

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 12 to the Operative Hamilton  
City District Plan

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**STATEMENT OF EVIDENCE OF DR JULIANA REU JUNQUEIRA**

**(BUSINESS ZONES)**

**Dated 26 June 2024**

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## **INTRODUCTION**

1. My full name is Juliana Reu Junqueira.
2. I hold the position of Team Lead within the Urban and Spatial Planning Unit of Hamilton City Council (**HCC**). I have previously held the position as Senior Planner in the same unit. I have been at HCC since May 2022.
3. I hold the qualifications of Bachelor of Architecture and Urbanism from the Federal University of Santa Catarina (Brazil), a Master of Civil Engineering (Land-use management) from the Federal University of Santa Catarina (Brazil), and a PhD in Environmental Planning from the University of Waikato.
4. I am a full member of the New Zealand Planning Institute. I have had over 19 years' experience. My previous relevant experience includes Manager Urban-Environmental Policy Integration for Jaragua do Sul City Council (Brazil) where I was involved in land-use, environmental and transport integration. I was involved in projects and plans involving the establishment of zoning frameworks, density standards, analysis of industrial and business area supply, housing, master plans, place making, significant natural areas, transport and mobility plans for the wider area.

## **CODE OF CONDUCT**

5. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

## SCOPE OF EVIDENCE

6. The purpose of this evidence, presented on behalf of HCC as Plan Change 12 (**PC12**) proponent, is to:
  - a) Provide an overview of the Business Zones in light of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**HSAA**) and the National Policy Statement on Urban Development 2020 (**NPS-UD**) and;
  - b) Describe the PC12 approach for the Business Zones, explain the approach underpinning the PC12 provisions, and consider the appropriateness of the provisions in light of sound planning principles; and
  - c) Highlight what I consider to be the key issues arising from submissions.
7. This evidence is structured as follows:
  - a) Summary of evidence;
  - b) Analysis;
    - i. Introduction;
    - ii. Key issues;
      - Residential activities in Business Zones;
      - Standards for residential development in Business Zones and associated policy framework;

- Maximum building height;
  - Height in Relation to Boundary – HIRB;
  - Building intensity;
  - Storage areas;
  - Residential unit size;
  - Public interface;
  - External outlook area;
- Historic Heritage items and areas;
- c) PC12 provisions;
- d) Response to key issues; and
- e) Conclusion.

## **EXECUTIVE SUMMARY**

8. This evidence discusses key issues related to proposed changes to Business Zones in PC12 including:
- a) Various issues related to the development and use of Business Zones, including building height, ground floor apartments, building intensity, public interface, and storage area and outlook space.
  - b) The proposed increase in permitted height for some Business Zones within the height overlay and around higher density residential zones will allow for further residential capacity in existing Business Zones. This is consistent with adjacent Residential Zones.
  - c) Ground floor apartments are currently a non-complying activity in all Business Zones whilst single and duplex units are discretionary

in Business Zone 6 (Neighbourhood Centre). The main objective of the Business Zones is to bolster commercial activities and economic growth. However, it is proposed to classify residential units on the ground floor as discretionary in Neighbourhood Centres, potentially allowing for more mixed-use developments in these areas.

- d) The existing building intensity ratio limits the number of storeys allowed for Business Zone areas within the Business Height Overlay. While the building intensity is adequate outside the Overlay, it imposes limitations within the Overlay that do not allow for greater heights; and
- e) The importance of storage areas for residents in compact apartments within business zones.

## **ANALYSIS**

### **Introduction**

- 9. PC12 provisions are designed to implement the HSAA and the NPS-UD. The main focus is on developments within and around urban centres.
- 10. The Operative District Plan (**ODP**) specifies the anticipated and encouraged land use activities within the Business Zones. Chapters 6 – Business Zones and 7 - Central City Zone establish a hierarchy of centres. At the top of this hierarchy is the Central City, while Neighbourhood Centres occupy the lower end. The Central City serves as the primary hub for the City, accommodating commercial activities of a suitable nature and scale within other centres.

11. Chapter 6 describes the purpose of the seven Business Zones as follows:

<b>Business Zone</b>		<b>Purpose</b>
1	Commercial Fringe	Enclaves and precincts where specific activities have conglomerated adjacent to nearby centres
2	Major Event Facilities	Localised commercial activity supporting major facilities
3	Sub-Regional Centre	The Base and Chartwell
4	Large Format Retail	Larger format vehicle-based activities
5	Suburban Centre	Local shopping centres
6	Neighbourhood Centre	Serves local residential areas
7	Frankton Commercial Fringe	As above and located in Frankton

12. PC12 does not propose any changes to the size or location of the existing Business Zones in Hamilton. The current number, size, and location of the Business Zones are maintained under PC12.
13. PC12 amendments aim to facilitate increased residential development within Business Zones. Simultaneously, the proposed changes ensure that the centres hierarchy remains intact and that the primary purpose of Business Zones for commercial activities is not compromised.
14. The primary change brought about by PC12 is to enable residential development on upper floors of buildings in these Business Zones and at greater heights in specific areas. This change in PC12 does not impact the availability of business land. Instead, it promotes more mixed-use development in the City, which aligns with the NPS-UD objective of creating liveable urban environments with a range of housing options and commercial services.
15. The proposed PC12 Section 32 report did not assess residential capacity in business areas beyond the Central City. The additional supply of residential activities that PC12 allows in the upper floor level of certain Business Zones goes above and beyond the expected zone-enabled capacity (for more information refer to Dr Mark Davey's evidence on Strategic Planning).

## **Key Issues**

16. Building heights, permission for ground floor apartments, public interface, intensity building rate, storage and outlook space and transition near historic heritage and historic heritage areas are important factors that are discussed in this evidence as they influence the overall character and density of the area. These topics were chosen because they address key aspects of the plan change that affect the built environment and the community's quality of life.

## ***Residential activities in Business Zones***

17. The core purpose of the Business Zones is to provide appropriate land within the urban area for the establishment of business activities. Not only is housing supply a priority under the NPS-UD, but provision of business land should also be accounted for as set out in clauses 3.28, 3.29 and 3.30.
18. There is potential to expand housing options in some Business Zones by utilising infill, conversion, or adding residential units above ground floors. This change, supported by PC12, aims to enhance vibrant areas near employment hubs and everyday amenities. The Activity Status Table 6.3 was, therefore, updated in light of the NPS-UD to further allow residential units within the Business Zones. Some Business Zones were deemed appropriate to accommodate residential units above ground floor (e.g. Commercial Fringe, Sub-regional Centre, Suburban Centre, Neighbourhood Centre and within the Frankton Living Overlay in Frankton Commercial Fringe).
19. As an ancillary activity, the provision of residential units above the ground floor is an efficient solution. The ground floor will still be used for different business sectors while the above floor levels could provide further housing.

