refers to specific performance standards which can be used to assess whether a change to an existing use will have altered effects relevant to the rule in question.

6.9 Accordingly, I do not recommend any additional provisions to address the reconfiguration of existing carparking facilities.

Section 32AA Evaluation

6.10 The change would reduce the requirement for resource consents in a situation where they are unlikely to be declined or have conditions imposed. Accordingly, it would achieve the same resource management goals with a reduced cost and delay from unnecessary consents.

Zone Maps – Mixed Use Zone at 105-107 Randwick Crescent, Moerā

6.11 James Beban provides evidence on behalf of Moerā Community House, Inc. (348), which sought that the reserve at 105-107 Randwick Road, Moerā fall within the Sport and Active Recreation Zone, rather than the PDP's proposed Mixed Use Zone. I did not support this relief in the s42A report[13], while Mr Beban supports this relief.

6.12 This reserve contains a mix of community facilities and open space, including the Moerā Community House and Cottage (both operated by the submitter), the Moerā Community Centre, the Moerā Neighbourhood Hub / Te Pātaka Kōrero o Moerā (formerly Moerā Library), a playground, community garden, landscaping, general open space, and associated carparking. Mr Beban provides a wider description of the facilities on site and their value to the Moerā community, with which I agree[14].

6.13 Mr Beban considers that the purpose of the reserve is primarily open space and not for community facilities[15]. Council's GIS system

[13] Section 42A Report, Commercial and Mixed Use Zones, paras 594-596.
[14] Evidence of J Beban, paras. 4.1-4.8.
[15] Evidence of J Beban, para 4.10

records the legal purpose of the reserve as "community building". This purpose does not preclude the reserve being used for open space purposes, it indicates that the provision of community facilities is a primary purpose of the site.

6.14 Mr Beban considers that it "is generally inconsistent with accepted planning practice for reserve land to be subject to a zone that enables a broad range of development options that are not closely aligned with reserve purposes"[16].

6.15 I do not agree with this view. The Reserves Act and Local Government Act manage the community's interest in land being used for the purpose for which it was vested as a reserve. By contrast, the role of the Resource Management Act is in managing the effects of that use on the environment. While the district plan should be cognisant of the purpose of the reserve, it is not the role of the plan to prevent land uses solely on the grounds of inconsistency with the reserve's legal purpose – that is handled through reserve management plans and it would be duplicative and inefficient to also address it in a district plan. Conversely, nor should a district plan enable land uses solely because a reserve management plan enables them, without regards to their effects. In my view, an effects-based approach remains the appropriate framework.

6.16 Mr Beban also contrasts this site with other reserves which the PDP zones in the three Open Space and Recreation Zones[17] and suggests there is no planning rationale for a difference for this site.

6.17 The zoning for this site is not unique in that regard. Other Local Purpose reserves which combine open space with community facilities and where a non-Open Space zone is proposed include:

- The Odlin Gallery, 9 Myrtle Street (Mixed Use Zone)
- Huia Pool, 6 Huia Street (Mixed Use Zone)

[16] Evidence of J Beban, para 4.11.
[17] Evidence of J Beban, para 4.12.

- Epuni Community Centre, 38 Mitchell Street (Mixed Use Zone)
- The Walter Nash Centre, 26 Taine Street (split-zoned Local Centre Zone and Sport and Active Recreation Zone)
- Stokes Valley Pool, 187 George Street (Mixed Use Zone)

6.18 This principle is not universally applied, particularly to sites with much larger open space areas, e.g.

- Naenae Olympic Pool, 33 Treadwell Street (Sport and Active Recreation Zone)
- Lower Hutt War Memorial Library, 2 Queens Drive (Open Space Zone, although the Council also holds a designation)

6.19 Considering this, I do not think consistency with other sites provides a basis for the determining the zoning.

6.20 Mr Beban reviews the objectives and policies of the Mixed Use Zone and considers that they do not suggest the zone is intended to support parks and open spaces[18]. He contrasts this[19] with the objectives and policies of the Sport and Active Recreation Zone, which explicitly enable community facilities[20].

6.21 I agree that the Mixed Use Zone's objectives and policies do not explicitly provide for open spaces but in my view it is clearly a very flexible zone, it does explicitly provide for community facilities, and the rules and standards would permit almost all relevant open space activities. The one exception is carparking, for which resource consent would be required for new visitor spaces for a non-residential activity[21]. However, while in principle this is an obstacle to new carparking, the existing carparking is actually within the road reserve and so not covered by the rule, and there are

[18] Evidence of J Beban, para 4.15.
[19] Evidence of J Beban, paras 4.19-4.21.
[20] For example, SARZ-O1, SARZ-O2.
[21] MUZ-R18

probably no plausible locations to expand the existing parking area other than the road reserve.

6.22 By contrast, while the Sport and Active Recreation Zone anticipates recreation activities and public open space, it is more specifically focused on retaining land for active recreation purposes such as sports fields, rather than all forms of open space. It is therefore not a precise fit for a site characterised by a mix of buildings, community services and informal open space. Therefore, like the Mixed Use Zone in my view does not have objectives and policies that explicitly support all activities on site, although I would agree that the Sport and Active Recreation Zone covers a larger proportion of the activities.

6.23 In terms of effects, I do not consider there to be a material difference between the zones in managing effects such as transport, noise, or activity intensity for the activities anticipated on this site. However, the Mixed Use Zone provides greater flexibility to accommodate the existing built form and any future changes to community facility demand.

6.24 Mr Beban assesses other zoning options for the site, particularly the Open Space Zone[22]. I agree that the Open Space Zone would not be suitable as the development standards are overly restrictive for the scale and function of the existing community facilities on site and would potentially constrain future upgrades.

6.25 Mr Beban assesses[23] one of the main points in the section 42A report which I did not quantify, which is the compliance of the existing buildings with the development standards for the Sport and Active Recreation Zone. I accept Mr Beban's assessment and agree that the existing buildings would not meet the permitted activity standards of either his preferred zone or the Mixed Use Zone.

[22] Evidence of J Beban, paras 4.18 and 5.8.
[23] Evidence of J Beban, paras 4.22-4.29

6.26 However, the scale of the breach would be much larger in the Sport and Active Recreation Zone and would relate to a buildings and structures rule rather than a land use rule, which has greater consequences in terms of the matters of discretion that would result.

6.27 Overall, I do not think either zone is perfectly suited to the existing activities and potential future activities at the site. This is not unusual given district plans need to apply a limited set of zones across a wide variety of sites with different issues. However, for the reasons above, I am not persuaded that the Sport and Active Recreation Zone provides a better planning outcome. The Mixed Use Zone more appropriately accommodates the existing mix of community facilities and provides greater flexibility for future use while appropriately managing effects. Accordingly, I do not recommend any change to the PDP zoning for the site.

Definitions – "co-location benefits"

6.28 Graeme McCarrison provides a statement on behalf of Chorus NZ Ltd, Connexa Ltd, FortySouth Group LP and Spark NZ Trading Ltd, which made a joint statement under the collective name of the "Telecommunications Companies". The submission supported the definition as notified and I note Mr McCarrison's support for the retention of the definition[24] as recommended in the s42A report[25].

6.29 Kaaren Rosser provides evidence on behalf of Enviro NZ (323), which sought to replace "easier trip-chaining" with "easier trip length and co-ordination" in the definition of *co-location benefits*, and which relief I infer Ms Rosser supports[26].

6.30 I do not consider this evidence raises any new issues beyond those already addressed in the s42A report[27] and so do not recommend any change to the definition in the PDP.

[24] Statement of G McCarrison, page 1.
[25] Section 42A Report, Commercial and Mixed Use Zones, para 638.
[26] Evidence of K Rosser, paras 4.3-4.6.
[27] Section 42A Report, Commercial and Mixed Use Zones, paras 632-638.

Definitions – "minor building", "minor structure"

6.31 Georgina McPherson provides evidence for the Fuel Companies (471) and Z Energy (468) which sought deletion of the definition of *minor building/minor structure*. I do not support this relief. I believe a definition is necessary to clarify as to when the specific rules for minor buildings and minor structures in the CCZ and MCZ apply[28], and to ensure consistent interpretation and application of those provisions.

6.32 Ms McPherson suggests an alternative definition that would incorporate the conditions of the minor buildings/minor structures rules directly (which are identical in the two zones) rather than indirectly referencing them[29]. I agree with her that embedding the conditions in the definition rather than the rule would improve usability and reduce the need for cross-referencing between provisions. Accordingly, I recommend amending the definition to incorporate the relevant conditions currently contained in the rule.

6.33 Ms McPherson further seeks deletion of two elements of the condition defining minor buildings and structures:

> …
>
> ~~*iv. Is not located within 10 metres of an Active Frontage, and*~~
>
> ~~*v. Is screened and is not visible from public spaces*~~

6.34 This relief does not seem on the face of it to be within the scope of any submissions, which sought the definition be deleted on structural grounds of clarity and changes to the activity statuses within the rule, rather than seeking a change to the substance of which buildings and structures are considered "minor" and covered by the rule at all, although Ms McPherson may be able to clarify her view on the scope issues for her recommendation.

[28] Section 42A Report, Commercial and Mixed Use Zones, paras 651-652.
[29] Evidence of G McPherson, paras 10.31-10.36.

6.35 In any case, I consider that these conditions serve an important effects management function, including maintaining the quality of active frontages and limiting visual effects from public spaces.

6.36 Accordingly, I do not recommend deleting conditions (iv) and (v).

6.37 Putting this together, the definition would be altered as follows:

> ***Minor building/minor structure***
>
> ~~*means, in a rule referring to a minor building or minor structure, a building or structure meeting the relevant conditions for that rule.*~~
>
> *Means, in relation to a rule for buildings and structures in a Commercial Zone, a building or structure that:*
>
> a. *Is ancillary to an established activity on the site,*
> b. *Has a gross floor area of no more than 30m2,*
> c. *Has a height no greater than 5m above ground level,*
> d. *Is not located within 10 metres of an Active Frontage, and*
> e. *Is screened and is not visible from public spaces.*

6.38 The rules CCZ-R5/MCZ-R5 would be altered:

> 1. ***Activity status**: Permitted*
>
> *Where:*
>
> *…*
>
> *[other conditions]~~, and~~*
>
> ~~*b. The minor building or minor structure:*~~
>
> ~~*i. Is ancillary to an established activity on the site,*~~
>
> ~~*ii. Has a gross floor area of no more than 30m2,*~~

~~*iii. Has a height no greater than 5m above ground level,*~~

~~*iv. Is not located within 10 metres of an Active Frontage, and*~~

~~*v. Is screened and is not visible from public spaces.*~~

…

2. ***Activity status**: Restricted discretionary*

Where:

~~*a.*~~ *Compliance is not achieved with CCZ-R5.1~~a, but~~*

~~*b. Compliance is achieved with CCZ-R5.1b.*~~

…

Section 32AA Evaluation

6.39 As this change is purely for clarity, the evaluation in the s32 report still applies unchanged.

7.0 Industrial Zones – responses to submitter evidence and statements

Alterations to existing activities

GIZ-R3

7.1 Ashleigh Wharam provides planning evidence on behalf of Foodstuffs (239) which sought that GIZ-R3.1.b (which requires building work to relate to a permitted land use activity to be permitted) not apply to existing established activities. In the s42A report I recommended accepting this point for alterations but not additions[30]. My reasoning relies on the fact that for additions, unlike

[30] Section 42A Report, Industrial Zones and the Seaview Marina Zone, para 315.

alterations, a land use consent would be required regardless for the land use activity itself.

7.2 Ms Wharam raises the scenario that as I understand it would be an addition that would be for the purpose of expanding the floorspace of an existing activity that is not a permitted activity in the zone but that would not otherwise need a resource consent. I do not see how this situation could arise[31], although the rule structure does not explicitly rule it out as a matter of logic. I suggest Ms Wharam provide some examples of how she thinks this state of events could arise.

