

**BEFORE A HEARING PANEL OF
WELLINGTON CITY COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Wellington City Proposed District Plan

**EVIDENCE OF PETER ALAN COOP ON BEHALF OF TE HERENGA WAKA -
VICTORIA UNIVERSITY OF WELLINGTON AND ITS SUBMISSION ON THE
WELLINGTON PROPOSED DISTRICT PLAN**

PLANNING

Tertiary Education Zone

4 March 2024

1. INTRODUCTION

1.1 My full name is Peter Alan Coop and I am a self-employed resource management consultant.

1.2 This statement of evidence relates to planning matters associated with Hearing Stream 7 – Rural and Open Space, District Wide Matters, and Special Purpose zones, specifically the Special Purpose - Tertiary Education Zone on the Wellington Proposed District Plan. I am authorised by Te Herenga Waka – Victoria University of Wellington (VUW) to give this statement of evidence on its behalf.

2. QUALIFICATIONS AND EXPERIENCE

2.1 My qualifications are a Bachelor of Arts, Diploma of Town Planning, and a Master of Public Policy.

2.2 I have over 40 years' experience in town planning/resource management. This includes seven years as Wellington City Council's manager of resource consents and six years as the Council's manager of strategic planning and policy development. For the last 25 years I have worked as a resource management consultant for Urban Perspectives Ltd and since 2022 in self-employment.

2.3 My experience has included the preparation of numerous applications for resource consents, applications for private District Plan changes, submissions on Proposed Plans, and the preparation and presentation of expert evidence at Council, Board of Inquiry and Environment Court hearings.

2.4 For the last 20 years I have provided resource management advice and assistance to VUW in relation to their campuses, these being Kelburn, Pipitea and Te Aro. I've prepared applications for resource consent for VUW's new building projects on the Kelburn campus, including the Living Pa, the "HUB", Te Toki a Rata, Alan MacDiarmid, and Maru. Over this time, I've also prepared at least 10 applications for resource consent for alterations to existing buildings and facilities on the Kelburn campus.

2.5 My involvement has also included the preparation of an application for a District Plan change seeking a change in the zoning of VUW's 320 The Terrace from Residential to Institutional Precinct and the removal of the existing derelict building on the site (Gordon Wilson Flats) from the Wellington District Plan's heritage schedule.

3. CODE OF CONDUCT

3.1 Although this is not an Environment Court proceeding, I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Practice Note (2023) and agree to comply with it. I confirm that I consider that the issues addressed in my brief of evidence are within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

4. SCOPE OF EVIDENCE

4.1 My evidence responds to the section 42A Report prepared by Council reporting officer, Ms Lisa Hayes (*section 42A Report*). The section 42A Report assesses and makes recommendations on VUW's submission. My evidence therefore addresses VUW's submissions in the order that they appear in the section 42A Report.

5. VUW SUBMISSION POINTS

Departure from standards

5.1 VUW's submission is that for the Tertiary Education Zone (*TEZ*) and other zones, the term "cannot be achieved" should be changed to "is not achieved" for the reason that "cannot be achieved" implies the standard should be complied with unless it is not possible to do so:¹

Compliance with any of the requirements of TEDZ-R7.1 ~~cannot~~
be is not achieved.

5.2 Ms Hayes considers that the phrase "cannot be achieved" is "intended to provide flexibility" where developers "cannot comply" with the requirements of a particular standard.²

5.3 My opinion is the word "cannot" communicates a direct presumption that compliance must be achieved unless it is not possible (i.e. impractical) to do so.

5.4 However, there are instances where a proposed development could comply with a plan standard, but it is sometimes desirable for design or operational

¹ VUW submission (#106), Appendix A, pages 12, 16 and 17, changes sought to TEDZ-R3, TEDZ-R5, TEDZ-R6, TEDZ-R7 and TEDZ-R8.

² Wellington City Proposed District Plan, Hearing Stream 7 – Tertiary Education zone, Section 42A Report (*section 42A Report*), paragraph 48.

reasons, for a proposal to exceed that standard and seek consent instead. This is particularly the case in a city like Wellington with its variable terrain and/or when the more efficient use of a site can be achieved with building placement and design that departs from District Plan standards; in other words, one size does not always fit all.

- 5.5 I consider the flexibility that Ms Hayes and I seem to agree on will be better communicated by replacing “cannot be achieved” with the less prescriptive phrase “is not achieved” in the TEZ and other zones.

Definition of Tertiary Education Facility

- 5.6 VUW’s submission seeks change to the definition of “tertiary education facility” to include “education and research partners” and, in light of the importance of various ancillary activities necessary for the effective operation of the university campuses, also seeks to include “food, beverage and retail” in the definition.³

Tertiary Education Facility – means land or buildings used for tertiary education and research activities. Includes:

[...]

j. education and research partners:

j.k. any ancillary activity necessary for the effective operation of the University which includes:

[...]

xiii. food and beverage; and

xiv. retail.