20. While apartments are a common type of residential development above the ground floor level, there are buildings within the Business Zones that currently have business uses and have potential to provide housing through infill and conversion of upper floors but can only accommodate one or two residential units, particularly in Neighbourhood Centres. This approach has its advantages, including reducing the overall scale of the development. One or two residential units also tend to blend in more seamlessly with the surrounding residential area, maintaining the existing character of the neighbourhood. The mix of uses (i.e., business on the ground floor and residential units above the ground floor level) allow an urban area with vitality in different times of the day and/or week. That is, the area will be busy during working hours since there are different businesses, as well as after hours and during weekends due to the above ground residential units.
21. The ODP Business Zone hierarchy clearly defines the roles and purposes of different Business Zones across the City, emphasising business activities as their primary function. To maintain this focus, residential activities—specifically apartments—are only allowed above ground floor levels. PC12 facilitates this change by permitting apartments in most Business Zones where the operative plan categorises them as restricted discretionary activities.
22. Ground floor apartments are a non-complying activity in all Business Zones. Some submissions sought ground floor apartments as permitted activities. However, no adequate justification was provided. Specifically, there is no appropriate evidence addressing how it might impact the availability of business land in Hamilton, the centres hierarchy, and the intended purpose of the Business Zones. If ground floor apartments are a permitted activity (or any other status rather than non-complying) there is a significant risk that residential buildings will occupy areas designed to be used by



businesses. This situation could lead to a reduction on the availability of business land as well as affect operations of existing business with increasing reverse sensitivity impacts.

23. The primary purpose of a Business Zone is to support commercial activity and economic development. Allowing residential apartments on the ground floor level can reduce the amount of available commercial space, which may make it less attractive to business owners and limit the zone's economic potential.
24. Furthermore, implementing measures to enhance residential privacy could potentially lead to unfavourable urban design results. These measures might decrease the active street presence within Business Zones, which is crucial for maintaining a well-functioning urban environment.

***Standards for residential development in Business Zones and associated policy framework***

**Maximum Building Height**

25. PC12 provides for a height overlay that applies to Business Zones. The proposed increase in permitted height for some Business Zones within the height overlay will allow further residential capacity in the existing Business Zones.
26. The proposed height overlay will provide for around two more storeys on over 0.47km<sup>2</sup> of land within the Business Zones (within the Business Height Overlay) according to HCC GIS maps. The height overlay, shown in Figure 6.4c of proposed PC12, is based on the 800-metre City Centre walkable catchment. The Business Height Overlay applies within the walkable catchment around the Central City and mostly within the Stage 1 of the Infrastructure Capacity Overlay allowing greater heights for the Business

Zones there. For example, Business Zone 6 allows 11 metres of building height, and the parcels within the overlay and Business Zone 6 will allow 21 metres. Similarly, Business Zone 5 permits a maximum building height of 15 metres outside the overlay and 21 metres within the overlay.

27. The heights within the Business Zones are intended to align with the heights in the neighbouring Residential Zones, ensuring urban form consistency. These areas are often in close proximity to each other and have a direct impact on each other's visual and environmental character. For instance, if the maximum permitted height is increased in an adjacent Residential Zone, but the maximum permitted height in the affected Business Zone remains unchanged, it could result in an abrupt visual transition between the two areas (i.e. Business Zones permitting a lower maximum height than adjoining Residential Zones). This could have a negative impact on the overall urban character and could create an unattractive and disjointed streetscape.
28. Accordingly, when considering changes to the maximum permitted height in adjacent residential zones, it is important to review the maximum permitted height for the Business Zones that are affected. As some Residential Zone heights are being proposed for an increase (refer to the evidence presented by Mr Mark Roberts on the Residential Zones), it is logical to similarly raise the heights in the corresponding Business Zones.
29. As per the NPS-UD, Policy 3(d) stipulates that building heights and densities within and near Neighbourhood Centre Zones, Local Centre Zones, and Town Centre Zones (or their equivalents) should align with the level of commercial activity and community services. PC12 has facilitated additional residential development within Business Zones by allowing upper floors to be utilised for residential purposes. Most Business Zones in Hamilton are currently under the existing height limits. Therefore, PC12 supports intensification in a manner consistent with the prevailing

commercial activity and community services. Therefore, further increases in height limits seems to lack justification.

30. Instead of changing the base zone height, an overlay is the preferred method because it offers a nuanced and precise way to address specific concerns without overhauling entire zones (e.g. allowing greater building heights when a Business Zone adjoins a High Density Residential Zone).

#### Height in relation to boundary

31. In PC12 (as notified), the Height in Relation to Boundary (**HIRB**) control applies only to Business Zones that adjoin the General Residential Zone. To maintain consistency with the proposed amendments for HIRB provisions within the General Residential Zone, it is recommended that, where a Business Zone adjoins the General Residential Zone, the HIRB is set at 45 degrees beginning at 4m above the boundary (refer to Mr Roberts' evidence on Residential Zones for further details).
32. Additionally, it is important to note that in PC12 (as notified), HIRB control for situations where Business Zone land adjoins a Medium Density Residential Zone only applies to the Medium Density Residential Zone (and not to Business Zones). For consistency, a HIRB control should equally apply to the Business Zone where it adjoins a Medium Density Residential Zone.

#### Building intensity

33. Business Zones currently regulate density on a site through a floor area ratio to site area. Most of these ratios in the ODP could preclude residential development of upper floors as they limit the number of storeys and do not meet the need to enable more height.

34. The existing building intensity ratio (2:1 for Business Zones 1, 3, 5 and 7 and 1:1 for Business Zones 2,4 and 6) might limit the number of storeys that will be allowed for each Business Zone.
35. While neither the ODP nor PC12 provide building coverage limitations (i.e. someone could build 100% of their site) for Business Zones, the density is regulated by the intensity ratio. The intensity ratio does impose limits either on the number of storeys or on the percentage of a site that that can be built in a given location.
36. Further analysis on the building intensity ratio can be found in **Appendix B**.

#### Minimum Unit Size

37. The establishment of minimum unit size requirements is crucial in ensuring that individuals are provided with adequate and liveable spaces. Within the Business Zone, the provisions are proposed to be consistent with the recommendations in the General Residential Zone (refer to Mr Roberts' evidence on the Residential Zone for further details).

#### Storage Areas

38. PC12 amends the storage area requirements to introduce a minimum storage area volume and to adjust the minimum dimensions (Rule 6.4.7 f.).
39. Intensification of urbanisation tends to produce smaller residential units. Rather than having plenty of space for storage, dwellings become compact and space becomes prioritised to living area. Storage areas provide a convenient place for residents to store their belongings, such as seasonal items, sports equipment, and personal items. This can help to keep the living area clutter-free and organised, which is especially important in smaller apartments where space is limited. It also helps enable these types

of dwellings to be more useful to a broader group of the population, including families.

40. Business Zone residential units are required to provide storage area based on the number of bedrooms similar to developments in High Density Residential Zones (i.e. a unit with one bedroom shall provide 4m<sup>3</sup> of storage area while a three or more-bedroom unit shall provide 6m<sup>3</sup> according to the notified version of PC12). Refer to Mr Roberts' Residential Zones evidence for more details and to **Appendix B** for the assessment of submissions related to the Business Zones.

#### Public Interface

41. Business Zone Policies 6.2.1f, 6.2.2h, 6.2.3c, 6.2.8b, and 6.2.9b endorse upper-level residential developments that enhance street safety, mandating that each unit must have sufficient storage, outdoor living spaces, and daylight access.
42. The Business Zones chapter has a corresponding public interface standard (Rule 6.4.7 g.) which requires street facing units to have a minimum of 20% of the street facing façade in glazing.
43. Schedule 3A of the Resource Management Act 1991, Policy 3, emphasises the importance of encouraging development that leads to attractive and safe streets and public open spaces, which includes incorporating passive surveillance measures. Upper floor residential units can facilitate passive surveillance, thereby contributing to creating safer streets.