Heavy industrial activities – rules in the Heavy Industrial Zone and definition

HIZ-R17

7.3 Angela Goodwin provides planning evidence on behalf of Waste Management NZ Ltd (461) who sought more enabling provisions for waste management facilities (i.e. waste transfer stations and resource recovery parks) in the Heavy Industrial Zone by:

- Providing a definition of “waste management facility”
- Removing waste management facilities from the scope of the definition of “heavy industrial activity” and adding it to the definition of “industrial activity”, and
- Providing for heavy industrial activities in general and waste management facilities in particular as permitted activities.

7.4 I discuss some elements of these points in the s42A report[32].

7.5 David Howie also provides corporate evidence on behalf of Waste Management. This provides useful context about Waste

[31] Except where a district-wide chapter such as Infrastructure would override the zone rules, but these would override the zone’s buildings and structures rules as well.
[32] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 373-380, and 730-738.

Management's operations for transfer stations and resource recovery parks. His evidence is also discussed in Ms Goodwin's.

7.6 My only comments on his evidence directly (as opposed to how it is addressed by Ms Goodwin) are that waste management facilities have the potential to generate a range of adverse effects, including odour, litter, dust, traffic effects, and risks to health and safety. Based on my discussions with Council's consents and compliance team members, the scale and nature of these effects vary depending on site layout, operational practices, and management controls. This variability is a key consideration in determining the appropriate activity status.

7.7 For Waste Management's relief on whether all heavy industrial activities in general should be permitted in the Heavy Industrial Zone, I note that Ms Goodwin is of the view that a restricted discretionary activity status may be necessary for some activities other than waste management facilities[33].and I do not think her evidence raises any new considerations not already discussed in the s42A report other than for waste management facilities in particular. Accordingly, I will focus on the treatment of waste management facilities, rather than all heavy industrial activities as sought in the original submission.

7.8 In considering whether permitted activity status is appropriate or a resource consent is required for waste management facilities, it is worth considering the broader context of whether this would remove the requirement for a consent at all, or whether consent would still be required under other rules. The value in avoiding a consent under one rule still exists but is much less if consent is still required under other rules, as the associated cost and delay are partly caused by the process itself, rather than which rules are triggered. For context, it is worth noting that under the PDP as proposed a resource consent would also be required under the Transport chapter for any transfer station that counted as a *high trip generating activity* (which if open to the public it almost certainly

[33] Evidence of A Goodwin, paras 26-28.

would – this represents 200 one-way vehicle trips per day), and under the Three Waters chapter for a non-residential building of over 200m² footprint (which would capture all of Waste Management's facilities in Seaview if they did not already exist and were built anew under the PDP rules).

7.9 Ms Goodwin considers that in her opinion and based on the evidence of Mr Howie solid waste transfer stations and resource recovery parks do not have objectionable or offensive effects[34] and so should be treated the same as other heavy industrial activities which do.

7.10 Ms Goodwin states that she is not aware of any complaints having been made about the Seaview Transfer Station and that this is evidence that it does not have effects that are incompatible with the zone[35].

7.11 From discussing this with one of Council's RMA compliance officers, Paul Duffin, Council records indicate two complaints have been made to Hutt City Council about the facility, in 2016 and 2019[36]. Both complaints related to odour and wind-blown refuse. Both complaints were brought to the attention of the operator who, as far as Mr Duffin is aware, resolved the matter directly with the complainants.

7.12 While these do not indicate a persistent issue, they demonstrate that adverse effects can arise. More fundamentally, the absence or low number of complaints at a particular site does not establish that effects will be acceptable in all locations or under all operating conditions.

7.13 Ultimately, I do not think that the evidence of Ms Goodwin or Mr Howie shows that it is inherent to either activity that they will not have objectionable or offensive effects. Handling large amounts of solid waste creates for example substantial risks of litter, odour, and (depending on the nature of waste) health and safety impacts.

[34] Evidence of A Goodwin, para 14.
[35] Evidence of A Goodwin, para 32.
[36] HCC Enquiry Trace nos. 362846, 7 November 2016, and 443556, 13 May 2019.

These can certainly be satisfactorily managed, but the effects will depend on the location, design and management of the facility, which are matters that can be considered in a resource consent application and are not inherently suitable for an unrestricted permitted activity status.

7.14 Unlike a transfer station, a resource recovery park is primarily intended to capture reusable and recyclable material, which in itself should not be objectionable. However, contamination is a significant and persistent issue in solid waste management – Council's own recycling collection saw contamination rates of nearly 20% in 2022[37] and so there is still the potential for substantial volumes of unrecyclable solid waste to be present on site.

7.15 Ms Goodwin assesses the status of waste management facilities in 21 other district plans[38], although does not provide a reason for selecting those 21 in particular. I have not independently assessed most of these district plans but accept Ms Goodwin's summary of their approaches.

7.16 While approaches vary, I do not think this supports the notion that it is routine for district plans to provide for waste transfer stations as a permitted activity. All of the plans subject the stations to at least some zone-level conditions or standards, unlike the relief sought by Waste Management in their submission (I note that this is no longer the position of Ms Goodwin, which I discuss below).

7.17 The two district plans of most relevance to Lower Hutt are the Wellington and Porirua district plans[39] both of which do not have a Heavy Industrial Zone and provide a discretionary activity status for waste transfer stations in their (general) industrial zones.

[37] https://www.toogoodtowaste.co.nz/what-goes-in-the-bins/reducing-recycling-contamination
[38] Evidence of A Goodwin, para 17 and Appendix 1.
[39] Along with Upper Hutt these form the main urban populations in the region. Wellington and Porirua have relatively recent plans while Upper Hutt's is a first generation plan and the industrial zones have not recently been reviewed.

7.18 Ms Goodwin acknowledges odour as a potential effect[40] and considers that this is mitigated through the short duration waste remains on the site. However, the definition proposed by Waste Management does not contain any standards or conditions to that effect. She compares this to other industrial activities such as coffee roasting, bakers, and breweries. I do not think these are comparable odours to that of solid waste. She finally notes that there are various management options for waste transfer stations including the type of waste accepted. I agree, and requiring and monitoring use of these management options would be relevant conditions for a resource consent.

7.19 Ms Goodwin questions the final element of the definition of *heavy industrial activity* as being unclear as to what constitutes offensive or objectionable noise, dust or odour[41]:

> *… any other industrial activity that creates offensive and objectionable noise, dust, or odour, or elevated risks to people's health and safety.*

7.20 I agree that this could benefit from further clarification and could be improved by a guidance note as suggested by Ms Goodwin, which she may wish to propose wording for.

7.21 Ms Goodwin then considers the overall potential adverse effects of waste management facilities and whether these could be managed through standards rather than a consent process.

7.22 In terms of the appropriate regulatory approach, I agree with Ms Goodwin that some effects (such as noise, vibration, lighting, and traffic) are appropriately managed through district-wide chapters[42], which I consider the plan provides for at present.

7.23 Emissions of dust and odour in themselves are matters controlled through regional council functions and addressed in the regional

[40] Evidence of A Goodwin, para 18.
[41] Evidence of A Goodwin, paras 20-21.
[42] Evidence of A Goodwin, para 33.

plan[43]. However, the district plan plays an important role in managing the location, design and management of activities to avoid or minimise such effects at source. The location, design and management of dust and odour-causing nuisances are key ways of preventing these emissions in advance which is more cost-effective than only being reactive once the activity is established and emissions happen. The scale of these effects depends on location, design, and management. In my view, these matters are not well suited to permitted activity conditions, particularly as the effectiveness of measures such as separation distances depends on site-specific management. For example, the distance at which odour is a problem will depend on the quality of management at source, so a fixed distance buffer from residential activities would be insufficient in some situations and excessive in others.

7.24 Visual effects are squarely in the domain of zone provisions. I think it is appropriate to manage visual amenity but only as it has effects beyond the industrial zones, as provided for in the PDP.

7.25 I do not agree with Ms Goodwin that health and safety are entirely addressed by other legislation[44]. Part 2 of the RMA specifically sets out that the core purpose of the Act includes (emphasis mine):

> *… managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being* ***and for their health and safety*** *while— …*

7.26 I agree that *some* elements of health and safety are addressed under other legislation, such as the Health and Safety at Work Act 2015 and the Hazardous Substances and New Organisms Act 1996, or elsewhere within the plan, such as within the Hazardous Substances chapter of the PDP where applicable. However, in this case, waste management facilities are not captured by the definition of significant hazardous facilities, and so those provisions would not

[43] Branded in the Wellington Region as the “Natural Resources Plan”.
[44] Evidence of A Goodwin, para 34.

apply. I think resource consent applicants and decision-makers are capable of identifying those matters that would involve duplication and those where residual risks would still need to be addressed.

7.27 Ms Goodwin gives the Health Act 1956 as an example. I note that the Health Act in regulating offensive trades (such as solid waste disposal) excludes most requirements for activities which have resource consents under the Resource Management Act[45], as the RMA would regulate those matters instead. I think that it would generally advance the goal of integrated decision-making to do so where possible rather than having activities need additional Health Act consent from the Council.

7.28 Ms Goodwin proposes an alternative approach where waste management facilities would be permitted but subject to the following conditions, and remain restricted discretionary otherwise:

- They are not within 200m of a residential or open space zone.
- They do not generate dust or odour beyond site boundaries.
- They do not generate health and safety effects beyond site boundaries.

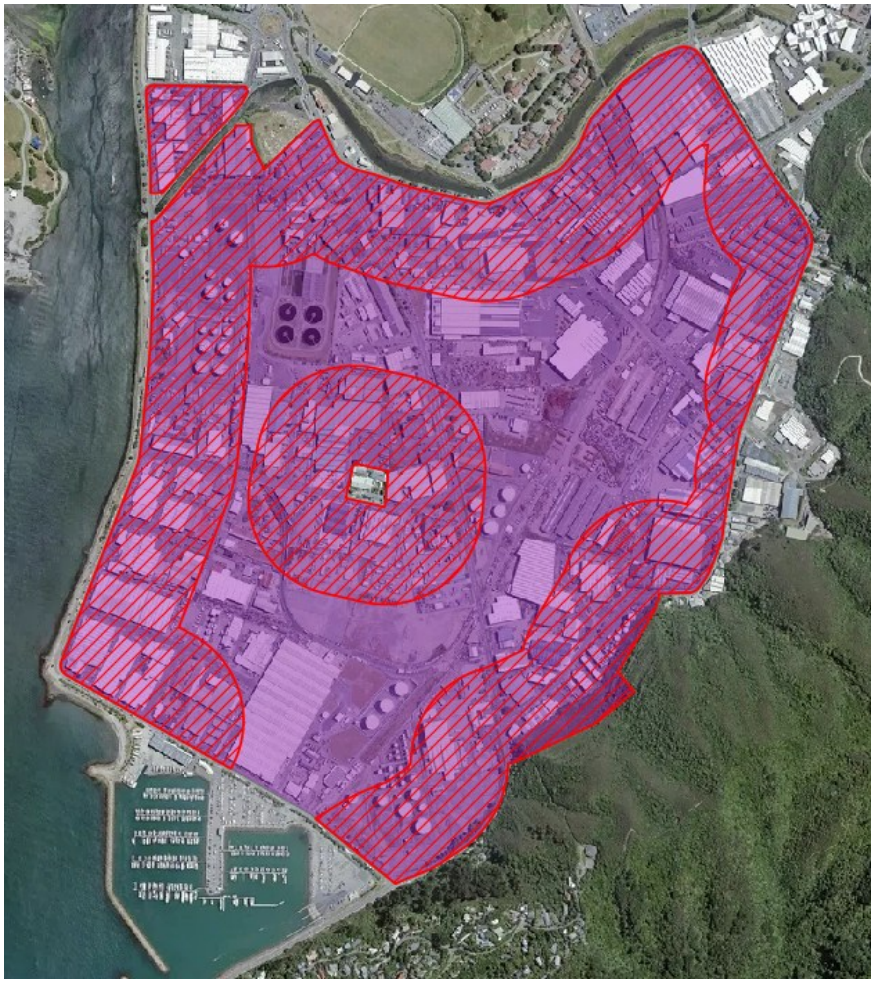
7.29 She further seeks that the rule's restricted discretionary arm clarify which health and safety concerns are to be addressed[46]. The Hazardous Substances chapter deals with the overlap between the RMA and other health and safety legislation through a definition of *residual risk*. That framework does not directly apply to waste management facilities as they are not captured by the relevant definitions.

