

Wellington City Proposed District Plan

Hearing Stream 4

Part 3, Commercial and Mixed Use Zones

Part 6 - Commercial Zone

Section 42A of the Resource Management Act

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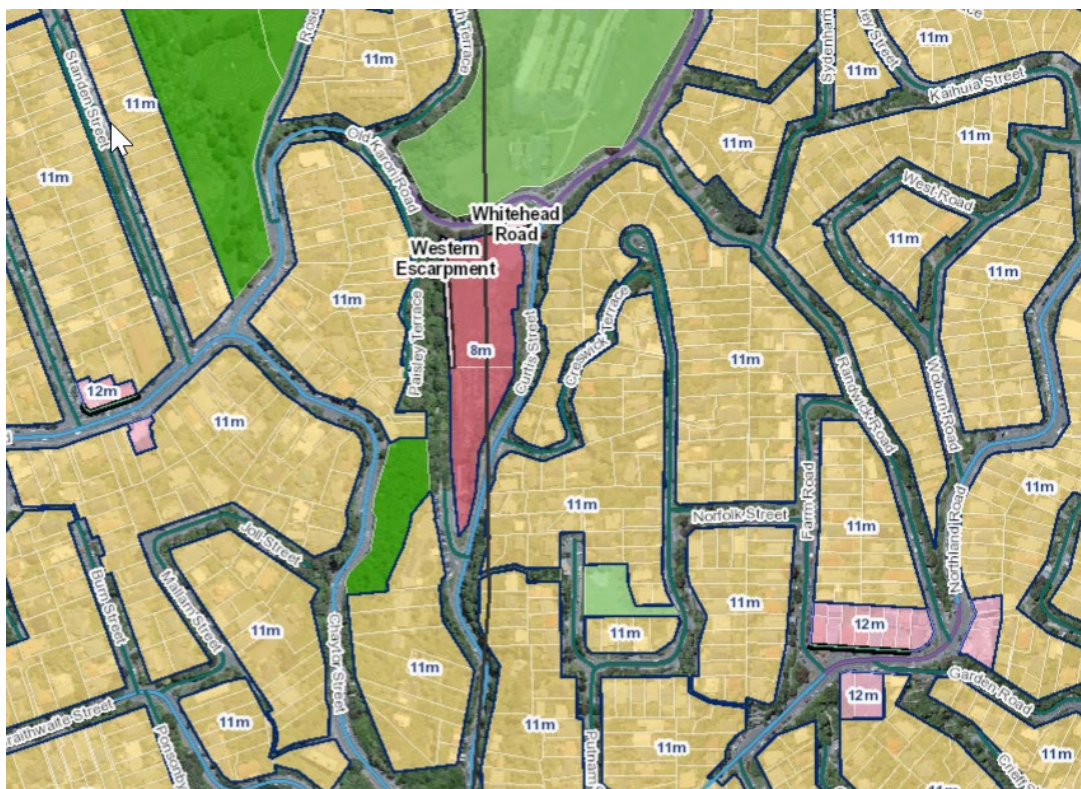
Part 5: Commercial Zone

1.0 Overview

1. This section of my s42A report for the Part 3 – Centres and Mixed Use Zones addresses the Commercial Zone (COMZ) provisions¹.
2. The purpose of the COMZ is to provide for a mixture of commercial and residential activities in the western suburbs, while maintaining the centres hierarchy and acknowledging the qualities of the natural and residential environment it is located within – being the Creswick Valley².
3. The entirety of the COMZ chapter is being considered under Part 1 Schedule 1 of the Act.

Site Details

4. The COMZ comprises the land located at 55-65 Curtis Street, Northland. as shown in the ePlan image below.



Commercial Zone

5. This land has a total area of approximately 11,000m². The site is subject to the Flood Hazard Overlay (overland flowpath and inundation) and the WIAL1 designation³. As indicated by the black line in the image above, the national grid transmission lines run north-south through the site.

¹ [Proposed District Plan - Wellington City Proposed District Plan](#)

² [Curtis Street SPZ Issues and Options Report V3 TC Draft September 2021.docx \(sharepoint.com\)](#)

³ [Proposed District Plan - Wellington City Proposed District Plan](#)

Background

6. Chapters 35 and 36 of the ODP apply to this site, which has a bespoke planning framework that was introduced under Plan Change 77 to the ODP and the subsequent appeals to the Environment Court and High Court. These are available at the links below:

[Plans, policies and bylaws - Plan Change 77: Curtis Street Business Area - Wellington City Council](#)

[environment-court-decision---final.pdf \(wellington.govt.nz\)](#)

7. Further background information in relation to the zone is available at the following link:

[PC77 - Commissioners' Report \(wellington.govt.nz\)](#)

8. It was determined through the District Plan Review that the most efficient way to reflect the underlying bespoke planning framework was to apply a new Commercial zone to the site. This enables the zone to be differentiated from other CMUZ, including the MUZ, with a more restricted planning framework that reflect the requirements imposed by the Environment Court.

Submissions

9. There were 11 submitters who collectively made 55 submission points in relation to the Commercial Zone (COMZ). Five further submitters made 13 further submission points in support or opposition to the originating submissions.
10. These submissions are categorised and assessed as follows:
 - General points relating to the COMZ
 - Submissions relating to specific provisions in the COMZ chapter
 - Proposed additional COMZ provisions.
11. This report should be read in conjunction with the information in the following appendices:
 - Appendix A – Recommended Amendments to the COMZ chapters (COMZ).
 - Appendix B – Recommended Responses to Submissions and Further Submissions on the COMZ chapters (COMZ).