#### Outlook Space (or External Outlook Area)

44. The external outlook standards (Rule 6.4.7 h) have been amended through PC12 to align with the Medium Density Residential Standards (**MDRS**).

Outlook spaces (also referred to as external outlook area) are also required for habitable room windows - Rule 6.4.5(h). Outlook spaces provide healthy spaces (in terms of sunlight, ventilation to avoid mould or the spread of diseases such as Covid-19 and improve mental health). Furthermore, outlook space can provide residents with a comfortable and enjoyable living experience. It allows them to enjoy the surroundings and take in the cityscape, which can be especially important in Business Zones where there is a lot of activity and excitement.

45. A 4m x 4m outlook space is in line with what is required for the Medium Density Residential Zone (Chapter 4.3.4.9). It seems appropriate that the outlook space in Business Zones and Medium Density Residential Zones have the same requirements.

#### ***Historic Heritage Areas and Built Heritage Items***

46. Some Business Zones are adjoining or within Historic Heritage Areas (**HHA**) or Built Heritage items (**BH**). The intention of the HHA and BH provisions is to identify, protect, maintain and enhance the respective heritage attributes of those areas and items.
47. Changes to these items may require resource consent. For example, all Business Zones within an HHA have restrictions of HIRB as per Chapter 19 (19.4.6). Therefore, there is no need for these to be reassessed by this evidence.

#### **PC12 PROVISIONS**

48. PC12 amended the Business Zones purpose to allow residential uses. Residential activities above ground floor are encouraged as long as providing adequate storage space, outlook space, usable outdoor living areas and access to daylight.

49. The Activity Status Table was updated to permit residential use above the ground flood in four out of seven Business Zones and within the Frankton Living Overlay. See the table below of activities' status per zone under both the ODP and notified in PC12 (the tables highlighted in red indicate the changes in the activity status).

Business Zone	Apartments					
	At ground floor		Above ground floor		Above ground floor within the Frankton Living Overlay	
	ODP	PC12	ODP	PC12	ODP	PC12
Commercial fringe (1)	NC	NC	RD	P	-	-
Major Event Facilities (2)	NC	NC	NC	NC	-	-
Sub-regional Centre (3)	NC	NC	NC	P	-	-
Large format Retail (4)	NC	NC	NC	NC	-	-
Suburban Centre (5)	NC	NC	RD	P	-	-
Neighbourhood centre (6)	NC	NC	RD	P	-	-
Frankton Commercial Fringe (7)	NC	NC	D	D	RD	P

50. The Commercial Fringe, Sub-regional Centre, Suburban Centre, Neighbourhood Centre and Frankton Living Overlay in the Frankton Commercial Fringe are proposed to have apartments above ground floor as permitted activities.
51. The maximum building height was also reassessed with the introduction of a height overlay in PC12. The height overlay has identified areas that are suitable to increase the building heights, resulting in 21m within the height overlay (Figure 6.4c – PC12), maintain 15m in Business Zones 1, 2, 4, 5 and 7 outside of the height overlay (Commercial Fringe, Major Events Facilities, Large Format Retail, Suburban Centre and Frankton Commercial Fringe, respectively) and allow 11 metres in the Business 6 (Neighbourhood Centre) outside of the height overlay.
52. HIRB requirements for developments adjoining a General Residential Zone

were also updated to a height control plane rising at an angle of 60 degrees beginning at an elevation of 4m above the boundary. This requirement is the same stated in MDRS for Residential Zones. There are no requirements for HIRB when a Business Zone adjoins a Medium Density Residential Zone or High Density Residential Zone. This is because of the taller, larger, and denser built form anticipated by the zone provisions being comparable to the commercial buildings permissible through the Business Zones.

53. Storage area requirements were reviewed to relate the unit type and minimum storage area volume. The required volumes range from 3m<sup>3</sup> to 6m<sup>3</sup> depending on the proposed unit types.
54. Requirements for minimum floor area for different forms of residential units and daylight standards were removed from the Plan, following the same approach taken by the Residential Zones. Part of the ODP daylight standards were incorporated into PC12 public interface requirements.
55. The establishment of minimum unit size requirements, however, plays a vital role in guaranteeing that housing options meet basic standards and provide a decent quality of life for residents. Further discussion on minimum unit sizes can be found in the Residential Zones evidence authored by Mr Roberts.
56. A public interface of a minimum 20% of the street-facing façade in glazing for residential units facing the street and outlook spaces from habitable room windows were also introduced by PC12.

## **RESPONSE TO KEY ISSUES RAISED BY SUBMISSIONS**

57. Key themes which were raised in submissions are outlined below. **Appendix B** includes a more comprehensive discussion of these key issues. The following topics are addressed:



- a) Residential Activities in business zones.
- b) Maximum building height.
- c) Building intensity.
- d) Storage and External Outlook Area.
- e) Public Interface.
- f) Historic heritage items and areas.

## **CONCLUSION**

58. In conclusion, the proposed changes in the Business Zones in PC12 are considered appropriate. The increase in permitted height within the Business Height Overlay can provide more residential capacity. However, it is important to note that the primary purpose of these zones is to support commercial activity and economic development, and the provision of ground floor apartments may reduce the amount of available commercial space. Moreover, safe streets requirements are crucial to creating a welcoming and thriving business district, while storage areas can help residents keep their living spaces organised in smaller apartments. Therefore, while the proposed changes in the Business Zones may enable greater density, it is essential to balance the needs of residential and commercial spaces and ensure that the area remains safe, accessible, and attractive to businesses and residents alike.

**Dr Juliana Reu Junqueira**

**26 June 2024**

## **APPENDIX A – Officers' Recommended Amendments to PC12 Provisions**

A full set of the recommended amendments to provisions is available on HCC's external PC12 web page

<https://hamilton.govt.nz/property-rates-and-building/district-plan/plan-changes/plan-change-12/>

## **APPENDIX B – Response to Submissions**

# **Plan Change 12 – Intensification Planning Instrument**

## **Appendix B**

### **Business Zone – HCC Response to Submissions**



Document: Plan Change 12 Intensification Planning Instrument – Business Zone Evidence –  
Appendix B - HCC Response to Submissions  
Date: June 2024  
Prepared by: Juliana Reu Junqueira, Urban and Spatial Planning Team Lead  
Authorised by: Mark Davey – City Planning Unit Manager

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## 1.0 Scope of Report – Relevant Plan Change Provisions

This report considers submissions and further submissions received in relation to the parts of PC12 listed in Table 1:

**Table 1 Plan Change Provisions this report addresses**

District Plan Volume	Proposed Plan Change 12 Chapters or Appendices	Proposed Plan Change 12 Sections
1	Chapter 6 Business Zones 1-7	6.1 Purpose
		6.2 Objectives and policies
		6.3 Rules – Activity Status Table
		6.4 Rules – General Standards
		6.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
2	Appendix 1 District Plan Administration	1.1 Definition and Terms
		1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria

## 2.0 Overview of the Topic

The key changes introduced through PC12 include:

- Providing for upper floor apartments as permitted activities in a number of areas in the Business Zones.
- Increasing building height in Business Zones within an approximate 800m walkable catchment of the Central City to 21m and in nearby Business Zones where they are surrounded by either High Density or Medium Density Residential Zones.
- Amending building height, height in relation to boundary, storage areas, public interface, and external outlook to align with the HSAA requirements (MDRS) and Residential Zone provisions.

