

<p style="text-align: center;">Wellington City District Plan – Omnibus Plan Change</p> <p style="text-align: center;">Language of ‘cannot be achieved’ vs ‘is not achieved’</p>
<p>Scope of Proposed Change</p> <p>To amend the term ‘cannot be achieved’ to ‘is not achieved’ to ensure that the language used throughout the District Plan is consistent.</p>
<p>Background</p> <p>The matter of ‘cannot be achieved’ vs ‘is not achieved’ was raised by the Independent Hearing Panel throughout the Tranche 1 hearing process:</p> <p><i>“With respect to HRZ-R17 (Construction of any other building or structure, including additions and alterations), we asked Mr Patterson whether the trigger for restricted discretionary activity status should be “cannot be achieved”, as notified, or alternatively “are not” (achieved). While Mr Patterson’s view was that there was no material difference, he recommended that further changes be made to HRZ rules to ensure the former term is used consistently. We believe that there is a potentially material difference between the two. Asking whether the outcome “cannot” (be achieved) risks being read literally when what is called for is a simple determination as to compliance or non-compliance. For that reason, we favour “is not” or “are not” (achieved) and recommend the adoption of this wording into the relevant rules (including in the MRZ Chapter), accepting in this regard a Victoria University submission[#406.2].”¹</i></p> <p>It was also raised through Tranche 2:</p> <p><i>“In addition to the above questions, can all reporting officers for Hearing Stream 7 please advise whether the replacement of the term “cannot be achieved” with “is not achieved” in the rules has been fully captured, in line with changes made to rules in previous hearings.”²</i></p> <p>Following on from the Panel’s direction, this change was made to all Tranche 2 instances of ‘cannot be achieved’ as a consequential amendment. The same amendment was not made to all Tranche 1 uses of the term. As such there is a matter of consistency that needs to be addressed.</p>
<p>Issue</p> <p>An audit of the operative 2024 District Plan provisions (Tranche 1 decisions) has identified that ‘cannot be achieved’ is still used in a number of provisions. This wording is not consistent with the Panel’s recommendations and results in inconsistency within the Plan.</p>
<p>Assessment of Options</p> <p><i>Relevant Options</i></p> <p>For the purposes of this evaluation, the following options have been considered:</p> <ul style="list-style-type: none"> • Option 1: Status quo. • Option 2: Amend the term ‘cannot be achieved’ to ‘is not achieved’.

¹ Paragraph 216, [Report and Recommendations of Independent Commissioners Report 2A](#)

² Paragraph 3, [Minute 46: Hearing Stream 7 Follow-up](#)

Cost/Benefit Assessment

The proposed amendment does not alter how the Plan provisions will be implemented.

No social, environmental, economic or cultural costs or benefits have been identified for either option.

Effectiveness and efficiency

There will be benefits in terms of Plan consistency, allowing for improved Plan interpretation and more efficient Plan administration.

Risk of acting/not acting

There are no significant risks associated with any options identified above.

Recommended Option

Following the assessment above, Option 2 is the preferred option.

Recommended Changes

Three Waters	THW-R7.2.a THW-R8.2.a	<u>is not</u> cannot be achieved
Viewshafts	VIEW-R1.2.a VIEW-R2.4.a	<u>is not</u> cannot be achieved
Wind	WIND-R1.5.a WIND-R1.6.a	<u>is not</u> cannot be achieved
Development Area: Kilbirnie Bus Barns	DEV1-R1.2.a DEV1-R1.3.a	<u>is not</u> cannot be achieved
Medium Density Residential Zone	MRZ-PREC03-R4.3.a	<u>is not</u> cannot be achieved
High Density Residential Zone	HRZ-R13.2.a	<u>is not</u> cannot be achieved
Mixed Use Zone	MUZ-R2.2.a MUZ-R11.2.a MUZ-R12.2.a MUZ-R13.2.a MUZ-PREC01-R1.2.a MUZ-R18.2.a MUZ-R20.2.a	<u>is not</u> cannot be achieved

Metropolitan Centre Zone	MCZ-R12.2.a	<u>is not</u> cannot be achieved
Local Centre Zone	LCZ-R10.2.a LCZ-R18.2.a LCZ-R19.2.a LCZ-R19.3.a	<u>is not</u> cannot be achieved
Neighbourhood Centre Zone	NCZ-R10.2.a	<u>is not</u> cannot be achieved
Large Lot Residential Zone	LLRZ-R2.2.a LLRZ-R3.2.a LLRZ-R4.2.a LLRZ-R5.2.a LLRZ-R11.2.a LLRZ-R12.2.a	<u>is not</u> cannot be achieved
Subdivision	SUB-R27.3.b	<u>is not</u> cannot be achieved
Earthworks	EW-R14.2.a	<u>is not</u> cannot be achieved
Historic Heritage	HH-R8.2.a HH-R9.2.a HH-R21.3.a HH-R21.4.a HH-R24.2.a HH-R25.2.a	<u>is not</u> cannot be achieved
Notable Trees	TREE-R1.2.a TREE-R2.2.a TREE-R3.2.a	<u>is not</u> cannot be achieved
Sites and Areas of Significance to Māori	SASM-R3.2.a SASM-R4.2.a SASM-R5.2.a	<u>is not</u> cannot be achieved