2.0 Format for Consideration of Submissions

12. For each identified topic, the consideration of submissions has been undertaken in the following format:
 - Matters raised by submitters;
 - Assessment; and
 - Summary of recommendations.
13. As noted above, the recommended amendments to the relevant parts of the PDP are set out in Appendix A of this report where all text changes are shown in a consolidated manner.

14. Where necessary, for example where I have recommended a significant departure from the notified PDP provisions, I have undertaken a s32AA evaluation in respect to the recommended amendments in my assessment.
15. There were no submissions in relation to COMZ-R3 – COMZ-R6 and COMZ-S5, S7 and S8. These provisions are beyond challenge and are not assessed further in this report.
16. Submissions received in relation to the following provisions were all in support, and seek that the respective provisions are retained as notified:
 - Objectives: COMZ-O1, COMZ-O2
 - Policies: COMZ-P2, COMZ-P4, COMZ-P7
 - Rules: COMZ-R1 – R2, COMZ-R7
 - Standards: COMZ-S2, COMZ-S4
17. I recommend that these provisions are retained as notified, and have not assessed them further in this report.

3.0 General Points Relating to the Commercial Zone

General Submission Points in Support of the Commercial Zone

Matters raised by submitters

18. Prime Property Group [256.5] seeks that the objective, policy and rule framework be amended to enable a permitted height of 12m in the Commercial Zone.
19. Waka Kotahi [370.402] (supported by Prime Property Group [FS93.5]) seeks that the policy direction is clearer about expectations for the COMZ, particularly the integration of active and public transport in its development. They have not provided any specific changes or wording.
20. Prime Property Group [256.6, 256.7] (opposed by Waka Kotahi [FS103.37]) seeks that the COMZ chapter is amended so that the Commercial Zone is more permitting of residential activity by making residential activity permitted at the ground floor level outside of 12m from the centreline of transmission lines on the site.

Assessment

21. In response to Prime Property Group [256.5], I note that the Environment Court imposed an 8 metre height limit to the zone, and that this has been carried down into the PDP. I recommend that this is retained to align with the requirements of the Court's decision.
22. As will be discussed in section 4.0 of this report, some amendments to the policy direction are recommended. However, I do not consider that clarification of the expectations of the COMZ is required, noting that this is provided in the Introduction and Objectives. As such, I do not recommend any changes to the PDP as a result of the Waka Kotahi submission point [370.402, FS93.5].
23. In response to Prime Property Group [256.6, 256.7], COMZ-O1 sets out that the primary purpose of the zone is to provide additional business land that supports the hierarchy of centres. Residential activities are enabled above ground level to encourage a mixture of activities, but it is intended that these will complement the commercial activities and not be the dominant activity on the site. I recommend that this approach is retained, also noting that the flood hazard layer covers a large portion of the site – this will impose restrictions on the

ability to locate residential activities at ground level. Therefore, my recommendation is that the requested amendments from Prime Property Group [256.6, 256.7] are rejected.

Summary of recommendations

24. HS4-P6-COMZ-Rec1: On the basis that no changes to the PDP are required with respect to these points, that the general submission points in support of the COMZ are accepted as detailed in Appendix B.

Alignment with other zones

Matters raised by submitters

25. Willis Bond [416.95] seeks that the Council consider the relationship between the COMZ and other denser zones to ensure that development in these zones is not unduly restricted when the adjoining residential provisions are more permissive.

Assessment

26. With respect to the Willis Bond submission point [416.95], I note that the COMZ is one zone where the development potential is less than that of the adjoining MRZ, which has a 11 metre permitted height limit. I consider that the relationship between the COMZ and MRZ has been adequately considered. The rationale for the 8 metre height is discussed in the background material referred to at paragraphs 6 to 8 of this report. Essentially, the 8 metres has been imposed by the Environment Court and the Council has decided not to increase this height given that the Plan Change 77 and the Environment Court decision are relatively recent (2017). Further to this, constraints such as the overhead transmission lines and flood hazard limit the development potential on the site.

Summary of recommendations

27. HS4-P6-COMZ-Rec2: No amendments are recommended in response to the submission themes outlined under 'Alignment with other zones'.
28. HS4-P6-COMZ-Rec3: That the submission point related to 'Alignment with other Zones' is rejected as detailed in Appendix B.

4.0 Submissions Relating to Specific Commercial Zone Provisions

COMZ-O1 – Purpose

Matters raised by submitters

29. Restaurant Brands Limited [349.107] support COMZ-O1 as notified. No submitters oppose, or request changes to, COMZ-O1.

Summary of recommendations

30. HS4-P6-COMZ-Rec4: That COMZ-O1 (Purpose) is confirmed as notified.
31. HS4-P6-COMZ-Rec5: That submission points relating to COMZ-O1 are accepted as detailed in Appendix B.

COMZ-O2 – Activities

Matters raised by submitters

32. Restaurant Brands Limited [349.108] support COMZ-O2 as notified. No submitters oppose, or request changes to, COMZ-O2.