## 3.0 Statutory Requirements

### 3.1 Section 32AA

PC12 was supported by a section 32 evaluation report titled ‘Plan Change 12 – Enabling Housing– Section 32 Evaluation Report, dated August 2022 (“the Section 32 Report”). The Section 32 report was accompanied by 17 supporting documents that formed appendices to the Section 32 report.

The Section 32 Report and supporting assessment suite has been evaluated and is considered generally robust and suitable for supporting PC12.

A further evaluation report will be prepared pursuant to section 32AA of the RMA to support the Hearing Commissioner decisions, in respect of providing further evaluation of any changes that will be made to the PC12 provisions following the initial section 32 evaluation was completed. Such further evaluations are to be undertaken at a level of detail that corresponds to the scale and significance of the changes.

The section 32AA report will be made available prior to recommendations on PC12 being released.

## 4.0 Overview of Submissions Received

### 4.1 Overview

76 submission points and 10 further submissions were received that are relevant to the Business Zones hearing topic. Matters raised in submissions include:

- Support for provisions enabling residential activities above ground floor with a request that this be extended to provide for 'single attached residential units' as permitted on upper floor levels. Additional concerns raised regarding policies which state upper floor residential development and which contribute to safe streets is encouraged.
- Requested amendments to objectives, policies and rules to specifically provide for retirement villages within Business Zones.
- Requested amendments to objectives, policies, rules and assessment criteria to require activities adjacent to regionally significant network infrastructure (i.e. the rail corridor) to be set back a safe distance and in particular 5m, and to consider the outcome of any consultation with KiwiRail in the assessment of such matters.
- Requested amendment to Policy 6.2.8c to remove the word 'avoid' with respect to reverse sensitivity issues.
- Requested amendments to Policies 6.2.1f, 6.2.2h, 6.2.3c, 6.2.8b, 6.2.9b and Rule 6.4.7h. to remove the requirement for an external outlook area. Also a requested amendment to align external outlook space dimensions with those required for outdoor living areas.
- Requested amendments to Rule 6.3 Activity Status Table and Rule 6.4.7b. to provide for apartments and 'single attached residential units' at ground floor level as permitted activities.
- Requested amendments to Rule 6.3 Activity Status Table to enable community corrections activities as permitted activities.
- Rule 6.4.1 Maximum Building Height - support for changes and requested amendments to enable greater building heights.
- Rule 6.4.2 Height in Relation to Boundary – support for changes with a request that this also apply where Business Zone boundaries adjoin a medium density Residential Zone.
- Rule 6.4.3 Building Setbacks - requested amendments to require residential activities within 25m of Hutchinson Road to be "appropriately acoustically treated" rather than a requirement for a setback of 25m as per the existing standard.
- Rule 6.4.4 Building Intensity - requested amendments to enable greater building intensities (floor area ratios) to better align with the increased height limits, and a request to delete this requirement from the Business 3 Zone.
- Rule 6.4.7 f. Storage Areas – a request that storage area requirements are a matter of discretion and a request that minimum volumes be amended to align with minimum dimensions.
- Rule 6.4.7 g. Residential Unit Size – a request to retain minimum unit sizes (with requested amendments).
- Rule 6.4.7 g. Public Interface – a request to delete this requirement.
- Requested changes to control heights, density and setbacks for historic heritage items.

These matters are assessed in section 5.0 below.

### 4.2 Out of Scope Matters

The following issues raised in submissions are considered to be out of scope of the Business Zones PC12 amendments.

Annette Bradley-Ingle's submission points out that the definition of suburban centres needs clarification, as "there are many groups of small shops (5 – 20) throughout the city suburbs where this proposed change could permit developers to build 3-5 storey dwellings within 400m of these". Such

developments are governed by the residential chapter, which is covered in the section 42A report pertaining to the Residential Zone.

## **5.0 Response to Key Issues Raised by Submissions**

### **5.1 Overview**

The key themes and issues raised in submissions are outlined below:

#### **Theme 1 - Residential activities in Business Zones**

Issue 1 – Zone purpose

Issue 2 – Residential activities above ground floor

Issue 3 – Enabling single residential units at ground floor

Issue 4 – Enabling retirement villages within Business Zones

#### **Theme 2 - Standards for residential development in Business Zones and associated policy framework**

Issue 1 – Reverse sensitivity issues

Issue 2 – Maximum building height

Issue 3 – Height in relation to boundary

Issue 4 – Building setbacks (including setback from the rail corridor)

Issue 5 – Building intensity

Issue 6 – Storage areas

Issue 7 – Residential unit size

Issue 8 – Public interface

Issue 9 – External outlook area

Issue 10 – Historic heritage areas and historic heritage items

#### **Theme 3 – Miscellaneous matters**

Issue 1 – Development of sites adjacent to the Hamilton East Suburban Centre

Issue 2 – Restricted discretionary activities matters of discretion and assessment criteria

Issue 3 – Enabling community corrections activities in Business Zones



## 5.2 Theme 1 - Residential activities in Business Zones

This theme addresses concerns presented in submissions regarding residential developments within Business Zones. It emphasises the significance of the centres hierarchy within Hamilton's urban planning structure and the crucial interplay between commercial and residential activity. Moreover, this theme aligns with Objective 1 and Policy 3 of the NPS-UD, which require well-functioning urban environments to be achieved.

<b>Issue 1 – Zone purpose</b>
PC12 introduces a minor amendment to the zone purpose in 6.1d. which describes centres as: <i>A centre is a cohesive or integrated set (cluster) of diverse land-use (business <u>complemented by residential</u>) activities...</i> Kāinga Ora support this change and seek retention of 6.1d.
<b>Submission Points Relating to Issue</b>
160.195
<b>Further Submission relating to Issue</b>
None
<b>Analysis of issue</b>
The purpose of this change is to show that the primary purpose of the Business Zones is business activities and residential activities complement this purpose, rather than residential being an equally important purpose. I recommend acceptance of this submission point which is in support of the amendment.
<b>Recommended Changes</b>
None

<b>Issue 2 – Residential activities above ground floor</b>
There is opportunity to enable more housing options in Business Zones through infill, conversion, or ‘popping’ up of roof space close to vibrant areas with employment, recreation, and everyday amenities. PC12 supports this through amending provisions for the Business Zones 1, 3, 5, 6 and 7 to enable apartments above ground floor to establish as permitted activities. This change is generally supported in submissions. However, the submission from Louise Feathers (20.1) seeks that single residential units (not just apartments) on upper floors also be provided for as a permitted activity.  Kāinga Ora request that the activity table is formatted to ensure there is no confusion regarding apartment typology and activity status.
<b>Submission Points Relating to Issue</b>
20.1, 160.196, 160.198, 160.199, 160.206, 163.2, 166.9, 200.2, 229.1, 229.2, 235.3, 235.7, 235.8, 235.25, 235.26, 235.27, 235.28, 235.29, 235.31, 235.32, 235.33, 241.27, 249.5, 330.115, 343.51
<b>Further Submissions relating to Issue</b>
342, 384
<b>Analysis of issue</b>
The submission of Louise Feathers seeks to provide for “single attached residential units” as permitted through amendments to Rules 6.3 and 7.3. The submission details that single units are not currently provided for as the definition of apartments specifies three or more attached residential units. The justification provided by the submitter is that there are buildings within Business Zones that currently have business uses and have potential to provide housing through infill and conversion of upper floors however, can only accommodate a single residential unit.