7.30 Accordingly, any health and safety effects associated with waste management facilities must be addressed through the zone provisions. In my view, it would be appropriate to clarify the relevant matters of discretion within the Heavy Industrial Zone rules by adding reference to the definition of residual risk from hazardous

[45] Health Act 1956, s54(7).
[46] Evidence of A Goodwin, para 41.

substances, rather than relying on the Hazardous Substances chapter framework.

7.31 The first condition (adding in the Marae Zone, which I think would be essential) would mean that waste transfer stations are permitted in around 40% of the Heavy Industrial Zone, subject to the other conditions as shown (the red striped overlay indicates areas closer than 200m to affected zones):



7.32 This does not include the Seaview Marina Zone as a source of a buffer. As Seaview Marina Ltd is a submitter in this hearing stream and appearing at the hearing, if possible, I would be interested in their input about whether the Seaview Marina Zone should also have such a buffer before coming to a position myself.

7.33 I agree that it is probable that a waste transfer station of a reasonably conventional size and configuration would be very unlikely to have unmanageable dust and odour effects beyond a

200 metre distance in the remaining area and would not have visual amenity effects outside the industrial (and Seaview Marina) zones.

7.34 The other two conditions are somewhat vague, although not necessarily more so than the PDP definition of heavy industrial activity and so the inclusion of these conditions would not exacerbate the issue.

7.35 Accordingly, I think this would be a suitable approach with the addition of other conditions to ensure that the waste transfer station is of the kind generally described by Mr Howie, to ensure odour is suitably managed at source, and that health and safety impacts are unlikely:

- That waste is not stored or handled outdoors, and
- That hazardous waste is not accepted (which in any case would require consent under the Hazardous Substances chapter rules).

7.36 Whether to define, and how to define, the terms "resource recovery park" and "solid waste transfer station" would be a cross-plan issue and should be addressed in Hearing Stream 6 (for Infrastructure) and 10 (Wrap-up).

7.37 I thus recommend altering the relevant Heavy Industrial Zone rules as follows (noting that the Seaview Marina Zone may also need to be mentioned for the 200 metre buffer):

> ***HIZ-Rxxx Resource recovery parks and solid waste transfer stations*** *[to be inserted after HIZ-R4]*
>
> ***1. Activity status**: Permitted*
>
> *Where:*
>
> *a. The activity is not within 200 metres of a site in a Residential Zone, Open Space and Recreation Zone, or Marae Zone,*

b. The activity does not generate dust or odour effects beyond site boundaries,

c. The activity does not have residual risk for health and safety beyond site boundaries,

d. Waste is not stored or handled outdoors, and

e. Waste containing hazardous substances is not accepted at the facility.

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

Where:

a. Compliance is not achieved with HIZ-Rxxx.1.

***Matters of discretion are restricted to**:*

1. Amenity values outside the Industrial Zones,

2. Residual risk for health and safety beyond the site,

3. The management of dust, odour, and litter.

…

HIZ-R17 Heavy industrial activities not otherwise provided for

…

7.38 The definition of *residual risk* would be slightly expanded in scope:

Residual risk

Means, in relation to the Hazardous Substances chapter and Industrial Zones chapter, …

7.39 Ms Goodwin raises additional points that she notes are to be addressed in other hearing streams[47]:

[47] Evidence of A Goodwin, paras 24-25.

- Whether to have a separate treatment of composting from other heavy industrial activities in rural zones, and

- Whether waste management facilities should be addressed in the Infrastructure chapter or form part of a definition of "additional infrastructure".

7.40 I agree that these other matters are better dealt with in the Rural Zones and Infrastructure topics, in hearing streams 3 and 6 respectively.

Section 32AA Evaluation

7.41 The recommended change would permit the establishment of resource recovery parks and solid waste transfer stations in situations where as proposed, a resource consent would be required. Based on the evidence of Ms Rosser and Mr Howie, and the reasoning above, I think it is unlikely that there would be unacceptable adverse effects from such activities under the conditions recommended, and accordingly the recommended rule would more efficiently achieve the objective of the Act.

Non-industrial activities in the Industrial Zones

LIZ-O2, GIZ-O1/O2, HIZ-O2, LIZ-P2, LIZ-P4

7.42 Kaaren Rosser provides evidence on behalf of Enviro NZ (323), who sought to remove conditions from LIZ-O2 providing for land uses that are not specifically identified for the industrial zone but are not suitable in other zones.

7.43 I discuss the issue of the balance of industrial and non-industrial activities in detail in the s42A report[48].

7.44 From Ms Rosser's evidence the main new point I would address is that in my view, for a land use to not have another suitable non-Industrial zone in the plan is not the same as having a functional

[48] Section 42A Report, Industrial Zones and the Seaview Marina Zone, section 5.2.1, page 20 onwards.

need or operational need to locate in the Industrial Zones. A land use may be perfectly capable of locating in another type of zone, but the plan does not anticipate it or provide a suitable location, and there may be no way of providing relevant development capacity elsewhere. This is a particular issue for Lower Hutt which has an existing mature urban fabric and extremely limited greenfield development options for specialist or unexpected land uses. The plan anticipates this in the case of research activities and trade and industrial training facilities for example, as these are existing notable categories of activity in the areas proposed to form the Industrial Zones, but the same logic could well apply to other activities that are not anticipated at the time the plan is written.

7.45 Ms Rosser also provides evidence around Enviro NZ's submission to delete the provision in GIZ-O1 for "*commercial activities that are not appropriately located outside industrial areas because of their effects on amenity values or co-location benefits with industrial and research activities*", and to remove similar wording in the tests for activities in GIZ-O2.

7.46 This is also addressed in the s42A report in general. Ms Rosser specifically notes that the General Industrial Zone acts as a buffer to the Heavy Industrial Zone and minimising commercial activities in the General Industrial Zone will aid in this. I agree with the general point, but this is an issue adequately addressed through the objective's qualification that these activities must be "compatible" with the zone and the more detailed tests for activity compatibility in GIZ-O2 that relate to compatibility with the purpose, planned character, and planned urban environment, reverse sensitivity issues, etc.

7.47 Ms Rosser provides evidence on Enviro NZ's submission point to alter GIZ-O2/HIZ-O2 to provide that all reverse sensitivity is avoided, rather than "unreasonable" reverse sensitivity, and suggests that the qualifier instead be "adverse". I do not think that this is meaningfully different from deleting the qualifier entirely,

which as per the s42A report I do not recommend[49], as "adverse" would normally be used in contrast to "positive" and I do not think the idea of positive reverse sensitivity exists.

7.48 Georgina McPherson provides evidence on behalf of the Fuel Companies (471) and Z Energy (468)[50], who sought a variety of changes to the role of non-industrial activities in the Light Industrial Zone. Those where Ms McPherson still supports a position different to the s42A report and raises new issues to further consider are:

- Rewording the policy direction in LIZ-P4 from "avoid unless" to "provide for where" in order to be consistent with LIZ-P2
- Altering LIZ-P4.1 to cover all permitted activities, rather than activities ancillary to permitted activities.

7.49 Ms Rosser is of the opinion that it is inappropriate to "provide for" residential activities. As I discuss in the s42A report[51] I think that this is a valid role for the zone – while residential activities should be managed for their impacts on development capacity, they do not need to be managed for their incompatibility with types of heavy industrial activities that are not encouraged in the zone. The location and environment of Light Industrial Zone areas is in close proximity to residential and general urban environments, and residential live/work units are a suitable use of the zone. Ms Rosser gives the example of residents in proximity to a liquid waste facility – this seems like a type of activity better suited for the General or Heavy Industrial Zones that would not meet the expected outcomes for the zone in LIZ-O1.

7.50 I agree with Ms McPherson that aligning the wording of LIZ-P4 with LIZ-P2 by using "provide for where" would improve internal consistency within the zone. However, there is no scope in submissions to make the equivalent change to the Heavy Industrial

[49] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 140-146.
[50] Evidence of G McPherson, para 9.1 onwards
[51] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 151-152.

Zone, and I think that (to the extent this difference in language matters), this would create a risk that the Heavy Industrial Zone is interpreted as being more enabling for commercial and community activities than the Light Industrial Zone.

7.51 For the change to LIZ-P4.1 to cover all permitted activities and not just ancillary ones, this is not within scope of any submissions and would also make the policy circular, as this is the policy that the permitted activity rules in question implement.

7.52 Ms McPherson also raises a variety of points around the treatment of objectives and policies for reverse sensitivity from non-industrial activities, which I do not think raise any new issues to those addressed in the s42A report.

Residential activities in the Heavy Industrial Zone

7.53 Ms Rosser provides evidence around Enviro NZ's submission seeking to delete the qualifier that residential activities must manage "significant" reverse sensitivity. Given that residential activities must also meet the very restrictive test that they are "*critical to the functioning of an industrial activity, research activity, or emergency facility, which itself is an existing activity or has a functional or operational need to be located in the Heavy Industrial Zone*" I do not think it is reasonable to insist that those residential activities also manage reverse sensitivity issues if those are insignificant.

Conclusion

7.54 Accordingly, I do not recommend any changes in response to this evidence.

Ancillary activities not otherwise provided for in the General Industrial Zone

GIZ-R17

7.55 Kaaren Rosser provides evidence for Enviro NZ (323) which sought to make the catch-all rule discretionary rather than permitted, on the basis that this was too enabling of ancillary activities which might be significant in scale. She considers that an approach to deal with this would be a gross floor area limit.

7.56 The examples she gives of a possibly inappropriate but ancillary activity is a café ancillary to a commercial recreation activity. This particular scenario would not arise in the plan, as a café is provided for in GIZ-R11 (Food and beverage activities) and so is not within a rule restricted to activities "*not otherwise provided for*". However, I agree with Ms Rosser that this could be an issue in general, and support the addition of a gross floor area limit for the rule, which I propose as 200m² for consistency with other non-industrial activities in the zone.

7.57 This would mean amending the rule as follows:

> ***GIZ-R17 Other activities not otherwise provided for***
>
> ***1. Activity status:*** *Permitted*
>
> *Where:*
>
> *a. The activity is ancillary to a permitted activity and has a gross floor area of no more than 200m².*
>
> *…*

Section 32AA Evaluation

7.58 This would require a resource consent for ancillary activities that as proposed would not have required one. Given the scale of such an activity, and that resource consent may well be required under other rules (e.g. from the Transport and Three Waters chapters, or buildings and structures rules within the zone), I think that the costs of such an assessment are not disproportionate to the activity. The rule would allow better management of activities that risk having significant impacts on industrial development capacity, and in my opinion the latter benefit would outweigh the former cost.

Activities sensitive to industry, other than residential activities and Integrated retail activities – mandatory public notification

GIZ-R20, GIZ-R22

7.59 Angela Goodwin provides evidence on behalf of Waste Management NZ Ltd (461) who sought to alter the mandatory public notification provisions in GIZ-R20 and GIZ-R22 to not apply where:

> *… the applicant can demonstrate exceptional circumstances that mean notification will not provide any benefit to the decision maker and that effects are no more than minor.*

7.60 I discuss this relief in the s42A report[52].

7.61 Ms Goodwin considers that I may have misinterpreted the relief sought as seeking to *preclude* public notification[53]. For the avoidance of any doubt, I did not interpret the relief as seeking to establish a rule precluding notification.

