

**Before the Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Wellington City District Plan

**Hearing Stream 5 (Subdivision) Reporting Officer Right of Reply of
Hannah van Haren-Giles on behalf on Wellington City Council
Date: 28 August 2023**

INTRODUCTION

1. My name is Hannah van Haren-Giles. I am employed as a Senior Planning Advisor at Wellington City Council (the Council).
2. I have prepared this Reply in respect of the matters in Hearing Stream 5 relating to the Subdivision Chapter (SUB).
3. I have listened to submitters in Hearing Stream 5, read their evidence and tabled statements, and referenced the written submissions and further submissions relevant to the Hearing Stream 5 topics.
4. The [Subdivision Section 42A Report](#) sets out my qualifications and experience as an expert in planning.
5. I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
6. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the relevant part of my evidence to which it relates. Where I have set out opinions in my evidence, I have given reasons for those opinions.

SCOPE OF REPLY

7. This Reply follows Hearing Stream 5 held from 1 August to 7 August 2023. [Minute 33: Directions Following Hearing Stream 5](#) released by the Panel on 14 August 2023 requested that Section 42A report authors submit a written Right of Reply as a formal response to matters raised during the course of the hearing. The Minute requires this response to be submitted by 28 August 2023.
8. The Reply includes:
 - i. Responses to specific matters and questions raised by the Panel in Minute 33.
 - ii. Commentary on additional matters that I consider would be useful to further clarify or that were the subject of verbal requests from the Panel at the hearing.

Responses to specific matters and questions raised in Minute 33:

(2)(iii) Whether there is a correction required to SUB-R13 in relation to subdivision inside the coastal environment.

9. At the start of the hearing I noted a correction to SUB-R11.3.b to amend the reference to 'outside the coastal environment' to instead reference '[inside](#) the coastal environment'. The same amendment is also applicable to SUB-R13.3.b.
10. Amendments to clarify the intent of these rules pertaining to the coastal environment are included in the Right of Reply Appendix A.

(2)(iv) In relation to references to Wellington Water standards, consideration of whether there are opportunities to reduce the degree of potentially irrelevant standards that apply to subdivision.

11. The Wellington Water standards that are detailed in SUB-R2, SUB-R3, and SUB-R4 are consistent with the standards referenced in the Three Waters chapter (i.e. THW-R1) and regionally consistent in terms of alignment with Porirua's PDP Subdivision standards - SUB-S4, SUB-S5, and SUB-S6.
12. I acknowledge that certain Wellington Water standards will be less applicable/not relevant to some subdivision scenarios. However, it is important that the Wellington Water standards listed in the Subdivision standards are retained to allow for three water connections to be assessed on a case-by-case basis.
13. There is a need however to update the referenced version of the Wellington Water standards in SUB-S2, SUB-S3, and SUB-S4 to: *Wellington Water Regional Standard for Water Services [May 2019 v3.0 December 2021](#)*. The 2021 version of the Wellington Water standards is referenced in the Three Waters chapter. The Subdivision [s32 Report](#) notes that '*the Regional Standards for Water Services has been updated December 2021 Version 3.0*', however between the Draft DP and PDP, the version referenced in the Subdivision chapter was not updated from 2019 to 2021. I consider this to be a minor administrative amendment, noting as well that Survey & Spatial [439] identified this in their submission and in evidence.

(2)(vi) A further evaluation of the provisions for boundary adjustments in response to the evidence of David Gibson for Spatial and Survey NZ.