In my professional opinion, it seems appropriate to permit the construction of residential units above the ground floor level, especially in Neighbourhood Centres where the size of the land parcels may not accommodate larger developments. I consider that this would be an efficient use of resources and would appropriately give effect to the NPS-UD. The allowance for single and duplex dwellings above the ground floor can provide additional housing options in areas where space is limited. However, the submitter incorrectly identifies that the district plan does not provide for 'single attached residential units' and only provides for 'single detached dwellings'. "Single dwellings" together with "duplex dwellings" are provided for as one activity type with a non-complying activity status in all zones except for the Business 6 zone where they are discretionary.

I recommend that this submission point be accepted in part, subject to the following amendment. The amendment is to avoid complications arising from the application of the duplex dwellings definition to upper floor residential activities (which may be subdivided by unit title), and to avoid the need to distinguish ground floor single dwellings and duplex dwellings from upper floor single dwellings and duplex dwellings. I recommend the activity status table is amended so that Rule 6.3yy refers to "residential units" rather than "apartments". This will achieve the intention of the submission, the zone and the rules while achieving the objectives and policies.

The district plan definition of "residential unit" is:

*Residential unit: Means a building or group of buildings, or part of a building or group of buildings that is:*

- a. Used, or intended to be used, only or mainly for residential activities*
- b. Occupied, or intended to be occupied, exclusively as the home or residence of not more than one household.*

This is different from the district plan definition of single dwelling which is:

*Single dwelling: Means a residential building designed for, and occupied exclusively by, one household.*

The single dwelling definition refers to a "building" rather than "part of a building" as included in the definition of "residential unit".

I recommend a consequential change to Rule yy. i. for the Business 6 Zone. Rule xx. currently provide for single dwellings and duplex dwellings in the Business 6 Zone as discretionary activities, regardless of whether they are at ground floor level or above. With the above recommended change, all residential units in the Business 6 Zone at ground floor level would be a non-complying activity. Rule yy. i. should therefore be amended to provide for ground floor residential units as discretionary activities within the Business 6 Zone and rule xx should be deleted.

I recommend rejection of the submission point from Kāinga Ora requesting formatting of the activity table. The table is already formatted with separate rows for each apartment typology (ground floor, upper floor etc).

I also recommend that submission points in support be accepted.

#### **Recommended Changes**

The following amendments are recommended.

#### **Rule 6.3 Activity Status Table**

Business Zone	1	2	3	4	5	6	7
<del>xx. Single dwellings and duplex dwellings</del>	NC	NC	NC	NC	NC	Ø	NC

yy. <del>Apartment</del> <b>Residential Units</b>							
i. At ground floor	NC	NC	NC	NC	NC	<del>NC D</del>	NC
ii. Above ground floor	P	NC	P	NC	P	P	D
iii. Above ground floor within the Frankton Living Overlay	-	-	-	-	-	-	P

### Issue 3 – Enabling single residential units at ground floor level

Submissions from Louise Feathers, Living Streets Kirikiriroa and Retirement Villages Association of New Zealand Incorporated seek that residential activities including apartments and single attached residential units be permitted at ground floor level within Business Zones and that these should only be restricted where adjacent to identified pedestrian frontages. The Retirement Villages Association of New Zealand Incorporated also seek amendments to objectives and policies to support ground floor residential development.

The Business Zones do not currently provide for residential activities at ground floor level. PC12 retains this approach and provides for apartments above ground floor (subject to the amendment recommended above).

#### Submission Points Relating to Issue

20.1, 299.6, 330.109, 330.11, 330.12, 330.109, 330.111, 330.113, 330.114, 330.118

#### Further Submission relating to Issue

None

#### Analysis of issue

In 2012 district plan review established Hamilton's first centres hierarchy. The hierarchy clearly identifies the function and purpose of the various Business Zones throughout the city. Business activity is the primary activity of all the Business Zones. Residential activities are provided for above ground floor level to ensure that the primary business function of the Business Zones is not undermined. Apartments (or residential units as per the above recommendation) above ground floor change from restricted discretionary activity under the operative district plan to a permitted activities in most Business Zones under PC12. Single dwellings and duplex dwellings are not enabled and are non-complying activities in Business Zones.

Submitters seeking ground floor apartments as permitted activities have not provided sufficient justification for this change. In particular, there is not sufficient evidence regarding how this could affect the supply of business land within Hamilton, the centres hierarchy and the purpose of the Business Zones. Additionally, residential privacy measures could lead to poor urban design outcomes by reducing active street frontage within business areas. This could negatively impact a well-functioning urban environment.

I recommend the requested change to enable apartments or single residential units at ground floor level be rejected in part. It represents a significant departure from the district plan status quo, and is not supported by any analysis on the effects this amendment may have. The exception to this, is to provide for residential units as discretionary activities in the Business 6 Zone, regardless of whether they are at ground floor or above. This aligns with the changes set out in Issue 2, above.

Additionally, it should be noted that the resource consent process enables consideration of ground floor residential development within Business Zones on a case by case basis.

<b>Recommended Changes</b>
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None
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<b>Issue 4 – Enabling retirement villages within Business Zones</b>
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<p>The Retirement Villages Association of New Zealand Incorporated seek a number of amendments to provide for retirement villages within the Business Zones. The justification is that retirement villages provide a substantial benefit including enabling older people to remain in a familiar community environment for longer and freeing up dwellings in surrounding suburbs. The amendments sought include the following:</p>
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- |   |
|---|
| <ul style="list-style-type: none"><li>• A specific objective and associated policies to recognise and enable the housing and care needs of the aging population within Business Zones 1, 3, 5, 6 and 7. Policies to include providing for more efficient use of larger sites in Business Zones and using the density standards as a baseline for the assessment of effects of developments.</li><li>• Amendments to Policies 6.2.1f, 6.2.2h, 6.2.3c and 6.2.8b to remove references to adequate storage space and useable outdoor living areas on the basis that this does not recognise that retirement villages provide communal spaces.</li><li>• Amendment to Objective 6.2.3 to include provision for residential activities (in the Business 6 Zone).</li><li>• A change in activity status to provide for retirement villages as a permitted activity within the Business 1, 3, 5 and 6 Zones and construction of retirement villages as a restricted discretionary activity within the activity table.</li><li>• Specific matters of discretion in Section 6.6 for the construction of retirement villages. As part of this amendment the submitter seeks that resource consent applications for retirement villages are precluded from being publicly or limited notified.</li></ul> |
|---|

<p>The submitter also opposes the deletion of Policy 6.2.7b which encourages residential activity adjacent to centres (Business 1 Zone).</p>
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<b>Submission Points Relating to Issue</b>
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330.11, 330.108, 330.112, 330.113, 330.114, 330.116, 330.118, 330.119, 330.121
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<b>Further Submission relating to Issue</b>
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None
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<b>Analysis of issue</b>
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<p>Retirement villages are considered to be a residential activity in accordance with the district plan definition for residential activities which states:</p>
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<p><i>Residential activities: Means the use of land and buildings by people for living accommodation (whether or not any person is subject to care or supervision).</i></p>
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<p>Residential activities are provided for within Business Zones through PC12 amendments to Chapter 6. The primary purpose of the Business Zones is for business activities. Therefore, I do not consider that a specific objective and policies in the Business Zones chapter to provide for the ageing population and retirement villages is necessary. I recommend rejection of this submission point.</p>
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<p>I recommend rejection of the changes requested to Policies 6.2.1f, 6.2.2h, 6.2.3c and 6.2.8b. These policies are not specific to retirement villages and apply to residential development more generally.</p>
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I recommend rejection of the submission point requesting an amendment to Objective 6.2.3. Residential activities are not a key purpose of neighbourhood centres which are often small and serve a local catchment. Residential activities are adequately provided for in Policy 6.2.3c.