7.62 The Resource Management Act sets out[54] that a local authority may make a rule:

> *…specifying the activities for which the consent authority … must give public notification of an application for a resource consent: …*

7.63 The Act does *not* give a power for a local authority to make a rule to make other general purpose changes to the notification test set out in ss95-95G, for example to change the threshold for the identification for affected parties or change the "less than minor" test to "more than minor". For any given activity, public notification is either mandatory or not mandatory. Council thus does not have the ability to grant the relief sought by Waste Management as written, as it would depend on subjective conditions that do not

[52] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 370-372.
[53] Evidence of A Goodwin, paras 45-46.
[54] Resource Management Act, s77D.

relate to the classification of the activity, particularly whether "notification will not provide any benefit to the decision maker".

7.64 However, I have considered whether the intent of the relief could be achieved in some other way. Ms Goodwin covers her and Waste Management's reasons for considering that public notification may not be required in all circumstances[55] which I summarise as that:

- The costs and benefits of notification should be considered.
- Not conducting public notification where unnecessary would provide more efficient processing of consents.

7.65 While I agree with these being necessary considerations, I do think the mandatory public notification is useful for these rules. The relevant policies are GIZ-P2 which is to:

> *Avoid new residential activities and other activities sensitive to industry unless they are … [m]anaged so that they do not adversely impact the long-term development capacity of the zone for industrial development, including through managing the design of new buildings…*

7.66 And GIZ-P7 which is to:

> *Manage the scale and location of commercial activities to avoid negative impacts on the intended purpose, viability, vibrancy, and co-location benefits of commercial centres in the City Centre Zone, Metropolitan Centre Zone, and Local Centre Zone.*

7.67 These policies address effects that are often forward-looking and protect the interests of future industrial developments in the General Industrial Zone and the community as a whole in future land use in the commercial centres. Without notification, the Council would be reliant solely on the information it already has on existing activities and that provided by the applicant to assess an application. This information would limit its ability to appropriately assess broader

[55] Evidence of A Goodwin, paras 47-48.

effects on future development potential of the zone. Limited notification is not a practical alternative in this context, as affected parties may include potential future industrial operators who cannot be identified in advance. Public notification therefore provides the most appropriate mechanism to ensure these effects are adequately considered. I do not consider the costs associated with notification are disproportionate in the context of an activity where the general policy direction of the zone is to avoid that activity except in limited circumstances that will require substantial justification in a resource consent application.

7.68 Rules can cover activities that are very broad or quite specific and so Council could use conditions to have multiple rules for a group of activities that apply mandatory public notification in some situations but not others[56].

7.69 For Waste Management's purposes, the Council could thus provide multiple rules for *activities sensitive to industry* and *integrated retail developments* some of which require public notification and others do not, on the basis of conditions within rules that classify the activity itself, rather than a subjective assessment of the effects. For example, it could be based on a threshold like gross floor area, the number of employees, or capacity for visitors. I do not consider it is necessarily within the scope of Waste Management's submission to do so, but Ms Goodwin may wish to consider whether the relief could be achieved in this way and if so whether an argument can be mounted as to scope.

7.70 Accordingly, I do not recommend any change to GIZ-R20 and GIZ-R22.

Wholesale activities

New provisions sought

[56] It could also have no rule requiring public notification and rely solely on the standard test for public notification in the Act, although this is not within scope of any submission.

7.71 Ashleigh Wharam provides evidence for Foodstuffs (239) which sought rules and an associated definition for "wholesale activities" in the Industrial Zones. I discuss this in the s42A report and recommend not providing such rules as wholesale activities would be captured under other existing rules[57].

7.72 Ms Wharam considers that there are potential practical difficulties in assessing which rules a wholesale activity would fall under as it may require assessing differences in trade vs public sales, customer type, and facilities may change over time. She further considers that this does not adequately recognise the hybrid nature of Foodstuffs' business.

7.73 I think that in general, most businesses are going to see their own business model as distinct from that of their competitors and there are at least as many different possible descriptions of a business as there are businesses. Any definitions that attempt to categorise activities to provide a plan rule must inevitably do so by combining large groups of different activities. This will no doubt create issues with businesses that have a hybrid model or do something uncommon not captured in a plan rule. This is particularly true at the moment for retail-adjacent activities as the retail sector changes in response to changing consumer tastes for online vs offline browsing and ordering, pick-up and delivery, and novel retail business models such as the subscription/bulk-retail model of Costco.

7.74 However, a district plan must have coherent rule framework that capture all activities[58] without unnecessary duplication. It is neither practical nor desirable to create highly specific rules for each variation of business activity. As a result, some activities will sit at the margins between categories, requiring interpretation by plan users. This is an inherent and accepted feature of the PDP.

[57] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 412-418.
[58] Or not address them at all, which does not fit with the overall structure and policy direction of zones within the PDP.

7.75 The PDP generally crafts the description of rules to:

- align activity groupings with the National Planning Standards as a starting point, and
- only need to further differentiate activities where this results in a different policy or rule approach

7.76 I think this general approach is the most appropriate and efficient.

7.77 Where a business evolves over time, and the nature and scale of effects may also change. In such cases, it is appropriate that the applicable planning framework also changes. The fact that an activity was initially permitted when it was established does not mean it should remain so if its effects materially change.

7.78 I accordingly do not think that having a specific rule for "wholesale activities" would resolve the issues identified. I therefore do not recommend any changes to the PDP in response to this submission.

Zone Maps – Light Industrial Zone at 105 and 107 Victoria Street, Alicetown

7.79 Andrew Cumming provides evidence on behalf of the Adrian Palmer Family Trust (315) which sought that two sites at 105 and 107 Victoria Street, Alicetown fall within the Mixed Use Zone. Mr Cumming supports this relief. I did not support this relief in the s42A report[59].

7.80 Mr Cumming considers that the sites are potentially subject to natural hazards and are covered in different areas by the High, Medium, and Low Flood Hazard Overlays, and entirely by the Liquefaction Hazard Overlay. This will affect the location and design

[59] Section 42A Report, Industrial Zones and the Seaview Marina Zone, pages 96-100.

of future development and requires consideration of the intended activities in the context of that hazard[60].

7.81 I agree with this and I think that for either the Light Industrial or Mixed Use Zones, this can be handled through the Natural Hazards provisions of the plan (subject to submissions on that chapter). I do not think natural hazards are a major consideration in the zoning of the sites as both zones would provide for a range of activities that are less sensitive to hazards or for which the hazard risk can be managed through appropriate design.

7.82 Mr Cumming traverses the zoning history of the sites and the reasoning for the proposed Light Industrial Zone, which I believe is generally accurate[61], although I would note that he describes the site as being a "long-established residential site". While the sites have been *zoned* residential since at least 2003, I would note the sites have not been used for any residential purpose for at least 50 years[62].

7.83 Mr Cumming notes that part of the justification for the proposed zoning is that the Housing and Business Development Capacity Assessment (HBA) notes a shortage of industrial land[63]. I believe that the issue of relative development capacity for residential and industrial land is the key difference between our positions.

7.84 Mr Cumming notes that the "key findings" of the Lower Hutt section of the HBA says that "[t]here is sufficient development capacity on business land to meet demand over the long term". I would note in addition it also says that there is sufficient development capacity for residential development, and that at a *regional* level while there is overall sufficient development capacity for business in terms of floorspace, there is a likely shortfall in industrial land specifically[64],

[60] Evidence of A Cumming, para 19.
[61] Evidence of A Cumming, paras 29-37.
[62] Section 42A Report, Industrial Zones and the Seaview Marina Zone, para 455.
[63] Evidence of A Cumming, para 35.
[64] Wellington Regional Housing and Business Development Capacity Assessment, p50, https://hccpublicdocs.azurewebsites.net/api/download/d764466f20cf454ba1010adf695ed15f/_dplanreview/5f7ad6d618358d741e3b93ebcb483787832

whose implications I discuss in the s42A report[65] and set out why Lower Hutt should attempt to meet as much as possible of that regional shortfall.

7.85 In addition, the HBA methodology is subject to assumptions noted within the report. In particular, the assessment of residential capacity is a fully quantitative assessment while the business section is partly qualitative[66], with the assessment of plan-enabled capacity done quantitatively but the assessment of feasibility and realisability using a regional-level multi-criteria assessment. This involves assumptions about what types of infill or redevelopment are feasible, which is not broken down by business sector. As the HBA notes[67], the major concern is that other business sectors can much more easily meet development needs through more intensive use of existing land, while industrial activity cannot intensify so easily.

7.86 Accordingly, district-level conclusions are made only for business land as a whole but cannot be made at a district level for specific sectors such as industrial. At a region-wide level the HBA specifically notes a shortage of industrial land in the long term[68] unless development needs can be met through more intensive redevelopment, which is not necessarily possible.

7.87 The HBA is jointly developed for the region through the Wellington Regional Leadership Committee (WRLC) which is a partnership between regional and territorial authorities, mana whenua, and central government. Further to the last HBA the WRLC has also undertaken an industrial land study covering the region as well as Horowhenua District[69]. This study notes additional constraints on industrial development that do not fall within the HBA methodology,

[65] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 72-82.
[66] Wellington Regional Housing and Business Development Capacity Assessment, p144, https://hccpublicdocs.azurewebsites.net/api/download/d764466f20cf454ba1010adf695ed15f/_dplanreview/5f7ad6d618358d741e3b93ebcb483787832
[67] Ibid, page 60.
[68] Ibid, page 67.
[69] https://wrlc.org.nz/assets/Documents/2025/08/Industrial-Land-Study_Final-Report_Draft-2-201224.pdf

including the predicted long-term loss of existing industrial land due to increasing vulnerability to natural hazards, which is a concern in for example Petone and Seaview.

7.88 It may be useful context for the panel in deciding on this issue that the next Housing and Business Development Capacity Assessment is underway now. I understand from talking to the HCC officer primarily responsible that the final report will not be available for this hearing stream but should be available in time for the wrap-up hearing in December.

7.89 Overall, I think that finding suitable industrial land is a much more difficult task than finding suitable residential sites, that providing industrial development capacity is just as much if not more a pressing issue than providing residential development capacity, and the Council should err on the side of protecting land for industrial development where it is suitable, given how little land is likely to be suitable.

7.90 Mr Cumming explores other topics, and considers that the site is well-located for intensive residential development given its proximity to the city centre, public transport, parks and reserves, and the neighbouring primary school[70]. I agree, and I think this supports the zoning of other sites in the area along Victoria Street for the Mixed Use Zone. However, unlike those other sites, the site in question also has location advantages for the Light Industrial Zone as it has a unique opportunity in having no existing residential neighbours and bordering an existing business area.

7.91 Mr Cumming states that he has been advised by the site owner that the existing car yard is a transitional use while waiting for redevelopment of the site[71] and (I infer) thus has no concerns with the ability of the zoning to provide for the continued operation of the car yard. I accept this and I do not consider that there is any policy reason for the PDP to specifically seek or provide for continued

[70] Evidence of A Cumming, para 39.
[71] Evidence of A Cumming, para 41.

operation of the car yard (although there is also no policy reason for the PDP to attempt to put an end to operation of the car yard).