Summary of recommendations

33. HS4-P6-COMZ-Rec6: That COMZ-O2 (Activities) is confirmed as notified.
34. HS4-P6-COMZ-Rec7: That submission point relating to COMZ-O2 are accepted as detailed in Appendix B.

COMZ-O3 – Amenity and Design

Matters raised by submitters

35. Restaurant Brands Limited [349.109] support COMZ-O3 as notified.
36. The Retirement Villages Association [350.255] opposes COMZ-O3 (Amenity and design) in part on the basis that the wording is inconsistent with Objective 1 of the MDRS and seeks amendment as follows:

COMZ-O3 (Amenity and Design)

Development in the Commercial Zone is achieved that ~~positively~~ contributes to creating a good quality, well-functioning urban environment and is compatible with the surrounding residential context.

Assessment

37. I disagree with the request from the Retirement Villages Association [350.255] seeking the removal of the word 'positively' from the objective. The District Plan provisions seek to encourage high quality development within the CMUZ and the inclusion of the word 'positively' indicates that this is the standard of development that the Council will expect in the COMZ. In any event, the Objective 1 of the MDRS relates to the residential zones rather than any CMUZ. As such, I recommend that this submission point is rejected.

Summary of recommendations

38. HS4-P6-COMZ-Rec8: That COMZ-O3 (Amenity and Design) is confirmed as notified.
39. HS4-P6-COMZ-Rec9: That submission points relating to COMZ-O3 are accepted/rejected as detailed in Appendix B.

COMZ-P1 – Enabled activities

Matters raised by submitters

40. Restaurant Brands Limited [349.110] seek that COMZ-P1 is retained as notified.
41. Corrections [240.38, 240.39] opposes COMZ-P1 as notified and seek that COMZ-P1 is amended to include community corrections activities, as shown below.

COMZ-P1 (Enabled activities)

Enable a range of activities in the Commercial Zone that contribute positively to the purpose of the zone including:

1. Commercial activities;
2. Retail activities, except for large-scale integrated retail activities;
3. Carparking activities;~~and~~
4. Residential activities, except for large-scale integrated retail activities; and
5. Community corrections activities.

42. Corrections [240.40] is supportive of COMZ-P1.4 on the basis that the permitted activity status (enabled by the associated policies) is appropriate in the context of the establishment and operation of supported and transitional accommodation activities, such as those they provide for (ie people living in a residential situation, who are subject to support and/or supervision by Corrections).
43. The Ministry of Education [400.132, 400.133] seeks that COMPZ-P1 is amended to include educational facilities, as follows:

COMZ-P1 (Enabled activities)

...

3. Carparking activities;~~and~~
4. Residential activities, except for large-scale integrated retail activities; and
5. Educational facilities.

Assessment

44. I acknowledge the support from Corrections for COMZ-P1.4. I recommend that their request to enable 'community corrections activities' within the zone is accepted. Community corrections activities are defined at Part 1 of the PDP as: *"the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups"*. These activities are essentially office-based, requiring small to moderately sized facilities, and I consider that they fit with the underlying purpose of the Commercial.
45. Conversely, I recommend that the submission from the Ministry of Education [400.132, 400.133] to include 'educational facilities' is rejected. In my view educational facilities do not align with the purpose of the zone as specified at COMZ-O1. These activities, which are typically larger in scale, have the potential to reduce the amount of land available to achieve the primary purpose of the zone. The COMZ is limited in extent and these activities are suitably enabled in the CCZ, MCZ, LCZ, NCZ and MUZ. Noting that both public and private education providers can apply for resource consent for such activities, which would then be judged on

their merits, I do not consider it necessary or appropriate to enable educational facilities as a permitted activity in the COMZ.

46. In addition to the submission points above, I have identified an error in COMZ-P1.4. This refers to 'Residential activities, except for large scale integrated retail activities'. I recommend that 'except for large scale integrated retail activities' is deleted from COMZ-P1.4, as shown in my Summary of Recommendations below.

Summary of recommendations

47. HS4-P6-COMZ-Rec10: That COMZ-P1 (Enabled activities) is amended as set out below and at Appendix A.

COMZ-P1 (Enabled activities)

Enable a range of activities in the Commercial Zone that contribute positively to the purpose of the zone including:

1. Commercial activities;
2. Retail activities, except for large-scale integrated retail activities;
3. Carparking activities;~~and~~
4. Residential activities,~~except for large scale integrated retail activities; and~~
5. Community corrections activities.

48. HS4-P6-COMZ-Rec11: That submission points relating to COMZ-P1 are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

49. In my opinion, the amendments to COMZ-P1 are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that the amendments give better effect to the NPS-UD directions, in particular Policies 1 and 2, in terms of enabling business development capacity.
50. The environmental, economic, social and cultural effects of the recommended amendments are no greater than the notified provisions.

COMZ-P2 – Managed Activities

Matters raised by submitters

51. Restaurant Brands Limited [349.111] support COMZ-P2 as notified. No submitters oppose, or request changes to, COMZ-P2.

Recommendation

52. HS4-P6-COMZ-Rec12: That COMZ-P2 (Managed Activities) is confirmed as notified.
53. HS4-P6-COMZ-Rec13: That submission points relating to COMZ-P2 are accepted as detailed in Appendix B.