Business Zones do not provide for retirement villages in the activity status table (6.3) and these are therefore a non-complying activity in accordance with Rule 1.1.8.1. I consider that retirement villages could be appropriate for a Business Zone subject to various considerations such as the size and location of the retirement village and the range of ancillary activities provided (healthcare services, gyms, cafes etc). For that reason, I recommend that the submission point requesting a change in activity status be accepted in part and that retirement villages be specifically provided for within the activity table (6.3) as a discretionary activity<sup>1</sup>. Providing for retirement villages in this way would also enable consideration of the suitability of ground floor space being used for all or part of the retirement village.

I recommend the rejection of the submission point requesting 'construction' of retirement villages as a separate activity with a restricted discretionary activity status. I consider that the matters stated in the submission (effects from exceedances of standards, effects on safety, the interface between the village and the street) is more appropriately considered as part of the retirement village activity itself rather than a separate construction activity. It should be noted that new buildings are already provided for within the activity status table (6.3) as a restricted discretionary activity in all Business Zones.

The amendments to Table 6.6 (restricted discretionary matters of discretion and assessment criteria) requested by submitters are not appropriate. The table is specifically for restricted discretionary activities and contains themes which cross reference to more detailed matters of assessment in Volume 2, Appendix 1.3. The table itself does not contain the level of detail sought in the submission. I consider that the RMA notification tests are appropriate for retirement villages in Business Zones given this is not the primary purpose of the zone and to reflect the recommended discretionary activity status. Therefore, the submission related to precision of notification request should be rejected.

Policy 6.2.7b which encourages residential activity in locations adjacent to centres was deleted as part of PC12 because it applies to locations adjacent to centres rather than to the Business Zones itself. This type of policy is more appropriately included in the relevant zone to which it applies (i.e. the Residential Zone). I therefore recommend rejection of this submission point.

#### Recommended Changes

The following amendment and consequential amendment is recommended:

#### Rule 6.3 Activity Status Table

Business Zone	1	2	3	4	5	6	7
<b>ddd. Retirement villages</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>
<del>ddd-eee</del> Subdivision	Refer to Chapter 23: Subdivision and Chapter 24: Financial Contributions						

<sup>1</sup> It should be noted that 'residential centres' (boarding houses, hostels etc) are a discretionary activity in all Business Zones.

### 5.3 Theme 2 – Standards for residential development in Business Zones and associated policy framework

This theme addresses submissions regarding various standards for residential development within Business Zones, and the associated policy framework.

<b>Issue 1 – Reverse sensitivity issues</b>
<p>Kāinga Ora have submitted that Policy 6.2.8c. should be amended to remove the term ‘avoid’ with respect to reverse sensitivity issues. They seek that the new wording should be included to ensure that “reverse sensitivity effects are mitigated to ensure an appropriate level of amenity for residential activities”. This is on the basis the use of the term ‘avoid’ in Policy 6.2.8c is contrary to the directive under <i>Environmental Defence Society Inc v New Zealand King Salmon Company Ltd</i> [2014] NZSC 38 (“King Salmon”) concerning the term ‘avoid’. Kāinga Ora seek that the policy be amended, on the basis that ‘avoidance’ of all reverse sensitivity issues is too-high a threshold in a mixed-use environment, and that the policy relates to residential activities.</p> <p>Ryman Healthcare Limited (Retirement Villages Association of New Zealand) have further submitted that they support the relief sought.</p>
<b>Submission Points Relating to Issue</b>
160.204
<b>Further Submission relating to Issue</b>
531, 579 (both Retirement Villages Association of New Zealand)
<b>Analysis of issue</b>
<p>The full wording of the policy in question including the PC12 amendment is as follows:</p> <p>6.2.8c Mixed use development shall provide a range of uses that complement, and are supportive of, the Hamilton East Suburban Centre <del>which are managed to ensure high levels of amenity for any residential activity</del> and avoid any reverse sensitivity issues.</p> <p>I recommend the word ‘avoid’ is amended to ‘minimised’. The word ‘avoid’ is already used in the policy and has not been introduced as part of the PC12 amendments. However, because apartments within Business 1 Zones are a permitted activity in PC12, and that it is unlikely that reverse sensitivity effects will be completely avoided. This allows scope for very minor reverse sensitivity effects whilst seeking that these are minimised. The wording proposed by Kāinga Ora is ambiguous in terms of what is to be considered “an appropriate level of amenity for residential activities” and is therefore not recommended.</p> <p>Accordingly, I recommend that this submission point and the further submission point be accepted in part.</p>
<b>Recommended Changes</b>
<p>Policy 6.2.8c be amended as follows:</p> <p>6.2.8c Mixed use development shall provide a range of uses that complement, and are supportive of, the Hamilton East Suburban Centre and <del>avoid</del> <u>minimise</u> any reverse sensitivity issues.</p>
<b>Issue 2 – Maximum building height</b>
<p>A number of submitters have indicated support for the PC12 height amendments in the Business Zones which enables greater heights, principally through the application of a height overlay which enables heights of up to 26m in Business Zones within the overlay area. The Business 6 Zone has</p>

also had an increase in height from 10m to 11m to match maximum heights in the adjoining Residential Zones.

Some submitters would like to see greater heights enabled including:

- An application of the height overlay to the HS4 site at 25 Home Straight, Te Rapa and the broader development known as Home Straight Park which the site is within (Hamilton Homezone Ltd).
- Amendments to the height overlay to include other Business Zones/suburban centres including New World Glenview and Four Square Heaphy Terrace (Foodstuffs North Island Ltd). This submission point is supported by Waka Kotahi NZ Transport Agency.
- Amendments to the spatial extent of the height overlay and inclusion of these in the planning maps with annotated height limits (Kāinga Ora).
- Amendments to Rule 6.4.1 including 20.5m in the Business 1, 2 and 7 Zones; 40.5m in the Business 3 and 4 Zones; 24.5m in the Business 5 Zone and 20.5m in the Business 6 Zone (Kāinga Ora).
- Up to 48.5m in height within a 400m walkable catchment of the city centre (Kāinga Ora).
- Up to 40.5m in height within a 400m - 800m walkable catchment of the city centre and within 400m of the Ulster Road and Te Rapa Road spine (Kāinga Ora). This submission point is opposed by Frankton East Residents Group in their further submission, to the extent this is contrary to their submission whereby they raise concerns about increased heights.
- Increase in the heights of Business 6 zones where located adjacent to a High Density Zone (Kāinga Ora).
- A maximum of 21m in height for the Business 1 Zone and a maximum of 15m for the Business 6 Zone to reflect the maximum height limit in other Business Zones (Oyster Management Ltd). Foodstuffs North Island Limited in their further submission oppose the 15m Business 6 Zone height sought by Oyster Management Limited on the basis that Foodstuffs seek the height overlay apply to their sites which has a higher height than that sought by Oyster.
- A permitted building height of 15m for the Business 6 Zone to meet the height of the Medium Density Residential Zone (Te Awa Lakes Unincorporated Joint Venture, Perry Group and Horotiu Farms Limited). This submission point is opposed by Fonterra Limited in their further submission on the basis that the rules in Chapter 6 as notified accord with the signed Consent Order for the structure plan area and are necessary for appropriate development including scale and density. They seek that Council does not adopt the relief sought.
- A maximum of 30m at the Chartwell Shopping Centre – Business 3 Zone to reflect Policy 3(b) of the NPS-UD and to reflect the surrounding medium density residential development proposed in PC12 (Stride Investment Ltd).
- Enabling of greater height and density, especially of a mixed-use nature within sub-regional, suburban and neighbourhood centres (Property Council New Zealand). This submission point is supported by Foodstuffs North Island Limited on the basis that it aligns with its own submission points.