7.92 However, the evidence provided by Mr Cumming does not affect my overall conclusion from the Section 42A report[72] that the site is most appropriately zoned Light Industrial. In summary:

- Suitable opportunities for industrial development in existing urban areas are much rarer than for residential or mixed use zoning, as they have greater limits on which neighbouring land uses are compatible, and industrial activities cannot meet development capacity needs through intensification as easily as residential or other business sectors.
- The sites present a valuable opportunity for light industrial development given the predominance of compatible activities in the immediate environment.
- While the sites are currently zoned residential, they are not currently in residential use.
- There are alternative locations in the area that are more appropriate for Mixed Use zoning, which the Council has taken in the PDP, for sites that are currently in residential use with other residential neighbours, and so are not as suited for industrial activities.

7.93 Accordingly, I do not recommend any change to the PDP zoning for these sites.

Definitions – "Reverse Sensitivity"

7.94 A range of submitters sought various changes to the definition or replacements of the definition of *reverse sensitivity*, which I discussed in the s42A report[73] and recommended a substantial rewrite of the definition to address the issues raised. Kāinga Ora

[72] Section 42A Report, Industrial Zones and the Seaview Marina Zone, para 465.
[73] Section 42A Report, Industrial Zones and the Seaview Marina Zone, para 744 onwards.

(F26) opposed some of these changes, although has not asked to appear at this hearing stream.

7.95 Kaaren Rosser provides planning evidence for Enviro NZ (323), and Graeme McCarrison lodges a statement on behalf of Chorus NZ Ltd, Connexa Ltd, FortySouth Group LP and Spark NZ Trading Ltd, which jointly under the collective name of the "Telecommunications Companies". These are two of the original submitters. I note their satisfaction with the recommended revised definition[74].

7.96 Pauline Whitney provides planning evidence for another submitter, Transpower New Zealand (504), which sought that the definition be replaced with the definition of *reverse sensitivity* in the Wellington Regional Policy Statement, which Ms Whitney supports.

7.97 Georgina McPherson provides planning evidence for the Fuel Companies (471) and Z Energy (468), which sought that the definition be replaced with the definitions of *reverse sensitivity* in the Regional Policy Statement and Wellington City District Plan (Appeals Version 2024) respectively.

7.98 Alice Blackwell provides planning evidence for Seaview Marina (343), which did not submit on the definition, although it made submission points on provisions using the term and which, if accepted, could potentially involve consequential amendments, or contrarily be consequentially affected by changes to the definition. She likewise supports use of the Wellington Regional Policy Statement definition[75]. I do not think this evidence adds any matters not already raised in original submissions on the issue.

7.99 Many submitters raised concerns around regional or national consistency for the definition. I note that there is no National Planning Standards definition, and also no definition in any other national direction. Other regional and territorial planning documents use different definitions, and so no matter to what extent the Council seeks to pursue regional or national consistency as a goal

[74] Statement of G McCarrison, page 1, and evidence of K Rosser, para 6.64.
[75] Evidence of A Blackwell, para 8.3.

by copying another existing definition, it must select a specific plan's definition to be consistent with. As I set out in the s42A report, and in concurrence with Ms Whitney[76] and Ms Blackwell[77], I think if this is to be done the most appropriate comparison for existing definitions is with the Regional Policy Statement, which has the most direct impact on any Lower Hutt district plan, although as I discuss in the s42A report[78] and below, I think this consistency is of limited value.

7.100 Ms Whitney and Ms McPherson raise various concerns already covered in original submissions and addressed in the s42A report. I will address some additional matters they raise.

Reverse sensitivity is not avoided unless significant or unreasonable

7.101 Ms Whitney reiterates from Transpower's submission that its primary concern is around reverse sensitivity issues for the National Grid, which is addressed in the National Policy Statement for Electricity Networks (NPS-EN)[79]. This issue will be addressed in substance in the Infrastructure hearing stream although I think it is useful to traverse this example of how the term is used in the PDP for the purpose of evaluating a core issue of contention in the definition – whether it is qualified by terms such as "significant" or "reasonable".

7.102 The NPS-EN sets out in Policy 11 that sensitive activities must be managed, including by:

> *avoiding reverse sensitivity effects on the EN, to the extent reasonably possible;*

7.103 Ms Whitney also calls attention to Objective 22 of the Regional Policy Statement, which seeks:

[76] Evidence of P Whitney, para 4.17.
[77] Evidence of A Blackwell, para 8.2.
[78] Section 42A Report, Industrial Zone and the Seaview Marina Zone, paras 753-754.
[79] Evidence of P Whitney, para 3.1 etc.

A compact, well-designed, climate-resilient, accessible, and environmentally responsive regional form with well-functioning urban areas and rural areas, where:

…

(n) the safe and efficient operation of regionally significant infrastructure is protected from potential reverse sensitivity effects.

…

7.104 Neither of these provisions seeks to avoid reverse sensitivity in an unqualified way. The NPS-EN limits itself to seeking avoiding reverse sensitivity "to the extent reasonably possible". The RPS seeks that reverse sensitivity is protected from reverse sensitivity as one of 14 different goals of the objective, which are not explicitly weighted or traded off against each other. The explanation in RPS Policy 8 (also on reverse sensitivity) for example notes that:

…

Protecting regionally significant infrastructure does not mean that all land uses or activities under, over or adjacent [to regionally significant infrastructure] are prevented … [c]ompeting considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.

…

7.105 By contrast, and also as noted by Ms Whitney[80], the PDP seeks in PINF-P3 to:

Protect the safe and efficient operation, maintenance and repair, upgrading and development of the National Grid from adverse effects by:

[80] Evidence of P Whitney, para 4.8.

…

(b) Avoiding reverse sensitivity effects on the National Grid,

…

7.106 This provision by contrast uses the strong word "avoid" and does not directly include any qualification, even though it is implementing the NPS-EN and RPS policy direction which does. This is because it is written to take advantage of the definition in the PDP as notified, which provides that qualification not by setting out a limit in the policy, but by doing so in the definition.

7.107 This is a core problem with adopting the RPS definition. Neither the NPS-EN, RPS, or PDP have a goal of avoiding all reverse sensitivity in all circumstances, and nor does other national or regional direction or the PDP on its own seek such a goal for other situations not related to the National Grid. It would be totally unreasonable to do so and fundamentally contradict the basis of the RMA that people carrying out activities that produce adverse effects have the duty to avoid, remedy, or mitigate those effects.

7.108 This does not in itself prevent use of the RPS definition, but it would involve consequential amendments to add qualifications to all of the objectives, policies, matters of discretion, and other provisions in the PDP that use the term unqualified, relying on the qualifications in the definition, which I think is less readable and excessive if done solely in order to make the definition match just one out of a number of different definitions in documents some plan users may encounter.

Reverse sensitivity arises through the action of regulatory agencies

7.109 The RPS definition also glosses over the mechanism by which reverse sensitivity arises – sensitive land uses do not directly constrain existing activities, which the RPS definition implies. Regulatory bodies constrain those activities in order to manage

their adverse effects. Ms Whitney acknowledges this mechanism in her evidence[81] although does not support it being mentioned.

7.110 What level and type of constraint occurs can depend on which sensitive activities are present and if new activities are introduced, which I infer is the major concern of Ms McPherson with this part of the definition[82]. This could arise through either a new activity establishing or a change in the nature of the activity. I believe this is already captured in the definition: "…*[t]hose constraints could be avoided by avoiding the establishment of that sensitive activity, or managing the operation or design of the activity…"*.

7.111 For infrastructure operators who deal with reverse sensitivity regularly and work across a large number of plans this mechanism may be obvious or not worth mentioning but as I set out in the s42A report, I believe that the primary plan users to be considered for the definition are not going to be the operators of the existing activities being protected, but people proposing new sensitive activities[83] and considering whether to prepare a resource consent application. For these users, I think that a slightly longer definition that can be broken down is preferable to a shorter but impenetrable or misleading definition.

Reverse sensitivity is not limited to adverse effects regulated by the Resource Management Act

7.112 Ms Whitney states she is unclear why reference to effects not managed under the RMA is required[84]. Ms McPherson considers that this reference is confusing and creates uncertainty[85]. I think this is best addressed through an example in this hearing stream, which as discussed in the evidence of Mr Wesney will address reverse sensitivity relating to oil terminals in Seaview. This reverse sensitivity does not chiefly arise from regulation of the adverse effects under the Resource Management Act, but because of how

[81] Evidence of P Whitney, para 4.5.
[82] Evidence of G McPherson, para 7.4(b)
[83] Section 42A Report, Industrial Zones and the Seaview Marina Zone, para 753.
[84] Evidence of P Whitney, para 4.16 (page 8).
[85] Evidence of G McPherson, para 7.4(a)

the oil terminals would be regulated under the Health and Safety at Work Act[86] if there were a significant increase in population at risk. Without acknowledging this, I think there is a risk a plan user may explicitly interpret "adverse environmental effects" in the RPS definition as being limited to effects controlled by the RMA, or at least forget to account for those effects.

7.113 Ms Whitney further is concerned that reference to other legislation may require applicants to consider reverse sensitivity in relation to that other legislation[87]. I think this is obviously something that would and should be expected in a resource consent application where reverse sensitivity from that other legislation is an issue. The most obvious way for applicants to be aware that this is an issue is early engagement with the affected existing activities, and Council is able to help (e.g. through the resource consent pre-application process) with identifying affected parties.

Other concerns in planning evidence

7.114 Ms Whitney is concerned that the definition I recommend in the s42A report makes double use of the word "sensitive":

> *… The sensitive activity is sensitive in relation to those adverse environmental effects, and …*

7.115 I do not think this is in any way a practical issue, but I agree that it is traditional style in English writing to avoid repeating a word in the same sentence and Ms Whitney is welcome to suggest a rewrite of the clause to avoid it.

7.116 Ms McPherson considers that it is uncertain how an application that requires resource consent at both regional and territorial level, or in multiple territorial authorities, would address a possible difference in definitions in the two documents.

[86] See the evidence of G McPherson for the Hazardous Substances topic, para 5.14(d) and (e).
[87] Evidence of P Whitney, para 4.16 (page 9).

7.117 This is potentially an issue for any two definitions (or any other provisions) in different planning documents. The definition of reverse sensitivity is primarily going to be an issue in resource consents to establish sensitive activities in situations where the plan manages that for reverse sensitivity reasons, and I do not think these are more likely than any other application to require consents under multiple plans, or that this definition would be any more of an issue than the hundreds of other definitions and provisions that differ between plans.

7.118 The National Planning Standards provide a mechanism to ensure a standard definition where consistency is seen as of overriding value, and do not have a standard definition for *reverse sensitivity*. Otherwise, the Resource Management Act has standard and well-established provision for consents that cross jurisdictional boundaries, as set out in the Cross Boundary Matters chapter of the PDP.

7.119 Ms McPherson notes[88] that her clients were s274 parties to an appeal against the definition of *reverse sensitivity* in the Wellington City Proposed District Plan and that appeal was resolved through mediation. I agree with her that this demonstrates a high level of interest in the definition from submitters. I however consider that the fact that the appeal occurred in the first place cuts against Ms McPherson's view that there is a "*widely accepted interpretation*"[89] of reverse sensitivity, as the fact an appeal occurs obviously means that there was a difference of opinion between the appellants and the Independent Hearings Panel.

Conclusion

7.120 Having reviewed the evidence and statements for the hearing stream I remain of the view that the definition be altered as I recommend in the Section 42A Report.

[88] Evidence of G McPherson, para 7.5.
[89] Evidence of G McPherson, para 7.2.