14. In his evidence, Mr Gibson considers that if any boundary adjustment involves existing serviced buildings that are to be retained, that the existing services should be able to claim existing use rights.
15. I acknowledge that there is an existing use rights argument, which under s10(1)(a)(ii) of the RMA would allow for existing three water connections to be retained where the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified.
16. At the hearing, Mr Gibson noted his experience that Wellington Water often requires CCTV assessments to determine if existing pipes can be retained or need to be upgraded. To my mind this existing process is similar to what is proposed under the PDP, that if an applicant did not want to upgrade existing connections then it would be a restricted discretionary activity at which point CCTV assessments could be undertaken as to the appropriateness of existing pipes.
17. A boundary adjustment can create a scenario where an allotment is then able to accommodate a building, even if no 'new' allotments are created. In this scenario the construction of any residential or non-residential building would trigger THW-R1 or THW-R2 as to compliance with wastewater, water supply, and stormwater Wellington Water standards. I note that these THW rules reference the same Wellington Water standards that are listed in SUB-R2, SUB-R3, and SUB-R4.
18. However, if the boundary adjustment relates to adjusting the boundary between existing buildings then it is important that each allotment retains service connections and on-site infrastructure within the boundary of the site they serve (or have legal rights provided by an appropriate legal mechanism). In my view, SUB-R3 requiring compliance with SUB-R2, SUB-R3, and SUB-R4 ensures that the suitability of these connections can be assessed. Where an allotment does not comply with SUB-S2, SUB-S3, or SUB-S4 i.e. not provide the level of service detailed in the Wellington Water Regional Standard, then the assessment criteria 'The extent to which the proposed water supply/wastewater disposal solution/stormwater management solution is sufficient for the development or activity it serves' becomes a relevant consideration as part of a restricted discretionary consent. This is an achievable workable consenting pathway.
19. I have looked to other recently reviewed District Plans (i.e. Selwyn and Porirua) and note that it is common practice that boundary adjustment rules include standards

requiring three water connections.

20. For these reasons set out above, I do not consider there is a need to refine the boundary adjustment provisions.

Response to other matters raised at the hearing:

Links to the Subdivision Design Guide

21. At the hearing Kāinga Ora were questioned whether the Subdivision Design Guide addresses the minimum shape factor that their relief sought to SUB-S6. Their response was yes and that it was also in a developer's best interest to create a developable and/or saleable allotment. I wish to note that the Subdivision Design Guide (notified and [revised Wrap-up Hearing version](#)) includes the outcome '*Shape lots to be generally compact and regular in shape*'.
22. In reviewing the Subdivision chapter and Subdivision Design Guide (as part of the Wrap-up Hearing), it is apparent that there is a lack of reference and accordingly a policy hook to the Subdivision Design Guide throughout the Subdivision chapter.
23. In particular, the submission point of GWRC [351.9] identified that reference to the Subdivision Design Guide is currently only in two places in the Subdivision chapter and their relief sought to strengthen reference to Subdivision Design Guide to require consistency with, or appropriate consideration of, its guidelines.
24. In response to this, I propose an amendment to SUB-P3 to add a new clause: '*Fulfill the intent of the Subdivision Design Guide*'. This phrasing would be consistent with references to the Residential Design Guide/Centres & Mixed use Design Guide that are made in policies in other chapters of the PDP and agreed through Joint Witness Conferencing.¹
25. In the Right of Reply Appendix A I have identified this amendment, and also deleted references to the Subdivision Design Guide that were in SUB-R3.3.2 and SUB-R5.2.1 as these will be superseded by the new reference in SUB-P3. This drafting approach was addressed in Hearing Stream 4 – where it was recommended that the Design Guides be removed as matters of discretion under the relevant Commercial and Mixed Use Zone rules and elevated into the relevant policies. My recommendation for the Subdivision chapter is consistent with this approach.

¹ See paras 204-212 of the [ISPP Wrap-up Hearing s42A Report Part 2 – Design Guides](#)

26. SUB-P3 is a matter of control/discretion in SUB-R2, SUB-R3, SUB-R4, and SUB-R5. This amendment will ensure that the Subdivision Design Guide is a matter of control or discretion that will be considered for all applications for subdivision consent.

Interrelationship with Natural and Coastal Hazards provisions

27. I signaled at paras 576-580 of my [s42A Report](#) that there is a need to bring the Natural and Coastal Hazard provisions within the Subdivision chapter to align with the National Planning Standards and also aid plan readability.
28. However, Mr Sirl and I have given further thought to the Natural and Coastal hazards policy and rule framework within the Subdivision chapter, and now consider that given the multitude and complexity of the hazards policies which speak to numerous hazards and different sensitivities of activities that it is preferable to retain those within the Coastal Environment and Natural Hazards chapters. Whilst this is not entirely consistent with the National Planning Standards, we consider it is preferable to cut down on duplicating provisions within the Subdivision chapter. This approach also recognises the support of the PDP for joint applications for subdivision and land use.
29. After listening to questions at the hearing and discussing the changes Mr Sirl has made to the Natural and Coastal Hazard provisions, I have given further thought to simplifying and rationalising the rule framework within the Subdivision chapter – as was signaled in my s42A Report.
30. In particular, the complex and confusing rules for subdivision within various hazard overlays. In my view, while no submissions on this matter were received, the rule headings are particularly confusing as they list multiple hazard overlays conflated with less/potentially/hazard sensitive activities – all linked to the identification of a building platform.
31. As an example, subdivision that creates a building platform for a less/potentially/hazard sensitive activity within the Shepherds Gully Fault or Terawhiti Fault is a controlled activity under three separate rules (SUB-R17, SUB-R18, and SUB-R22). In that sense the subdivision rules are structured based on the ‘sensitivity’ of the land use activity, rather than the type of hazard overlay. In this example, there is no difference in the matters of control between each of these three rules. In my view, one rule for the Shepherds Gully Fault and Terawhiti Fault would be more efficient.