<b>Submission Points Relating to Issue</b>
160.207, 160.208, 163.4, 166.9, 200.2, 229.3, 235.3, 235.6, 235.25, 235.26, 235.27, 235.28, 235.29, 235.31, 235.32, 235.33, 237.1, 237.2
<b>Further Submission relating to Issue</b>
342, 344, 345, 384, 438
<b>Analysis of issue</b>
The proposed increase in permitted height for some Business Zones within the height overlay is a strategic move to accommodate the growing residential demand in the urban area. This will allow for further residential capacity in the existing Business Zones, which is a step towards creating a more liveable and affordable city.

The height overlay as shown within Figure 6.4c of the District Plan is based on the 800m city centre walkable catchment and includes nearby areas where there is a suburban centre (Business 5 Zone) with high density residential zoning adjacent. These suburban centres and surrounds are shown as polygons on the overlay. Subsequent to the notification of PC12 it was found that the polygon shown around the Vercoe Road shops is an error, as there is no high density residential zoning next to the Business Zone in this location (the zoning is Medium Density Residential). It is therefore recommended that this polygon be removed from the overlay pursuant to Schedule 1 Clause 16(2) of the RMA.

It is important to ensure that any amendments made to the maximum permitted height for Business Zones should only be done after a thorough review of the permitted heights for adjoining Residential Zones. This is to ensure that there is consistency in the urban form and to prevent any potential conflicts between residential and business uses. This will ensure that the urban landscape is uniform and consistent, which is important for the overall aesthetic appeal of the city. Some of the Residential Zone heights are being recommended to be increased<sup>2</sup> and it is therefore appropriate that the corresponding Business Zone heights are also increased. This height adjustment is considered to be within the scope of submissions which seek greater heights as detailed below. The following table shows the notified height and the recommended new height.

<b>Zone</b>	<b>Notified height in PC12</b>	<b>Recommended new height</b>	<b>Comment</b>
Business 3, 4 (where adjoining industrial zone)	20m	No change	The height limit for these zones is already in excess of the Medium Density Residential Zone height.
Business Zones within Height Overlay	21m	26m	Aligns with the new height in the High Density Residential Zone.
Business 1, 2, 4, 5 and 7 (outside of the height overlay)	15m	16m	Aligns with the new height limit in the Medium Density Residential Zone.
Business 6 (outside of the height overlay)	11m with additional allowance for roof up to 1m	No change except for Business Zones adjoining medium density Residential Zones, discussed below.	Most Business 6 Zones adjoin the General Residential Zone however some adjoin the Medium and High Density Residential Zones. This is discussed further below.

I recommend the submission from Hamilton Homezone Ltd be accepted in part. The submitter seeks a height of 21m via application of the height overlay for the Home Straight Park. This location is zoned Business 1 and Business 4 which have a notified height limit of 15m, but a

<sup>2</sup> Refer to the Residential Zone Hearing Report



recommended new height limit of 16m. The site borders the General Residential Zone which is to the east (maximum height 11m). Given the lack of suburban centre within the site and the General Residential Zone which adjoins the site I consider the new height limit of 16m to be appropriate for the site, whilst also allowing for intensification.

Foodstuffs North Island Ltd seek that New World Glenview and New World on Heaphy Terrace be subject to the height overlay. These areas do not have high density residential zoning around them<sup>3</sup> and I do not therefore consider the increased heights of the height overlay to be appropriate in these locations. It is recommended that this submission point and further submission point be rejected.

Kāinga Ora seek a significant increase to the PC12 height limits as demonstrated in the following table:

<b>Zone</b>	<b>PC12 notified height</b>	<b>Height limit sought by Kāinga Ora</b>
Business 1, 2 and 7	15m	20.5m Except where varied by the height variation controls as shown on the District Plan planning maps
Business 3 and 4	Business 3 - 20m Business 4 – 15m Business 4 where adjoining an industrial zone – 20m	40.5m Except where varied by the height variation controls as shown on the District Plan planning map
Business 5	15m	24.5m Except where varied by the height variation controls as shown on the District Plan planning maps
Business 6	11m	20.5m Except where varied by the height variation controls as shown on the District Plan planning maps
Business Zones within Height Overlay	21m	48.5m within 400m of the city centre. 40.5m within 400m – 800m of the city centre and within 400m of the Ulster Road and the Te Rapa Road spine. Except where varied by the height variation controls as shown on the District Plan planning maps

<sup>3</sup> New World Glenview adjoins the Medium Density Residential Zone and New World Heaphy Terrace adjoins the General Residential Zone.

		Also seek that the spatial extent of the height overlay be extended as above.
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In addition to the table above, Oyster Management Group seeks a height limit of 21m in Business 1 Zone.

I recommend that the height limits requested by Kāinga Ora and Oyster Management Group be accepted in part, while the further submission from Frankton East Residents Group be rejected in part. The NPS-UD (Policy 3 (d)) requires that building heights and densities of urban form are to be commensurate with the level of commercial activity and community services within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent). PC12 has enabled further residential development within the Business Zones through enabling upper floors to be used for residential activities. The majority of Business Zones in Hamilton are under the existing allowable height limit therefore PC12 provides for intensification in a manner that is appropriate for the existing level of commercial activity and community services. There is no justification for the increased height limits sought in the submission. Furthermore, the height limits as requested by Kāinga Ora do not reflect the surrounding context which in many cases is either General Residential (maximum height 11m) or Medium Density Residential Zone (maximum height 16m<sup>4</sup>). I therefore recommend these submission points be accepted in part. The height limit should be increased in the Business 1, 2 4, 5 and 7 zones (outside of the height overlay) to 16m and all Business Zones within the height overlay to 26m as shown in the table above. Because of this, I also recommend that the further submission from Frankton East Residents Group be rejected in part.

Kāinga Ora also seek that the Business 6 Zone has greater heights where it is located adjacent to a Residential High Density Zone. This applies to two Business 6 Zones in Hamilton – the Beerescourt shops at the north end of Victoria Street and the shops at 369-375 Te Rapa Road (Spotlight and adjacent shops). These areas are already subject to the height overlay which permits heights of up to 26m<sup>5</sup> and aligns with the height limit within the High Density Residential Zone (26m). I do not consider that any additional height limit or rule change is therefore required, and I recommend this submission point be rejected.