8.0 Seaview Marina Zone – responses to submitter evidence and statements

National and regional direction relating to the Marina

8.1 Alice Blackwell provides evidence for Seaview Marina Ltd (343) and states that in her view the Marina fits within the definition of "infrastructure" within the Act[90] and accordingly the National Policy Statement for Infrastructure would apply, as it is within subsection (k) of the definition:

> *facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:*

8.2 I have sought advice from counsel on this issue which I attach as Appendix 2.

8.3 In applying the considerations set out in that advice, I do not consider that any aspect of the Marina is "infrastructure" within the meaning of the Act. In my view, the primary function of the marina facilities in Seaview is recreational and for the recreational use of vessels. The "cargo" and "passengers" loaded onto the boats are generally not intended to be carried to another destination, and carrying people and goods from one place *to a different place* is in my view an essential condition to the rationale of including port facilities as infrastructure, and supported by the use of "*port related commercial undertakings"* and the reference to the Port Companies Act 1988 in the definition. The Marina may at times load passengers and cargo to or from another destination, but this is not its main or even a major purpose.

8.4 It is also worth considering that in the PDP as notified, provisions relating to infrastructure sit in the Infrastructure chapter of the PDP which override zone rules. Were any of the terrestrial aspects of the Marina to in part or in whole in fact come under the definition of

[90] Evidence of A Blackwell, para 5.1.

infrastructure, that rule framework would apply, and the marina "infrastructure" would be governed by the catch-all rules in the Infrastructure chapter, regardless of whether or not they were permitted by SMZ-R4 (Marina activities).

8.5 Ms Blackwell further assesses the application of the New Zealand Coastal Policy Statement (NZCPS) to the marina, and I agree with her and think it is worth noting that the NZCPS provides for marinas in the coastal environment, recognises their obvious functional need to locate in the coastal environment, that the Seaview Marina specifically enhances public access to the coast, and that this can be supported by complementary activities that support visitors (including commercial activities like retail and food and beverage activities). However, with the partial withdrawal of the Coastal Environment chapter, this support from the NZCPS is now primarily relevant in relation to the NZCPS directions around natural hazards, which will be addressed in Hearing Stream 5.

Office activities

New provisions sought

8.6 Alice Blackwell provides evidence for Seaview Marina Ltd (343) and considers that it is appropriate to provide for office activities in the Seaview Marina Zone.

8.7 Accessory office activities are already provided for in the zone as proposed, and I think the rule framework is adequate for these.

8.8 Standalone office activities up to 100m² GFA are permitted under rule SMZ-R20. Standalone offices above this threshold potentially undermine co-location benefits from being located in centres, and may adversely affect the centres hierarchy. This is particularly relevant in locations such as Seaview Marina, which are less accessible by public transport and therefore less supportive of the plan's strategic goals around mode shift. These factors would be considered in a resource consent for larger standalone office activities which enables those potential effects to be assessed on a

case-by-case basis. This approach is broadly consistent with how office activities are managed in other non-centre zones.

8.9 Accordingly, I consider the current approach to be appropriate and do not recommend any changes.

Management of hazardous substances risks in the Seaview Marina Zone

SMZ-O1/O2, SMZ-P2/P3/P5, SMZ-R3/R4/R8/R11/R12/R14/R15/ R16/R18/R19/R20

8.10 Georgina McPherson provides evidence on behalf of the Fuel Companies (471) and Z Energy (468) who seek various changes to provisions in the Seaview Marina Zone to address the risks from hazardous substances and reverse sensitivity to the oil terminals in Seaview arising from the Seaview Marina site. In particular, she seeks the following changes:

- Amend the objectives and policies to change from managing reverse sensitivity to avoiding it in all circumstances
- Add wording to acknowledge that design, location, and management of sensitive activities will influence the management of reverse sensitivity
- Change the activity status of a range of activities in the zone from permitted subject to conditions to restricted discretionary to ensure that hazardous substance risk and reverse sensitivity are addressed whenever those activities are proposed.

8.11 As a structural matter, and as I set out in the s42A report[91], as far as reverse sensitivity relates specifically to hazardous substances risk, if granted this relief should sit in the Hazardous Substances chapter. A line must be drawn somewhere about how far from major hazard facilities to address the risk in consents, and the Hazardous

[91] Section 42A Report, Industrial Zones and the Seaview Marina Zone, section 6.2.2 (page 105 onwards).

Substances chapter is the place where that line is drawn. Further, the National Planning Standards require that "*provisions required to manage land use in close proximity to major hazard facilities to manage risk and reverse sensitivity issues*" must be located in a Hazardous Substances chapter[92]. Accordingly, I do not consider it appropriate to introduce or duplicate such provisions within the Seaview Marina Zone. Ms McPherson's evidence does not raise any new matter that would alter this conclusion.

8.12 Ms McPherson's evidence also raises new substantive (rather than structural) issues regarding the management of hazardous substance risk. These matters are addressed in detail in the rebuttal evidence of Mr Wesney for the Hazardous Substances topic.

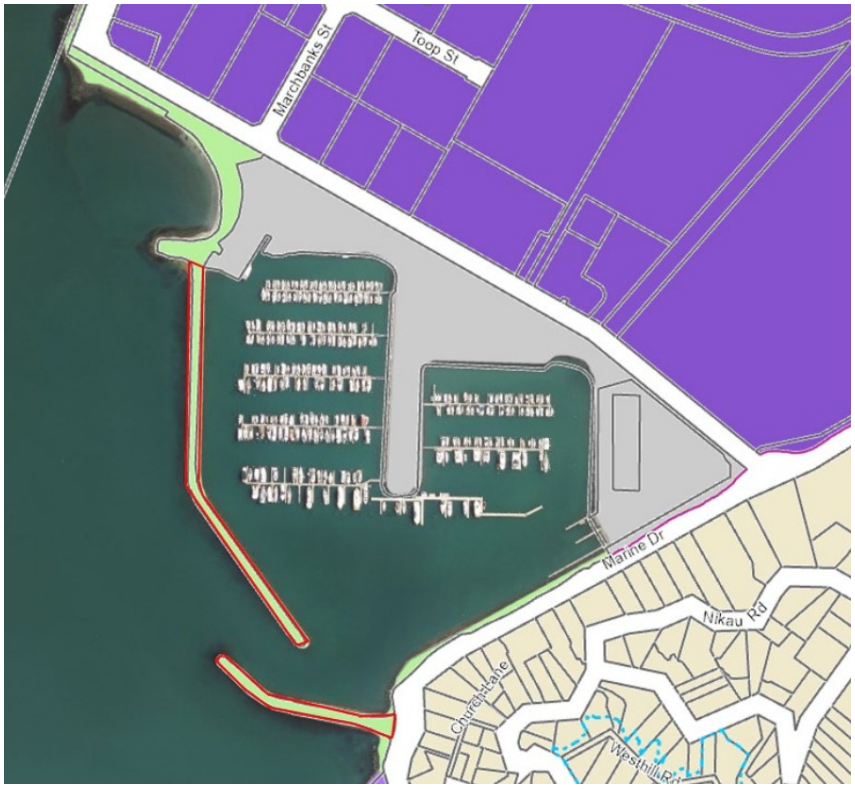
8.13 Reverse sensitivity risk for industry in general is an issue to be managed in the zone. However, I do not think Ms McPherson's evidence identifies any new matters beyond those addressed in the s42A report, that would justify changes to the zone provisions in relation to reverse sensitivity from activities other than the oil terminals.

Zone Maps – Seaview Marina breakwaters

8.14 As I discuss in the s42A report, I agree with the Seaview Marina Ltd submission that the breakwaters for the Marina should be included within the Seaview Marina Zone, but that a specific boundary should be proposed by the Marina for the edge of the zone[93]. Alice Blackwell in her evidence for Seaview Marina Ltd (343) has provided such a boundary[94] and I agree that it is an appropriate location that reflects the functional extent of the marina and provides a clear and defensible zoning edge. Accordingly, I recommend amending the zone maps to rezone part of the Open

[92] National Planning Standards, Chapter 7, District-wide Matters Standard, standard 13.c
[93] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 700-707.
[94] Evidence of A Blackwell, para 6.2.

Space Zone as Seaview Marina Zone as set out in her evidence (affected area outlined in red):



Section 32AA Evaluation

8.15 As the change is already discussed in substance in the s42A report, and this recommendation is only around drawing a specific line, I believe the Section 32AA Evaluation in that report still applies[95].

Definitions – "Marina Activities"

8.16 Alice Blackwell provides evidence for Seaview Marina Ltd (343) which sought a definition of *marina activities*. I proposed such a definition in the s42A report[96]. Ms Blackwell's evidence seeks a number of additional matters within the definition, most of which are addressed in the discussion of the s42A report. However, the

[95] Section 42A Report, Industrial Zones and the Seaview Marina Zone, section 8.1.9, page 181.
[96] Section 42A Report, Industrial Zones and the Seaview Marina Zone, paras 774-785.

proposed inclusion of "commercial and tourism activities" extends beyond the scope of the original submissions.

8.17 In general, I think that activities should only be included within the definition of *marina activities* where they are clearly integral to the operation and functioning of a marina. Activities that are more loosely associated with marina environments are more appropriately provided for through specific rules (which may well also have the same permitted activity status, if warranted). Expanding the definition to include a broad range of commercial or tourism activities risks creating an overly wide and potentially unclear definition, which may reduce certainty for plan users. For example, "Hospitality and food and beverage activities" are already provided for in rule SMZ-R12 (Food and beverage activities). Including such activities within the definition would duplicate and potentially blur the distinction between activity categories.

8.18 Accordingly, I do not recommend any changes to the definition of *marina activities* recommended in the s42A report.

9.0 Matters not raised by submitters

Definitions – "Urban Environment"

9.1 It has come to my attention that the PDP's definition of "urban environment" does not include the Seaview Marina Zone. This definition is not the subject of direct submissions but would potentially be the subject of consequential amendments from submissions on the definition of "rural environment", to be addressed in Hearing Stream 3.

9.2 As this issue is primarily relevant to the Seaview Marina Zone, I think it is appropriate to be dealt with in the hearing stream for this zone.

9.3 I consider that the Seaview Marina Zone is clearly part of the urban environment and that its omission is an error, as:

- The Seaview Marina site is urban in character and is located within the established urban area of the district,
- The zone was included in the definition in the draft district plan, when the Seaview Marina was a precinct within the General Industrial Zone, which was (and still is) itself included in the definition,
- The introduction and provisions[97] of the Seaview Marina Zone as notified repeatedly refer to the Seaview Marina Zone as forming a part of the urban environment, and
- Nothing else in the PDP suggests the Seaview Marina Zone is or should be managed as part of the rural environment or that there is a third category of neither rural nor urban to which it belongs.

9.4 I have discussed this issue with the reporting officer for Rural Zones, Sean Bellamy. He supports this correction and is of the opinion this correction will not adversely impact the discussion of issues in the Rural Zones topic and that (depending on the panel's handling of submission points on the definition of "rural environment") the definition of urban environment can be consequentially amended further if necessary.

9.5 Accordingly, I recommend amending the definition of "urban environment" as follows as a change of minor effect or minor correction under Schedule 1, Clause 16:

means any area within the following zones:

a. Residential Zones
b. Commercial and Mixed Use Zones
c. Industrial Zones
d. Open Space Zone
e. Sport and Active Recreation Zone
f. Hospital Zone
g. Marae Zone, ~~or~~

[97] Second paragraph of the introduction, SMZ-O2, SMZ-O4, and SMZ-P9.

x. Seaview Marina Zone, or

h. Tertiary Education Zone

Section 32AA Evaluation

9.6 As I believe this gives better effect to the Council's intention at the time of writing the Section 32 report, that report is still applicable without change.

STEPHEN DAVIS

Senior Policy Planner

For Hutt City Council

19 May 2026

APPENDIX 1: RECOMMENDED AMENDMENTS TO PROVISIONS

LIZ — Light Industrial Zone

...

LIZ-R24	Servicing
1. **Activity status:** Permitted Where: ~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~ ~~b. The servicing occurs only between 7:00am and 10:00pm.~~ a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone.	
2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with LIZ-R24.1. **Matters of discretion are restricted to:** 1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zone, ~~and~~ Marae Zone, and Rural Zones. 2. The functional needs and operational needs of the activity. Notification: Public notification is precluded for applications under this rule.	