COMZ-P3 – Potentially incompatible activities

Matters raised by submitters

54. Restaurant Brands Limited [349.112] seeks that COMZ-P3 is retained as notified. No submitters oppose, or request changes to, COMZ-P3.
55. Prime Property Group [256.6, 256.7] specifically references COMZ-P3 and opposes provisions which restrict the ability to provide residential use at ground level. They seek that COMZ-P3 is amended so that residential activity is permitted at ground floor level outside of 12 metres from the centreline of transmission lines on the site. While the submitter has not provided specific wording for their changes, this request to the policy would be as follows (with a subsequential change to COMZ-R2).

COMZ-P3 (Potentially incompatible activities)

Only allow all other activities where they will not have an adverse [effect](#) on the use of the zone for [commercial activities](#). Potentially incompatible activities include:

[Community facilities](#);

1. Large-scale [integrated retail activity](#);
2. [Emergency service facilities](#);
3. [Visitor accommodation](#);
4. [Public transport activities](#); and
5. [Residential activities](#) at ground floor level within 12 metres from the centreline of the transmission lines.

Assessment

56. Throughout the suite of CMUZ, I recommend that the limitations on residential activities at ground floor are retained. This is discouraged for a number of reasons, including the need to retain suitable commercial development capacity, to provide active interfaces between buildings and the public environment at ground level, and to ensure adequate amenity for residential occupants.
57. If the IHP is of a mind to grant the relief sought by Prime Property Group [256.6, 256.7], the following consequential amendments may need to be made to the COMZ provisions:
 - a. COMZ-R2.1.a (Residential Activities) would need to be amended to remove the exception for when the activity is located above the ground floor level. And consequentially COMZ-R2.2.5 would need to be deleted or amended.
 - b. COMZ-R10.4 (Conversion of the ground floor to residential activities) would also need to be consequentially amended to reflect residential activities being allowed on the ground floor.
 - c. Assessment criteria 1.a in COMZ-S3 would need to be amended to remove the ‘for non-residential activities’ qualifier.
58. The purpose of the COMZ is to provide for additional mixed use activity that complement the hierarchy of centres, with the policy and rule frameworks seeking to achieve this by enabling commercial activities at ground floor, with residential activity above. As discussed at paragraph 56 above, allowing ground level residential activities has to the potential to prevent this purpose

from being realised. Therefore, I do not support this change and recommend that the submission points from Prime Property Group [256.6, 256.7] are rejected.

Summary of recommendations

- 59. HS4-P6-COMZ-Rec14: That COMZ-P3 (Potentially incompatible activities) is confirmed as notified.
- 60. HS4-P6-COMZ-Rec15: That submission points relating to COMZ-P3 are rejected as detailed in Appendix B.

COMZ-P4 – Avoiding industrial activities

Matters raised by submitters

- 61. Restaurant Brands Limited [349.113] supports COMZ-P4 as notified. No submitters oppose, or request changes to, COMZ-P4.

Summary of recommendations

- 62. HS4-P6-COMZ-Rec16: That COMZ-P4 (Avoiding industrial activities) is confirmed as notified.
- 63. HS4-P6-COMZ-Rec17: That submission point relating to COMZ-P4 is accepted as detailed in Appendix B.

COMZ-P5 – Quality design - neighbourhood and townscape outcomes

Matters raised by submitters

- 64. Restaurant Brands Limited [349.114] (opposed by Foodstuffs [FS23.47]) supports COMZ-P5 and seeks that this is retained as notified.
- 65. McDonald’s and Foodstuffs [476.33, 476.34, 274.35, 274.36] seek that COMZ-P5 is amended as follows:

COMZ-P5 (Quality design – neighbourhood and townscape outcomes)

...

- 1. Integrates with existing and planned active and public transport movement networks; ~~and~~
- 2. Allows sufficient flexibility for ground floor space to be converted for a range of activities; ~~and~~
and
- 3. Recognise the functional and operational requirements of activities and development.

Assessment

- 66. The PDP provides definitions of ‘functional need’ and ‘operational need’, which are both as follows:

“means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints”.

67. I consider that it is inappropriate to amend the policy as requested by McDonald’s [476.33, 476.34] and Foodstuffs [274.35, 274.36] as this sets an expectation that their activities may be possible within the zone if the developer can make a case in line with COMZ-P5. The intent of the policy is to ensure quality design outcomes, which in my view should apply to all buildings regardless of their occupancy; also noting that the standards (in particular COMZ-S3) encourage design that is adaptable for future uses. Where it is appropriate to take into account functional or operational needs this is noted in the assessment criteria associated with the particular standard, thereby allowing decision-makers to take these into account.
68. For consistency with the CCZ and residential zones, and my recommendations in relation to the MCZ, LCZ, NCZ and MUZ, I recommend that the direct references to the Design Guides are removed from the COMZ rule framework and referenced in the applicable policy. As shown in my Summary of Recommendations below, I recommend COMZ-P5 (Quality design – neighborhood and townscape outcomes) is amended to refer to the CMUDG.
69. Further to the above, consistency with my recommendations in relation to the MCZ, LCZ, NCZ and MUZ, I recommend that the name of the policy is changed to ‘Quality Design Outcomes’.