32. I note that in [Minute 33](#) Mr Sirl was asked at para (2)(ix): *‘To consider whether, if enabled by the National Planning Standards, the natural hazards rules could be restructured to improve their ease of understanding and use; in particular, by collating all rules relating to each natural hazard together to show the ‘cascade’ of activity statuses.’* I too wish to respond to this question.
33. Upon further review of the Subdivision rule framework as it relates to Natural and Coastal hazards, I have identified a simpler approach that will assist readability and clarity. This is contained in Appendix A of this Right of Reply. The approach being that each hazard overlay has its own rule, with an activity status hierarchy dependent on whether the subdivision creates a building platform for a less/potentially/hazard sensitive activity. In my view this will make it clearer for all plan users to more easily identify what hazard rules are relevant to their property and then understand the risk hierarchy for different activities/land uses.
34. The revised structure includes new headings to group rules based on hazards:
- a. Fault Hazards:**
 - i. Rule 17: Terawhiti Fault Hazard Overlay and Shepards Gully Fault Hazard Overlay
 - ii. Rule 18: Ohariu Fault Overlay
 - iii. Rule 19: Wellington Fault Overlay
 - b. Liquefaction:**
 - i. Rule 20: Liquefaction Hazard Overlay
 - c. Flood Hazards:**
 - i. Rule 21: Inundation
 - ii. Rule 22: Overland Path
 - iii. Rule 23: Stream Corridor
 - d. Coastal Hazards:**
 - i. Rule 24: Low coastal hazard
 - ii. Rule 25: Medium coastal hazard

iii. Rule 26: High coastal hazard

35. Although outside the scope of submissions received, to improve the interpretive and administrative clarity concerning these provisions the Panel could, in line with Schedule 1, clause 99(2)(b) of the RMA, consider this restructure to aid in plan readability. I consider this to be an administrative amendment as the amendments to the rule framework do not change any activity status' but instead provide a restructured rule framework based on each of the eleven hazards. This is set out in Appendix A and detailed further in Appendix B.
36. An associated matter that I have updated throughout my Right of Reply Appendix A are the references to policies in the matters of control/ matters of discretion for the Natural and Coastal hazard subdivision rules, noting that Mr Sirl has also significantly updated the Natural Hazard chapter policies. Again, although beyond the scope of submissions, it is my view that these amendments will provide integration with the Natural Hazards and Coastal Environment policies.
37. GWRC [351.190] sought that SUB-R23 reference SUB-P25 as a relevant matter of discretion, as SUB-P25 is a relevant policy for subdivision of land affected by natural hazards that provides direction on a risk-based approach. As I signaled at paras 634-637 in my s42A Report, I consider that the natural hazard and coastal hazard rules should be amended to refer to relevant natural and coastal hazard policies as matters of control/discretion, replacing the general subdivision policies. As notified, these reference the 'general' subdivision policies relating to servicing and design – when these 'general' policies would already have been picked up through the 'general' subdivision rules (i.e. SUB-R2 – SUB-R5).
38. Finally, I wish to note amendments to correct the naming of [Sheppards-Shepherds Gully](#) Fault which was identified by Mr Sirl in para 212 of the [Natural and Coastal Hazards s42A Report](#).

Section 32AA Evaluation

39. In my opinion, the amendments set out in this report are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that:
 - a. The amendments clarify the provision framework, particularly for natural and coastal hazards, which reduces the likelihood of interpretive issues.

Consequently, they are more efficient than the notified provisions in achieving the objectives of the PDP.

- b. The recommended amendments set out in this report will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

A handwritten signature in black ink, appearing to read "Alan", enclosed within a hand-drawn oval.

Date: 28 August 2023