…

GIZ — General Industrial Zone

…

GIZ-R17	Other activities not otherwise provided for
1. **Activity status:** Permitted Where: a. The activity is ancillary to a permitted activity and has a gross floor area of no more than 200m².	

2. **Activity status:** Discretionary Where: a. Compliance is not achieved with GIZ-R17.1.

…

GIZ-R24	Servicing
1. **Activity status:** Permitted Where: ~~c. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~ ~~d. The servicing occurs only between 7:00am and 10:00pm.~~ b. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone.	
2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with GIZ-R24.1. **Matters of discretion are restricted to:** 1. The night-time amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zone, ~~and~~ Marae Zone, and Rural Zones.. **Notification:** Public notification is precluded for applications under this rule.	

…

HIZ — Heavy Industrial Zone

…

HIZ-Rxxx	Resource recovery parks and solid waste transfer stations
1. **Activity status:** Permitted Where:	

	a. The activity is not within 200 metres of a site in a Residential Zone, Open Space and Recreation Zone, or Marae Zone, b. The activity does not generate dust or odour effects beyond site boundaries, c. The activity does not have residual risk for health and safety beyond site boundaries, d. Waste is not stored or handled outdoors, and e. Waste containing hazardous substances is not accepted at the facility.
	2. Activity status: Restricted discretionary Where: a. Compliance is not achieved with HIZ-Rxxx.1. **Matters of discretion are restricted to**: 1. Amenity values outside the Industrial Zones, 2. Residual risk for health and safety beyond the site, 3. The management of dust, odour, and litter.

…

HIZ-R17	**Heavy industrial activities not otherwise provided for**
	1. **Activity status:** Restricted discretionary **Matters of discretion are restricted to:** a. Amenity values outside the Industrial Zones. b. Health and safety beyond the site. c. The management of dust and odour.

…

HIZ-R23	**Servicing**
	1. **Activity status:** Permitted Where: ~~e. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~ ~~f. The servicing occurs only between 7:00am and 10:00pm.~~ c. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or

	ii. The notional boundary of an activity sensitive to noise in a Rural Zone.
	2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with HIZ-R23.1. **Matters of discretion are restricted to:** b. The night-time amenity of ~~sensitive activities~~ residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zone, ~~and~~ Marae Zone, and Rural Zones. **Notification:** Public notification is precluded for applications under this rule.

…

SMZ — Seaview Marina Zone

…

SMZ-R25	Servicing
	1. **Activity status:** Permitted Where: ~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or within 40 metres of the notional boundary of a sensitive activity in a Rural Zone, or~~ b. ~~The servicing occurs only between 7:00am and 10:00pm.~~ a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone. In applying condition a, any part of a site in a Residential Zone, Mixed Use Zone, Marae Zone, or Rural Zone, that is within a risk management overlay (see Hazardous Substances chapter) may be disregarded.
	2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with SMZ-R27.1. **Matters of discretion are restricted to:**

1. The night-time amenity of ~~sensitive activities~~ residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, the Mixed Use Zone, the Marae Zone, and Rural Zones.

Notification:
Public notification is precluded for applications under this rule.

…

CCZ — City Centre Zone

…

CCZ-R4	Alterations and additions to existing buildings and structures

1. **Activity status:** Permitted

Where:

a. For additions, ~~C~~compliance is achieved with, and for alterations, compliance is either achieved with or existing non-compliances are not worsened for:
   i. CCZ-S1: Sunlight access to specified public spaces,
   ii. CCZ-S2: Height in relation to boundary — Adjoining zones,
   iii. CCZ-S3: Setbacks — Adjoining zones,
   iv. CCZ-S4: Active frontages — Buildings and structures,
   v. CCZ-S5: Active frontages — Required verandahs,
   vi. CCZ-S6: Active frontages — Existing vehicle crossings,
   vii. CCZ-S7: Active frontages — Land uses,
   viii. CCZ-S8: Location and design of carparking,
   ix. CCZ-S9: Outlook space,
   x. Within the Riverbank Precinct, CCZ-PREC1-S1: Riverbank frontages,
   xi. Within the Civic Precinct, CCZ-PREC2-S1: Building coverage,
   xii. Within the Civic Precinct, CCZ-PREC2-S2: Building height, and
   xiii. Within the Civic Precinct, CCZ-PREC2-S3: Carparking coverage.
b. For buildings, the external building form of the existing building remains unchanged, and
c. ~~The alterations or a~~Additions are not visible from public spaces~~, or are purely internal alterations~~.

2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with CCZ-R4.1. **Matters of discretion are restricted to:** 1. The urban design outcomes in CCZ-P9: Urban design outcomes (all significant developments). 2. The matters in CCZ-P10: Urban design outcomes (exclusions). 3. The matters of discretion in any of the following standards if they are not met: i. CCZ-S1: Sunlight access to specified public spaces, ii. CCZ-S2: Height in relation to boundary — Adjoining zones, iii. CCZ-S3: Setbacks — Adjoining zones, iv. CCZ-S4: Active frontages — Buildings and structures, v. CCZ-S5: Active frontages — Required verandahs, vi. CCZ-S6: Active frontages — Existing vehicle crossings, vii. CCZ-S7: Active frontages — Land uses, viii. CCZ-S8: Location and design of carparking, ix. CCZ-S9: Outlook space, x. Within the Riverbank Precinct, CCZ-PREC1-S1: Riverbank frontages, xi. Within the Civic Precinct, CCZ-PREC2-S1: Building coverage, xii. Within the Civic Precinct, CCZ-PREC2-S2: Building height, and xiii. Within the Civic Precinct, CCZ-PREC2-S3: Carparking coverage. **Notification:** Public notification is precluded for applications under this rule where the only non-compliances are CCZ-S2, CCZ-S3, or CCZ-S9. Limited notification is precluded for applications under this rule where the only non-compliance is CCZ-S9.	
CCZ-R5	**Construction of ~~N~~new minor buildings and minor structures**
1. **Activity status:** Permitted Where: a. Compliance is achieved with: i. CCZ-S1: Sunlight access to specified public spaces, ii. CCZ-S2: Height in relation to boundary — Adjoining zones, iii. CCZ-S3: Setbacks — Adjoining zones,	

iv. CCZ-S4: Active frontages — Buildings and structures,
v. CCZ-S5: Active frontages — Required verandahs,
vi. CCZ-S6: Active frontages — Existing vehicle crossings,
vii. CCZ-S7: Active frontages — Land uses,
viii. CCZ-S8: Location and design of carparking,
ix. CCZ-S9: Outlook space,
x. Within the Riverbank Precinct, CCZ-PREC1-S1: Riverbank frontages,
xi. Within the Civic Precinct, CCZ-PREC2-S1: Building coverage,
xii. Within the Civic Precinct, CCZ-PREC2-S2: Building height, and
~~xiii.~~ Within the Civic Precinct, CCZ-PREC2-S3: Carparking coverage~~, and~~

~~b. The minor building or minor structure:~~
~~i. Is ancillary to an established activity on the site,~~
~~ii. Has a gross floor area of no more than 30m^2,~~
~~iii. Has a height no greater than 5m above ground level,~~
~~iv. Is not located within 10 metres of an Active Frontage, and~~
~~v. Is screened and is not visible from public spaces.~~

2. **Activity status:** Restricted discretionary

Where:
~~a.~~ Compliance is not achieved with CCZ-R5.1~~a, but~~
b. ~~Compliance is achieved with CCZ-R5.1b~~.

Matters of discretion are restricted to:
1. The urban design outcomes in CCZ-P9: Urban design outcomes (all significant developments)
2. The matters in CCZ-P10: Urban design outcomes (exclusions), and
3. The matters of discretion in any of the following standards if they are not met:
i. CCZ-S1: Sunlight access to specified public spaces,
ii. CCZ-S2: Height in relation to boundary — Adjoining zones,
iii. CCZ-S3: Setbacks — Adjoining zones,
iv. CCZ-S4: Active frontages — Buildings and structures,
v. CCZ-S5: Active frontages — Required verandahs,
vi. CCZ-S6: Active frontages — Existing vehicle crossings,
vii. CCZ-S7: Active frontages — Land uses,
viii. CCZ-S8: Location and design of carparking,
ix. CCZ-S9: Outlook space,
x. Within the Riverbank Precinct, CCZ-PREC1-S1: Riverbank frontages,

xi. Within the Civic Precinct, CCZ-PREC2-S1: Building coverage,
xii. Within the Civic Precinct, CCZ-PREC2-S2: Building height, and
xiii. Within the Civic Precinct, CCZ-PREC2-S3: Carparking coverage.

Notification:
Public notification is precluded for applications under this rule where the only non-compliances are CCZ-S2, CCZ-S3, or CCZ-S9.

Limited notification is precluded for applications under this rule where the only non-compliance is CCZ-S9.

Note:
Where condition CCZ-R5.1b is not met, this rule does not apply, and rule CCZ-R6 applies.

…

CCZ-R28	Servicing

1. **Activity status:** Permitted

Where:
~~g. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~
~~h. The servicing occurs only between 7:00am and 10:00pm.~~
d. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of:
i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or
ii. The notional boundary of an activity sensitive to noise in a Rural Zone.

2. **Activity status:** Restricted discretionary

Where:
a. Compliance is not achieved with CCZ-R28.1
Matters of discretion are restricted to:
1. The night-time amenity of ~~sensitive activities~~ residential activities and other activities sensitive to noise in the surrounding area in the ~~Mixed Use Zone and in Residential Zones, and Marae Zones~~ Residential Zones, Mixed Use Zone, Marae Zone, and Rural Zones.
2. The functional needs and operational needs of the activity.

Notification:

	Public notification is precluded for applications under this rule.

…

MCZ — Metropolitan Centre Zone

…

MCZ-R4	Alterations and additions to existing buildings and structures
	1. **Activity status:** Permitted Where: a. For additions, c~~C~~ompliance is achieved with, and for alterations, compliance is either achieved with or existing non-compliances are not worsened for: i. MCZ-S1: Height, ii. MCZ-S2: Height in relation to boundary - adjoining zones, iii. MCZ-S3: Setbacks - adjoining zones, iv. MCZ-S4: Active frontages — buildings and structures, v. MCZ-S5: Active frontages — required verandahs, vi. MCZ-S6: Active frontages — existing vehicle crossings, vii. MCZ-S7: Active frontages — land uses, viii. MCZ-S8: Location and design of carparking, ix. MCZ-S9: Outdoor living space, x. MCZ-S10: Outlook space, and xi. MCZ-S11: Height in relation to boundary and setbacks — Te Puni Urupā, b. For buildings, the external building form of the existing building remains unchanged, and c. ~~The alterations or a~~Additions are not visible from public spaces~~, or are purely internal alterations~~.
	2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with MCZ-R4.1. **Matters of discretion are restricted to:** b. The urban design outcomes in MCZ-P9: Urban design outcomes (all significant developments). c. The matters in MCZ-P10: Urban design outcomes (exclusions). d. The matters of discretion in any of the following standards if they are not met: i. MCZ-S1: Height, ii. MCZ-S2: Height in relation to boundary - adjoining zones, iii. MCZ-S3: Setbacks - adjoining zones,

iv. MCZ-S4: Active frontages — buildings and structures,
v. MCZ-S5: Active frontages — required verandahs,
vi. MCZ-S6: Active frontages — existing vehicle crossings,
vii. MCZ-S7: Active frontages — land uses,
viii. MCZ-S8: Location and design of carparking,
ix. MCZ-S9: Outdoor living space,
x. MCZ-S10: Outlook space, and
xi. MCZ-S11: Height in relation to boundary and setbacks — Te Puni Urupā.

e. Within the Jackson Street Character Transition Precinct, the matters in policy MCZ-PREC1-P1: Character values.