Summary of recommendations

70. HS4-P6-COMZ-Rec18: That COMZ-P5 (Quality design – neighborhood and townscape outcomes) is amended as follows:

COMZ-P5 (Quality design ~~–neighbourhood and townscape~~ outcomes):

Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Commercial Zone by ensuring that it, where relevant:

1. Meets the requirements of the Centres and Mixed Use Design Guide as relevant;
2. Responds to the site context, particularly where it is located adjacent to:
 - a. Residential zoned areas; and/or
 - b. Open space zoned areas;
3. Provides a safe and comfortable pedestrian environment;
4. Enhances the quality of the streetscape and public / private interface;
5. Integrates with existing and planned active and public transport movement networks;
5. Allows sufficient flexibility for ground floor space to be converted for a range of activities.

71. HS4-P6-COMZ-Rec19: That submission points relating to COMZ-P5 are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

72. In my opinion, the amendments to COMZ-P5 are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that:

- a. The amendments give better effect to the NPS-UD directions, including Objective 1 and policy 6 with respect to providing well-functioning urban environments.
 - b. The change is more efficient and effective than the notified provisions in achieving the objectives of the plan
73. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified District Plan provisions.

COMZ-P6 – On-site residential amenity

Matters raised by submitters

74. Restaurant Brands Limited [349.115] supports COMZ-P6 as notified.

Assessment

75. I acknowledge the submission point in support [349.115] and recommend that it is accepted.
76. For consistency with the CCZ and residential zones, and with my recommendations in relation to the MCZ, LCZ, NCZ and MUZ, I recommend that COMZ-P6 is amended to reference the CMUDG and RDG insofar as this seeks to encourage high quality on-site amenity for commercial and residential activities. This is a consequential change of amending COMZ-R9 (refer to paragraph 101). It will allow for the removal of direct references to the CMUDG and RDG from COMZ-R9, noting that an assessment against COMZ-P6 is required as a matter of discretion.

Summary of recommendations

77. HS4-P6-COMZ-Rec20: That COMZ-P6 (On-site residential amenity) is amended as follows:

COMZ-P6 (On-site residential amenity)

Achieve a good standard of amenity for residential activities in the Commercial Zone by:

1. Providing residents with adequate outlook;~~and~~
2. Providing access to convenient outdoor space, including private or shared communal areas~~;~~ and
3. Meets the requirements of the Residential Design Guide as relevant.

78. HS4-P6-COMZ-Rec21: That submission points relating to COMZ-P6 are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

79. In my opinion, the amendments to COMZ-P6 are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that:
- a. The amendments give better effect to the NPS-UD directions, in particular Objective 1 and Policy 6, in terms of improving amenity value appreciated by other people, communities, and future generations.
 - b. The amendments are clearer and more directive.
 - c. The amendments are not inconsistent with the existing plan policies.

- d. This change is more efficient and effective than the notified provisions in achieving the objectives of the District Plan because the changes allow for COMZ-R9 to be simplified, as will be addressed at paragraph 101 in this report. The addition of the reference to the CMUDG and RDG in the 'On-site residential amenity' policy is considered appropriate as this is where such amenity is assessed.

80. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified District Plan provisions.

COMZ-P7 – Zone interfaces

Matters raised by submitters

81. Restaurant Brands Limited [349.116] supports COMZ-P7 as notified. No submitters oppose, or request changes to, COMZ-P7.

Summary of recommendations

- 82. HS4-P6-COMZ-Rec22: That COMZ-P7 (Zone interfaces) is confirmed as notified.
- 83. HS4-P6-COMZ-Rec23: That submission point relating to COMZ-P7 is accepted as detailed in Appendix B.

COMZ-R1 – Commercial activities

Matters raised by submitters

84. Restaurant Brands Limited [349.117] and McDonald's [274.37] support COMZ-R1 as notified. No submitters oppose, or request changes to, COMZ-R1.

Recommendation

- 85. HS4-P6-COMZ-Rec24: That COMZ-R1 (Commercial activities) is confirmed as notified.
- 86. HS4-P6-COMZ-Rec25: That submission points relating to COMZ-R1 are accepted as detailed in Appendix B.

COMZ-R2 – Residential activities

Matters raised by submitters

87. Corrections [240.41] supports COMZ-R2 as notified. No submitters oppose, or request changes to, COMZ-R2.

Summary of recommendations

- 88. HS4-P6-COMZ-Rec26: That COMZ-R2 (Residential activities) is confirmed as notified.
- 89. HS4-P6-COMZ-Rec27: That the submission point relating to COMZ-R2 is accepted as detailed in Appendix B.

COMZ-R7 – Maintenance and repair of buildings and structures

Matters raised by submitters

90. Restaurant Brands Limited [349.118] supports COMZ-R7 as notified. No submitters oppose, or request changes to, COMZ-R7.

Recommendation

91. HS4-P6-COMZ-Rec28: That COMZ-R7 (Maintenance and repair of buildings and structures) is confirmed as notified.
92. HS4-P6-COMZ-Rec29: That the submission point relating to COMZ-R7 is accepted as detailed in Appendix B.

COMZ-R8 – Demolition of buildings and structures

Matters raised by submitters

93. Restaurant Brands Limited [349.119] supports COMZ-R8 as notified.
94. GWRC [351.272, 351.273] supports the rule but seeks that COMZ-R8 is amended to require that all building and demolition material is disposed of at an approved facility to achieve the Permitted activity status.

Assessment

95. Consistent with my recommendations in relation to the other CMUZ, and for the same reasons, I disagree with the amendment sought by GWRC [351.272, 351.273] relating to the disposal of building waste at approved facilities.