- 5.7 This change is important for VUW as the Kelburn campus is occupied and used by entities other than VUW, for example the Malagan Institute of Medical Research and other third-party operators and startups. Possible future co-location with other research organisations also has the potential to significantly enhance Wellington and the Kelburn campus as a learning and research destination.

³ VUW submission (#106), Appendix A, page 1.

5.8 Food, beverage and retail outlets on the Kelburn campus are an integral part of university operations to cater for the campus' daytime population of staff and students, given the location of the campus, otherwise removed from CBD food and beverage clustering.

5.9 Ms Hayes recommends acceptance of VUW's submission on the definition of "tertiary education facility".⁴ I concur.

320A The Terrace

5.10 VUW's submission seeks that the site at 320A The Terrace (the McLean Flats site) now owned by VUW should be included in the TEZ instead of the High Density Residential Zone.⁵ Ms Hayes recommends acceptance of VUW's submission.⁶ I concur for the same reasons as in Ms Hayes' assessment.

302 The Terrace

5.11 VUW's submission seeks the site at 302 The Terrace (the "substation site" owned by Wellington Electricity Lines Limited (*WEL*)) should be included in the TEZ instead of the High Density Residential Zone.⁷ Ms Hayes considers that given WEL owns the site at 302 The Terrace and there is no indication that the substation will be removed and there is no clear need for VUW to undertake development of the site, she recommends that the submission point is rejected.⁸

5.12 The context for VUW's submission is that the substation is aged and there are capacity issues. At some stage it will become desirable, if not essential, that the substation is replaced. The size and shape of WEL's site makes it impossible to be developed in isolation for high density residential purposes and for the same reasons, it is unattractive as a residential redevelopment proposition in conjunction with the adjoining site to the north.

5.13 However, the substation site could be incorporated and redeveloped in conjunction with VUW's adjoining site to the south at 320 The Terrace which is zoned TEZ.

5.14 For the above reasons, WEL and VUW have discussed the possibility of VUW incorporating WEL's site at 302 The Terrace into its proposal for 320

⁴ Section 42A Report, paragraph 52.

⁵ VUW submission (#106), Appendix A, page 6.

⁶ Section 42A Report, paragraphs 59 to 62.

⁷ VUW submission (#106) , page 6.

⁸ Section 42A Report, paragraph 64.

The Terrace, including a new substation for WEL to be located within the basement of VUW's proposal. A Memorandum of Understanding was prepared to formalise this agreement between the parties but is on hold until the proposed redevelopment of 320 The Terrace is reactivated.

5.15 The above outcome will be positive for VUW, WEL, the neighbourhood the new substation serves, and for the city. This positive outcome will be assisted and incentivised by having the zoning of 302 The Terrace consistent with the zoning of 320 The Terrace.

5.16 For the above reasons, I recommend to the Panel that the zoning of 302 The Terrace is changed to TEZ.

Activity status

5.17 VUW's submission opposes the proposed activity status for additions and alterations to existing TEZ buildings (TEDZ-R6) and new buildings (TEDZ-R7).⁹ These activities, previously Controlled activity status under the Wellington Operative District Plan, are now proposed to require consent as Restricted Discretionary (RDA) activities.

5.18 Ms Hayes does not recommend accepting VUW's submission because:¹⁰

- (a) RDA status will provide the Council with wider scope to positively influence design outcomes;
- (b) the campuses are visually prominent within Wellington's townscape; and
- (c) the PDP moves away from the use of controlled activity status.

5.19 The scope of the Council to influence design outcomes is not determined by the activity status but by the matters of discretion. This can be confirmed by comparing the matters of discretion in TEDZ-R6 and TEDZ-R7 for Controlled activities, as sought by VUW with TEDZ-R6 and TEDZ-R7 for RDA,¹¹ as notified in the Wellington Proposed District Plan and recommended by Ms Hayes.¹² They are the same. While the Wellington Proposed District Plan will widen the matters of discretion (and that is not opposed by VUW), it is not in my opinion a sound reason for making the activity status more onerous for VUW.

⁹ VUW submission (#106), Appendix A, pages 13 and 16.

¹⁰ Section 42A Report, paragraphs 175-176 and 189.

¹¹ Section 42A Report, pages 37 and 41.

¹² Section 42A Report, pages 39 and 43.

- 5.20 I think that what Ms Hayes really means by “wider scope to positively influence design outcomes” is that the proposed change from Controlled to RDA is being sought to give the Council’s urban designers and planners the ability to influence campus design matters by declining applications on urban design grounds.
- 5.21 Based on my experience, there are no examples or any evidence in the section 42A Report where the Controlled activity status has applied over the last 20 years, and has resulted in any suboptimal urban design outcomes such that the declining of the application for resource consent would have been justified. In fact, the design consultation I’ve been a party to over the last 20 years involving VUW and Council urban designers Kelburn campus building projects, have resulted in well-balanced assessments of the design outcomes that have satisfied both parties.
- 5.22 The Council’s longstanding policy is that Controlled activity status is appropriate because of the strategic importance of VUW to the city and region. There are advantages to the city by VUW having a high degree of certainty in terms of its ability to obtain resource consent more easily to enhance the educational and research facilities on the Kelburn campus. This policy has been successful in incentivising VUW to significantly enhance the Kelburn campus, making Wellington a more attractive destination for tertiary education and research.
- 5.23 I therefore recommend to the Panel that the Controlled activity status be retained in the TEZ for matters other than when a building standard is not complied with. I accept that RDA is appropriate when a building standard is not complied with.