Notification:
Public notification is precluded for applications under this rule where the only non-compliances are MCZ-S2, MCZ-S3, MCZ-S9, or MCZ-S10, or MCZ-S11.
Limited notification is precluded for applications under this rule where the only non-compliances are MCZ-S9 or MCZ-S10.

MCZ-R5	Construction of ~~N~~new minor buildings and minor structures

2. **Activity status:** Permitted

Where:

1. Compliance is achieved with:
   i. MCZ-S1: Height,
   ii. MCZ-S2: Height in relation to boundary - adjoining zones,
   iii. MCZ-S3: Setbacks - adjoining zones,
   iv. MCZ-S4: Active frontages — buildings and structures,
   v. MCZ-S5: Active frontages — required verandahs,
   vi. MCZ-S6: Active frontages — existing vehicle crossings,
   vii. MCZ-S7: Active frontages — land uses,
   viii. MCZ-S8: Location and design of carparking,
   ix. MCZ-S9: Outdoor living space,
   x. MCZ-S10: Outlook space, and
   ~~xi.~~ MCZ-S11: Height in relation to boundary and setbacks — Te Puni Urupā~~, and~~

~~2. The minor building or minor structure:~~
   ~~i. Is ancillary to an established activity on the site,~~
   ~~ii. Has a gross floor area of no more than 30m^{2,}~~
   ~~iii. Has a height no greater than 5m above ground level,~~
   ~~iv. Is not located within 10 metres of an Active Frontage, and~~
   v. ~~Is screened and is not visible from public spaces.~~

2. **Activity status:** Restricted discretionary

Where:

~~a.~~ Compliance is not achieved with MCZ-R5.1~~a, but~~
b. ~~Compliance is achieved with MCZ-R5.1b~~.

Matters of discretion are restricted to:

c. The urban design outcomes in MCZ-P9: Urban design outcomes (all significant developments).
d. The matters in MCZ-P10: Urban design outcomes (exclusions).
e. The matters of discretion in any of the following standards if they are not met:
    i. MCZ-S1: Height,
    ii. MCZ-S2: Height in relation to boundary - adjoining zones,
    iii. MCZ-S3: Setbacks - adjoining zones,
    iv. MCZ-S4: Active frontages — buildings and structures,
    v. MCZ-S5: Active frontages — required verandahs,
    vi. MCZ-S6: Active frontages — existing vehicle crossings,
    vii. MCZ-S7: Active frontages — land uses,
    viii. MCZ-S8: Location and design of carparking,
    ix. MCZ-S9: Outdoor living space,
    x. MCZ-S10: Outlook space, and
    xi. MCZ-S11: Height in relation to boundary and setbacks — Te Puni Urupā.
f. Within the Jackson Street Character Transition Precinct, the matters in policy MCZ-PREC1-P1: Character values.

Notification:
Public notification is precluded for applications under this rule where the only non-compliances are MCZ-S2, MCZ-S3, MCZ-S9, MCZ-S10, or MCZ-S11.
Limited notification is precluded for applications under this rule where the only non-compliances are MCZ-S9 or MCZ-S10.

Note:
Where condition MCZ-R5.1b is not met, this rule does not apply, and rule MCZ-R6 applies.

…

MCZ-R28	**Servicing**

2. **Activity status:** Permitted

Where:

~~a. The servicing is not within 40m of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~
~~b. The servicing occurs only between 7:00am and 10:00pm.~~
c. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of:

	i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone.
	3. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with MCZ-R28.1. **Matters of discretion are restricted to:** 3. The nighttime amenity of ~~sensitive activities~~ residential activities and other activities sensitive to noise in the surrounding area in the ~~Mixed Use Zone and in Residential Zones, Marae Zone, and Rural Zones~~ Residential Zones, Mixed Use Zone, Marae Zone, and Rural Zones. **Notification:** Public notification is precluded for applications under this rule.

…

LCZ — Local Centre Zone

…

LCZ-R23	Servicing
	1. **Activity status:** Permitted Where: ~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~ b. ~~The servicing occurs only between 7:00am and 10:00pm.~~ a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone.
	2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with LCZ-R25.1. **Matter of discretion is restricted to:** 4. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in the ~~Mixed Use Zone and in Residential Zones, Marae Zones, and Rural Zones~~ Residential Zones, Mixed Use Zone, Marae Zone, and Rural Zones.

2. The functional needs and operational needs of the activity. **Notification:** Public notification is precluded for applications under this rule.

…

NCZ — Neighbourhood Centre Zone

…

NCZ-R23	Servicing
1. **Activity status:** Permitted Where: ~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~ b. ~~The servicing occurs only between 7:00am and 10:00pm.~~ a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of: i. A site in a Residential Zone, Mixed Use Zone, or Marae Zone, or ii. The notional boundary of an activity sensitive to noise in a Rural Zone.	
2. **Activity status:** Restricted discretionary Where: a. Compliance is not achieved with NCZ-R25.1. **Matters of discretion are restricted to:** 1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in the ~~Mixed Use Zone and in Residential Zones, Marae Zones, and Rural Zones~~ Residential Zones, Mixed Use Zone, Marae Zone, and Rural Zones. **Notification:** Public notification is precluded for applications under this rule.	

…

Definitions

…

minor building / minor structure	~~means, in a rule referring to a minor building or minor structure, a building or structure meeting the relevant conditions for that rule.~~

	Means, in relation to a rule for buildings and structures in a Commercial Zone, a building or structure that: a. Is ancillary to an established activity on the site, b. Has a gross floor area of no more than 30m2, c. Has a height no greater than 5m above ground level, d. Is not located within 10 metres of an Active Frontage, and e. Is screened and is not visible from public spaces.

…

residual risk	means, in relation to the Hazardous Substances chapter and Industrial Zones chapter, *… [body of definition discussed in evidence of Hamish Wesney for the Hazardous Substances topic]*

…

urban environment	means any area within the following zones: a. Residential Zones, b. Commercial and Mixed Use Zones, c. Industrial Zones, d. Open Space Zone, e. Sport and Active Recreation Zone, f. Hospital Zone, g. Marae Zone, ~~or~~ x. Seaview Marina Zone, or h. Tertiary Education Zone.

APPENDIX 2: ADVICE OF DLA PIPER

DLA Piper New Zealand
Level 4
20 Customhouse Quay
Wellington 6011
PO Box 2791
Wellington 6140
New Zealand
T: +64 4 472 6289
dlapiper.com

Confidential

Stephen Davis
Senior Policy Planner
Hutt City Council
LOWER HUTT 5010

By email: Stephen.Davis@huttcity.govt.nz

Our reference
1413453

15 May 2026

Dear Stephen

Proposed District Plan, Hearing Stream 2 - Seaview Marina Zone – is the Seaview Marina "infrastructure"

Introduction

1 You have asked for advice on an issue that has arisen through submitter evidence on Hearing Stream 2 Business – Seaview Marina Zone. Specifically, whether the Seaview Marina (**Marina**) is "infrastructure" under the definition in the Resource Management Act 1991 (**RMA**).

2 The expert evidence filed on behalf of the Marina asserts that the Marina is "infrastructure" under the RMA, and therefore, the National Policy Statement for Infrastructure (**NPS-I**) needs to be considered in response to its submissions on the Proposed District Plan.[1]

3 In summary, while we consider that some components of the Marina could be considered "infrastructure" under the RMA (specifically, the boat ramp in light of a recent High Court decision of *Far North Holdings Limited v Expert Consenting Panel* [2026] NZHC 140), the Marina as a whole is unlikely to fall within the definition. Each component needs to be assessed and to be "infrastructure" the predominant use of each needs to be for loading or unloading cargo or passengers carried by sea for it to be a "facility" for that purpose.

Definition of "infrastructure"

4 Section 2 of the RMA sets out the definition of infrastructure. Most relevantly it includes the following:

> facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988

5 While the NPS-I adds "additional infrastructure" to the term in that NPS, none of the "additional infrastructure" categories are relevant here.

6 There is no definition of "facilities", "cargo" or "passengers" in the RMA. The New Zealand Oxford Dictionary defines these terms as:

[1] Statement of Evidence of Alice Jane Blackwell on behalf Seaview Marina Limited (Submitter 343) – Planning – 8 May 2026, section 5.

6.1 "facility" as "building or buildings with a specific, usu. public, use".

6.2 "passenger" as "a traveller in or on a public or private conveyance (other than the driver, pilot, crew etc)"; and

6.3 "cargo" as "goods carried on a ship or aircraft".

Caselaw

7 There is a relevant recent High Court decision (*Far North Holdings Limited v Expert Consenting Panel*), where the High Court expressly considered whether an integrated launch facility (a public boat ramp for launching and retrieval of trailer-carried recreational boats and an associated manoeuvring area and parking area) was "infrastructure" under the NZCPS (which "pulls in" the RMA definition). The High Court considered that the facility, was "infrastructure". It stated:[2]

> …I accept the Panel was wrong in its assertion that the facility was not infrastructure. Even though intended for recreational users, the facility was still a facility for the loading or unloading of cargo or passengers carried by sea.

Is the Marina infrastructure?

8 When considering the RMA definition of "infrastructure" in light of the above High Court decision, it is clear there is precedent that states a public boat ramp can be "infrastructure" because it is a facility for the loading or unloading of cargo or passengers carried by sea (although there was no analysis of this in the decision). The question is whether the Marina as a whole falls within this definition.

9 In terms of the Marina as a whole:

9.1 It is not a facility for the specific purpose of loading or unloading cargo or passengers carried by sea. As set out in the evidence of Ms Blackwell at paragraph 4.2, the Marina considers that the primary nature of its activities is:

> the operation of boating facilities and storage, providing essential services and amenities for both recreational and commercial boaters, and the maintenance of infrastructural assets. The site currently has 375 marina berths, with resource consent for an additional 103 marina berths and 80 fore-aft moorings. The Marina has 250 boat trailer parks and owns and operates a marine trade and retail hub - the Wellington Marine Centre. The site also contains the Lowry Bay Yacht Club, a fully licensed venue that can be hired out for social or corporate events.

9.2 In paragraph 4.3 the evidence records that in its submission:

> SML outlines that the future aspirations for the Marina include retail and commercial facilities, including those that are attracted to a coastal setting, but in themselves are not solely marina related, such as harbourside markets, galleries, retail and office. The Marina also has an interest in exploring residential development.

[2] *Far North Holdings Limited v Expert Consenting Panel* [2026] NZHC 140, at [139]

10 We accept there will be parts of the Marina that at any given time are being used for loading or unloading cargo or passengers carried by sea (eg, berth holders loading goods and passengers on to boats before departing and returning). However, at other times, those same areas will be used for different purposes (eg, berthing or living on board). This is the difference between the Marina and a public boat ramp (which is *only* used for the purpose of loading/unloading people and goods and launching and retrieving boats). There will also be parts of the Marina that are not used at all for loading or unloading cargo or passengers carried by sea (eg, the licensed venue and maintenance services).

11 In our view, the predominant use of the relevant component of the Marian needs to be for loading or unloading cargo or passengers carried by sea for it to be a "facility" for that purpose. The current use (and intended future use) set out in the SML evidence does not support a conclusion that the Marina as a whole is "infrastructure" – a more fine grained analysis is required of the components that make up the Marina and it may be some of those components (eg, the boat ramp) will meet the requirement to be a "facility" for loading or unloading cargo or passengers carried by sea (which we read as meaning predominantly for that use) and others will not.

12 We are happy to answer any further questions.

Regards

Kerry Anderson
Partner

T: +64 4 474 3255
kerry.anderson@nz.dlapiper.com

DLA Piper New Zealand

Emma Manohar
Special Counsel

T: +64 4 918 3016
emma.manohar@nz.dlapiper.com

DLA Piper New Zealand