Summary of recommendations

96. HS4-P6-COMZ-Rec30: That COMZ-R8 (Demolition of buildings and structures) is confirmed as notified.
97. HS4-P6-COMZ-Rec31: That submission points relating to COMZ-R8 are accepted/rejected as detailed in Appendix B.

COMZ-R9 – Construction of, or additions and alterations to, buildings and structures

Matters raised by submitters

98. Restaurant Brands Limited [349.120] supports COMZ-R9 as notified.
99. The Retirement Villages Association [350.256] supports COMZ-R9 in part, and seeks an amendment as follows:

COMZ-R9 (Construction of, or additions and alterations to, buildings and structures)

1. Activity status: Restricted Discretionary

Matters of discretion are:

1. The matters in COMZ-P5, COMZ-P6 and COMZ-P7 (this clause is not applicable to retirement villages);
2. The extent and effect of non-compliance with COMZ-S1, COMZ-S2, COMZ-S3, COMZ-S4, COMZ-S5, COMZ-S6, COMZ-S7 and COMZ-S8;
3. The Centres and Mixed-Use Design Guide (this clause is not applicable to retirement villages);
~~and~~
4. The Residential Design Guide for any part of a building used for residential activities (this clause is not applicable to retirement villages);
5. For retirement villages:
 - i. The effects of the retirement village on the safety of adjacent streets or public open spaces;
 - ii. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;
 - iii. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;
 - iv. When assessing the matters in 1(a)(2), and 1(a)(5)(i) – (iii), consider:
 - a. The need to provide for efficient use of larger sites; and
 - b. The functional and operational needs of the retirement village.
 - v. The positive effects of the construction, development and use of the retirement village.

For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village.

Notification status:

An application for resource consent for a retirement village made in respect of rule COMZ-R9 is precluded from being publicly notified.

An application for resource consent for a retirement village made in respect of rule COMZ-R9 where compliance is achieved with COMZ-S1 and COMZ-S2 is precluded from being limited notified.

Assessment

100. Consistent with my recommendations in relation to the MCZ, LCZ, NCZ and MUZ, I recommend that the submission point from the Retirement Villages Association [350.256] requesting a rule framework tailored to retirement villages is rejected. It is intended that these will fall under the ambit of residential activities, with the same rules and standards applying. There

are no reasons specific to the COMZ that mean that these would be appropriate and should be further enabled in this zone.

101. As noted at paragraphs 68 and 76 of this report, in relation to COMZ-P5 and COMZ-P6 respectively, I have recommended that the direct references to the Design Guides are removed from the rule framework across the suite of CMUZ chapters. In conjunction with the recommended changes to COMZ-P5 and COMZ-P6, I recommend that COMZ-R9 is amended as set out in my Summary of Recommendations below. This avoids duplication in the rule, given there is already a requirement to consider COMZ-P5 and COMZ-P6 as a matter of discretion.

Summary of Recommendations

102. HS4-P6-COMZ-Rec32: That COMZ-R9 (Construction of, or additions and alterations to, buildings and structures) is amended as detailed at Appendix A and shown below:

COMZ-R9 (Construction of, or additions and alterations to, buildings and structures)

Activity status: **Restricted Discretionary**

Matters of discretion are:

1. The matters in COMZ-P5, COMZ-P6 and COMZ-P7;
2. The extent of compliance with standards COMZ-S1, COMZ-S2, COMZ-S3, COMZ-S4, COMZ-S5, COMZ-S6, COMZ-S7 and COMZ-S8;
- ~~3. The Centres and Mixed Use Design Guide; and~~
- ~~4. The Residential Design Guide for any part of a building used for residential activities.~~

103. HS4-P6-COMZ-Rec33: That submission points relating to COMZ-R9 are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

104. In my opinion, the amendments to COMZ-R9 are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that:
- a. The amendments give better effect to the NPS-UD directions, in particular Objective 1 with respect to well-functioning urban environments, and Policies 1 and 2 in terms of enabling residential and business development capacity.
 - b. The removal of the reference to the CMUDG and RDG as a matter of discretion aligns with other recommended changes and provides for a less complicated consenting framework that avoids repetition in the assessment process.
105. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified District Plan provisions.

COMZ-R10 – Conversion of buildings, or parts of buildings, for residential activities or visitor accommodation

Matters raised by submitters

106. Investore [405.78, 405.79] (supported by the Retirement Villages Association [FS126.93, FS128.93] and Ryman [FS126.94, FS128.94]) seeks to amend COMZ-R10.1 to remove the Design Guides as a matter of discretion under COMZ-R10 and replace this reference with the specific design outcomes that are sought.

Assessment

107. Consistent with the relief sought by the submitters [405.78, 405.79, FS126.93, FS128.93, FS126.94, FS128.94] I recommend the removal of the reference to the RDG from COMZ-R10. My reasons for this change are provided at paragraph 68, 76 and 101 above.

Summary of recommendations

108. HS4-P6-COMZ-Rec34: That COMZ-R10 (Conversion of buildings, or parts of buildings, to residential activities) is amended as detailed at Appendix A and shown below:

COMZ-R10 (Conversion of buildings, or parts of buildings, to residential activities)

Activity status: **Restricted Discretionary**

Matters of discretion are:

1. The matters in COMZ-P1, COMZ-P3 and COMZ-P6;
2. The extent of compliance with standards COMZ-S5, COMZ-S6 and COMZ-S7; and
- ~~3. The Residential Design Guide; and~~
- 4.3. In relation to the conversion of the ground floor to residential activities, the extent to which the conversion enables the ground floor level to be returned to use for non-residential activities.