Notification

- 5.24 VUW’s submission addressed the notification status under the respective rules (TEDZ-R6 and TEDZ-R7) and Ms Hayes recommends acceptance of this submission.¹³ I agree. If public notification was precluded it would avoid creating the incongruence referred to by Ms Hayes.¹⁴

¹³ Section 42A Report, paragraphs 178 and 191.

¹⁴ Section 42A Report, paragraph 191.

Public spaces definition

- 5.25 Resource consent is required for very minor proposed building additions and alterations that can be seen from anywhere accessible to a pedestrian, even if this is to the rear of a building, leading to significant cost and delay associated with even minor building works. This is because of the very wide definition of “public spaces”. The wide definition of “public places” acts as a disincentive to retaining the respective campuses as places where pedestrian accessibility is not restricted. VUW’s submission in respect of TEDZ-R6 sought:¹⁵

Additions and alterations to Buildings and Structures

1. Activity status: **Permitted**

Where:

- a. The proposed additions or alterations:
 - i. Do not alter the appearance of the building or structure;
or
 - ii. Are not visible from ~~public spaces a legal road or are~~ located 10m away from a legal road boundary; and
 - iii. Compliance with TEDZ-S1, TEDZ-S2, TEDZ-S3; and TEDZ-S4 is achieved.

- 5.26 This cost and delay will only increase if the activity status is changed from Controlled to RDA as notified in the Wellington Proposed District Plan.
- 5.27 For the above reasons, VUW’s submission seeks to replace “public spaces” in TEDZ-R6 and TEDZ R7 with “are not visible from a legal road or are located 10m away from a legal road boundary”. This would retain Council control over the impacts of building work on streetscapes.
- 5.28 An option that is open to the Panel is to decline VUW’s submission to replace “public spaces” in TEDZ-R6 and TEDZ R7 with “are not visible from a legal road or are located 10m away from a legal road boundary” but accept VUW’s submission that the activity status of TEDZ-R6 and TEDZ-R7 as Controlled.

¹⁵ VUW submission (#106), Appendix A, page 13.

Building height standard

- 5.29 VUW's submission sought refinements to the building height standard for 320 and 320A The Terrace. Ms Hayes has assessed this and recommends refinement as shown in the section 42A Report.¹⁶ I concur. However, because I consider that 302 The Terrace should be included in the TEZ, I recommend to the Panel that this property is included in Height Control Area 4. With this change, I consider that the changes to TEDZ-S2 and TEDZ-S3 as sought by VUW should be accepted, but retaining in TEDZ-S3 the 10m yard standard along the boundary with 324 The Terrace as recommended by Ms Hayes.¹⁷

Building coverage

- 5.30 I consider that the title of TEDZ-S4 should be amended to be "Building coverage in relation to 302, 320 and 320A The Terrace".¹⁸ I also agree with the application of TEDZ-S4 to include 320A The Terrace, extending the site coverage restriction across both parcels of land. I agree that this will achieve the intended purpose of the standard, being to prevent over-development of the site.¹⁹

6. CONCLUSION

- 6.1 My main conclusions insofar as VUW's submission is concerned are:
- (a) The phrase "cannot be achieved" should be replaced with "is not achieved" in standards TEDZ-R3, TEDZ-R5, TEDZ-R6, TEDZ-R7 and TEDZ-R8 and elsewhere in the Wellington Proposed District Plan.
 - (b) The definition of "Tertiary Education Facility" in the TEZ should be amended as sought by VUW and recommended by Ms Hayes.
 - (c) 302 The Terrace should be included in the TEZ and included in Height Control Area 4.
 - (d) The activity status of TEDZ-R6 and TEDZ-R7 should be Controlled with Restricted Discretionary applying to any building standards not complied with.

¹⁶ Section 42A Report, paragraph 237.

¹⁷ Section 42A Report, paragraph 223.

¹⁸ Section 42A Report, paragraphs 237 and 238.

¹⁹ Section 42A Report, paragraph 237.

- (e) TEDZ-S2 and TEDZ-S3 should be amended to remove references to 302 and 320 The Terrace but retain TEDZ-S3.4 “the boundary of 324 The Terrace where a 10m yard shall apply”.
- (f) The title of TEDZ-S4 should be amended to be “Building coverage in relation to 302, 320 and 320A The Terrace”. This will appropriately apply TEDZ-S4.1 to 302 and 320A The Terrace subject to a separate plan change.

Peter Allan Coop

4 March 2024