109. HS4-P6-COMZ-Rec35: That submission points relating to COMZ-R10 are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

110. In my opinion, the amendments to COMZ-R10 are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that:
- a. The amendments give better effect to the NPS-UD directions, in particular Objective 1 with respect to well-functioning urban environments, and Policies 1 and 2 in terms of enabling residential and business development capacity.
 - b. The removal of the reference to the CMUDG and RDG as a matter of discretion aligns with other recommended changes and provides for a less complicated consenting framework that avoids repetition in the assessment process.
111. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified District Plan provisions.

COMZ-S1 – Maximum height

Matters raised by submitters

112. Restaurant Brands Limited [349.121] support COMZ-S1 as notified.
113. Prime Property Group [256.8, 256.9] (supported by Waka Kotahi [FS103.38]) seeks that COMZ-S1 is amended as follows:

COMZ-S1 (Maximum height)

1. A maximum height limit of ~~8~~12m above ground level must be complied with.

114. The Retirement Villages Association [350.257] seeks that COMZ-S1 is amended to provide for greater height in the COMZ.

Assessment

115. I disagree with Prime Property Group [256.8, 256.9], Waka Kotahi [FS103.38], and the Retirement Villages Association [350.257] that it is appropriate to increase the height at COMZ-S1. As detailed at paragraphs 6 to 8 of this report, there is a considerable history to the zoning of the site and the 8 metre height limit was applied by the Environment Court. None of the submitters have provided any planning evaluation, technical, economic or urban design assessments, nor a s32AA evaluation in support of this change. Furthermore, the transmission lines running north-south through the site place restrictions on the height of development that can occur there. As such, I consider that the 8 metre height limit is appropriate (noting that higher building can potentially be achieved through a resource consent).

Summary of recommendations

116. HS4-P6-COMZ-Rec36: That COMZ-S1 (Maximum Height) is confirmed as notified.
117. HS4-P6-COMZ-Rec37: That submission points relating to COMZ-S1 are accepted/rejected as detailed in Appendix B.

COMZ-S2 – Height in relation to boundary

Matters raised by submitters

118. Restaurant Brands Limited [349.122] supports COMZ-S2 as notified. No submitters oppose, or request changes to, COMZ-S2.

Summary of recommendations

119. HS4-P6-COMZ-Rec38: That COMZ-S2 (Height in relation to boundary) is confirmed as notified.
120. HS4-P6-COMZ-Rec39: That submission points relating to COMZ-S2 are accepted as detailed in Appendix B.

COMZ-S3 – Minimum ground floor height

Matters raised by submitters

121. McDonald's, Restaurant Brands Limited and Foodstuffs [274.38, 349.123, 476.35] oppose the standard and seek that it is deleted in its entirety. Foodstuffs [FS23.48] supports submission point 349.123.

Assessment

122. I acknowledge the submissions in opposition to the minimum ground floor height standard at COMZ-S3 [274.38 and 476.35]; however, I consider that this standard is appropriate as it facilitates high quality design outcomes. For example, the higher ground floor height provides for a better street frontage as it provides a 'base' to a building. It assists to enhance the quality of the interior by providing increased light, and ensures the building can be adapted to accommodate different uses over time. Additionally, retail and commercial uses require higher floor heights for services, meaning that not requiring this height will limit different uses that can occur there (specifically in terms of mechanical ventilation).
123. Submitters in opposition to the standard [349.123] (supported by FS23.48) consider that COMZ-S3 is overly prescriptive and does not provide for the specific requirements of certain activities. In this respect, I note that the submitters' activities (ie drive through fast food restaurants) are likely to be unsuitable for the COMZ. In any event, my recommended change to COMZ-P5 will enable functional and operational needs of activities to be taken into account at the resource consent assessment stage.
124. I note the submission from Foodsuffs [476.35] requests that the minimum ground floor height requirement would be more appropriate within the Design Guides or as a matter of discretion. For the reasons detailed above, I consider that this standard should be retained. I therefore disagree with this submission point.

Summary of recommendations

125. HS4-P6-COMZ-Rec40: That COMZ-S3 (Minimum ground floor height) is confirmed as notified.
126. HS4-P6-COMZ-Rec41: That submission points relating to COMZ-S3 are accepted/rejected as detailed in Appendix B.

COMZ-S4 – Verandah control

Matters raised by submitters

127. Restaurant Brands Limited [349.124] seek that COMZ-S4 is retained as notified. No submitters oppose, or request changes to COMZ-S4.
128. I note that changes have been made to the equivalent standard in the centres zones. I consider it appropriate to consequentially amend this standard in the COMZ to reflect MCZ-Rec72.

Summary of recommendations

129. HS4-P6-COMZ-Rec42: That COMZ-S4 (Verandah control) be confirmed as notified.
130. HS4-P6-COMZ-Rec43: That submission points relating to COMZ-S4 are accepted/rejected as

COMZ-S6 – Outdoor living space for residential units

Matters raised by submitters

131. The Retirement Villages Association [350.258] opposes COMZ-S6 in part, and seeks an exclusion for retirement villages.

Assessment

132. The submission point from the Retirement Villages Association [350.258] is addressed in the Overview and General Matters section of this report. Further, I disagree that there should be an exemption from the requirement to provide outdoor living space for retirement villages, noting that if the standard is not met a resource consent for this non-compliance can be obtained subject to the developer showing that the occupants will be provided suitable on-site amenity for their specific needs.
133. I note that changes have been made to the equivalent standard in the centres zones and consider that the same change should be consequentially made here in the COMZ.

Summary of recommendations

134. HS4-P6-COMZ-Rec44: That COMZ-S6 (Outdoor living space for residential units) is amended to reflect MCZ-Rec78.
135. HS4-P6-COMZ-Rec45: That submission points relating to COMZ-S6 are accepted/rejected as detailed in Appendix B.

5.0 Proposed Additional Commercial Zone Provisions

Matters raised by submitters

136. The Retirement Villages Association [350.252, 350.253] seeks a new policy that supports retirement villages within the COMZ. They request the following policy be added to the District Plan:

COMZ-Px (Retirement Villages)

Provision of housing for an ageing population

1. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in [add] zone, such as retirement villages.
2. Recognise the functional and operational needs of retirement villages, including that they:
 - a. May require greater density than the planned urban built character to enable efficient provision of services.
 - b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.

Changing communities

To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the [add] zone will change over time to enable a variety of housing types with a mix of densities.

Larger sites

Recognise the intensification opportunities provided by larger sites within the [add] zone by providing for more efficient use of those sites.

137. The Retirement Villages Association [350.254] seeks a new rule that enables retirement villages as a Permitted activity within the COMZ. They request the following rule be added to the District Plan:

COMZ-Rx (Retirement Villages)

Provision of housing for an ageing population

1. Activity Status: Permitted

138. The Ministry of Education [400.131] seeks a new rule that enables educational facilities as a Permitted activity in the COMZ, as follows:

COMZ-Rx (Educational Facilities)

1. Activity Status: Permitted

139. Corrections [240.36, 240.37] supports the land use activity rule framework for the Commercial Zone as notified and seeks that it is amended to include a permitted rule applying to "community corrections activities" as follows:

COMZ-Rx (Community corrections activities)

1. Activity status: Permitted

Assessment

140. The request from the Retirement Villages Association for a policy and rule framework specific to retirement villages has been addressed in the Overview and General Matters section of this report. Policies and rules specific to the COMZ are detailed in that report and no further assessment of the submission points [350.252, 350.253, 350.254] is required.
141. For the reasons discussed at paragraph 45 in relation to COMZ-P1, I recommend that the submission from the Ministry of Education [400.131] to add a permitted activity rule for educational facilities is rejected. The purpose of the Commercial Zone is to meet the City's needs for business land and support the hierarchy of centres. COMZ-P1 seeks to enable appropriate activities, while COMZ-P2 includes directives for potentially incompatible activities. Given the limited extent of the COMZ and its primary purpose, I do not consider it appropriate to enable educational facilities as a permitted activity in the COMZ. I note that these activities are permitted in the CCZ, MCZ, LCZ, NCZ and MUZ.
142. For the reasons detailed at paragraph 41 of this report, I consider that the submission from Corrections [240.36, 240.37] requested a new permitted activity rule for community corrections activities should be accepted.

Summary of recommendations

143. HS4-P6-COMZ-Rec46: That a new permitted activity rule is added as set out below and at Appendix A:

COMZ-Rx (Community corrections activities)

1. Activity status: Permitted

144. HS4-P6-COMZ-Rec47: That any new provisions set out at HS4-Overview-Rec31 to HS4-Overview-Rec36 applicable to the Commercial Zone are incorporated into the District Plan.
145. HS4-P6-COMZ-Rec48: That submission points requesting new COMZ provisions are accepted/rejected as detailed in Appendix B.

S32AA Evaluation

146. In my opinion, the addition of a permitted activity rule for community corrections activities is more appropriate in achieving the objectives of the District Plan than the notified provisions and gives better effect to the NPS-UD direction, in particular Objective 1 with respect to providing well-functioning urban environments and Policies 1 and 2, in terms of enabling residential and business development capacity.
147. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified District Plan provisions.

6.0 Minor and Inconsequential Amendments

148. Pursuant to Schedule 1, clause 16 (2) of the RMA, a local authority may make an amendment, without using the process in this schedule, to its proposed plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.
149. Within this report minor and consequential amendments have been identified under the provisions that they relate to. For example within specific provisions renumbering may be required with respect matters of discretion, assessment criteria and the like.
150. The changes detailed in this report will require the renumbering of the COMZ rule relating to community corrections activities (as set out at Section 5.0 above).
151. In a number of instances the changes result from similar changes recommended across the CMUZ chapters. These changes are recommended so the District Plan reads in an integrated manner.

7.0 Conclusion

152. Submissions have been received in support and opposition to the COMZ provisions of the PDP.
153. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PDP should be amended as set out in Appendix A of this report.
154. For the reasons set out in the Section 32AA evaluations included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
 - a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - b. Achieve the relevant objectives of the District Plan, in respect to the proposed provisions.

8.0 Recommendations

155. I recommend that:
 - a. The District Plan is amended in accordance with the changes recommended in Appendix A of this report; and
 - b. The Independent Hearing Panel accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report.