Oyster Management Group and Te Awa Lakes Unincorporated Joint Venture, Perry Group and Horotiu Farms Limited also seek that Business 6 Zones have a height limit of 15m which aligns with the notified height limit of the Medium Density Residential Zone. I recommend this submission be accepted in part. As discussed above, the NPS-UD (Policy 3 (d)) requires that building heights and densities of urban form are to be commensurate with the level of commercial activity and community services within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent). I consider it appropriate to allow taller buildings in the Business 6 Zone, but only adjacent to the Medium Density Residential Zone. Therefore, I recommend accepting this submission in part, and allowing buildings up to 16m in the Business 6 Zone where it is adjacent to the Medium Density Residential Zone. The remaining Businesses 6 Zone areas should retain the height limit of 11m to be commensurate with the height limit of the General Residential Zone.

Stride Investment Ltd seek that the Chartwell Shopping Centre which is zoned Business 3 has a height limit of 30m. The height limit at this location is 20m as per PC12. The area surrounding the Chartwell Shopping Centre is either Business 5 Zone or Medium Density Residential Zone. These

<sup>4</sup> Based on new recommended height.

<sup>5</sup> Based on new recommended height.

zones have a new recommended height limit of 16m. I consider that the height limit of 20m for the Chartwell Shopping Centre is appropriate and is commensurate with the surrounding area. I therefore recommend this submission point be rejected.

Property Council New Zealand submitted in favour of increasing height limits in the Business Zones. The submission was not specific with respect to the heights they are seeking. For completeness, I acknowledge the submission here and note that the submission has been accepted in part through the increases in height limits resulting from other submissions.

I recommend that submission points in support be accepted in part, subject to the recommended changes discussed above.

### Recommended Changes

The following height amendments are recommended:

#### Rule 6.4.1 Maximum Building Height

Business Zones	Height of buildings
a. Business 3, 4 (where adjoining Industrial Zone)	20m
b. Where located in the height overlay shown in Figure 6.4c below.	<del>21m</del> <b>26m</b>
c. Business 1, 2, 4, 5, 7 (outside of the height overlay)	<del>15m</del> <b>16m</b>
d. Business 6 <b>adjacent to the General Residential Zone</b> (outside of the height overlay)	Buildings must not exceed 11 metres in height, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1 metre, where the entire roof slopes 15° or more, as shown on the following diagram.
e. <b>Business 6 adjacent to the Medium Density Residential Zone (outside of the height overlay)</b>	<b>18m</b>
f. Elements such as flues, flagpoles, open balustrades and aerials shall be exempt from 6.4.1.a, b, c and d above	

### Issue 3 – Height in relation to boundary

PC12 amends the height in relation to boundary (HIRB) standard (Rule 6.4.2) for Business Zones to apply only where there is an adjoining General Residential Zone (rather than 'Residential Zones' and Special Character Zones as per the existing standard), and to align with the MDRS being 60 degrees beginning at an elevation of 4m above the boundary (previously 45 degrees beginning at an elevation 3m above the boundary). There are submissions in support of this amendment (Hamilton Homezone Ltd, Oyster Management Ltd).

Kāinga Ora seek additional HIRB provisions where Business Zoned land adjoins a Medium Density Residential Zone and in particular a HIRB control of 60 degrees beginning at 6m above the boundary.

### Submission Points Relating to Issue

160.209, 163.3, 229.4

Further Submission relating to Issue
None
Analysis of issue
<p>In PC12 as notified, there is no HIRB control where Business Zone land adjoins a Medium Density Residential Zone. The HIRB control only applies to Business Zone land adjoining the General Residential Zone.</p> <p>The Medium Density Residential Zone HIRB rule (Rule 4.3.4.6) has different HIRB standards depending upon the development occurring on the site. For single and duplex dwellings<sup>6</sup>, a 60 degree recession plane measured 4m above the boundary applies (the same as the Business Zones HIRB standard). For three or more attached residential units on a site (Rule 4.3.4.5 b.), if adjoining a transport corridor, another site in the Medium Density Residential Zone, a High Density Zone or a Business Zone, the HIRB rule requires the following setbacks for first 20m measured from the transport corridor boundary<sup>7</sup>:</p> <p><i>Within the first 20 meters of the site measured from the transport corridor boundary the following shall apply:</i></p> <ul style="list-style-type: none"> <li><i>a. All parts of a building less than 11m in height (or up to 3 storeys) shall be setback from the side yard boundary a minimum of 1 meter as required by Rule 4.3.4.6 b;</i></li> <li><i>b. All parts of a building greater than 11m in height (or greater than 3 storeys) shall be setback from the side boundary a minimum of 4 meters.</i></li> </ul> <p>The HIRB control between a Medium Density Residential Zone and a Business Zone applies only to the Medium Density Residential Zone. I consider the HIRB control should equally apply to the Business Zone where it adjoins a Medium Density Residential Zone.</p> <p>Ideally this control should align with the control on the Medium Density Residential Zone for three or more attached residential units on a site, (being a building size equating with that generally expected in the Business Zones) where it adjoins a Business Zone. However many of the Business Zones have setback requirements which go beyond the HIRB for the Medium Density Residential Zone for three attached residential units (where located within the first 20m of a site) which has a maximum setback of 4m. Business Zones 1, 2, 5 and 7 already require a 5m building setback for side and rear boundaries where the boundary adjoins a Residential Zone. The Business 4 Zone has a general 5m building setback for all side and rear boundaries. The Business 3 Zone has no setback requirement for side and rear boundaries, however this zone has no directly adjoining Residential Zones. This leaves the Business 6 Zone which has a setback of 1.5m where adjoining a Residential Zone.</p> <p>The recommended HIRB control for the Business Zones where they adjoin the Medium Density Residential Zone is therefore 45 degrees beginning at 4m above the boundary.</p> <p>I recommend that the submissions in support also be accepted in part due to this recommended amendment to the notified version.</p>

<sup>6</sup> It is understood that this provision was intended to apply to all buildings, excluding three or more attached residential units, rather than just single and duplex dwellings as notified. This matter is proposed to be amended through the hearings process.

<sup>7</sup> After the first 20m the 60 degree recession plane measured 4m above the boundary standard is intended to apply.

### Recommended Changes

#### 6.4.2 Height in Relation to Boundary

- a. Where any boundary adjoins a General Residential Zone, no part of any building shall penetrate a height control plane rising at an angle of ~~45~~ 60 degrees beginning at an elevation of ~~3m~~ 4m above the boundary.
- b. **Where any boundary adjoins a Medium Density Residential Zone, no part of any building shall penetrate a height control plane rising at an angle of 60 degrees beginning at an elevation of 4m above the boundary.**
- c. Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the height in relation to boundary applies from the farthest boundary of the legal right of way, entrance strip, access site, or pedestrian access way.

### Issue 4 – Building setbacks (including setback from the rail corridor)

The submission from Te Awa Lakes Unincorporated Joint Venture, Perry Group and Horotiu Farms Limited seek that Rule 6.4.3 e. is amended to enable buildings to be setback less than 25m from Hutchinson Road where they are “appropriately acoustically treated”. Rule 6.4.3 e. applies to residential development in the Te Awa Lakes Business 6 Zone and requires a setback of 25m from Hutchinson Road with non-compliance being a prohibited activity.

There is one further submission on this matter from Fonterra Limited. Fonterra opposes the submission on the basis that the rules in Chapter 6 as notified accord with the signed Consent Order for the structure plan area and are necessary for appropriate development. They seek that Council does not adopt the relief sought.

The submission from KiwiRail seeks a 5m setback for buildings and structures in all zones for sites adjoining the rail corridor. There are two further submissions on the KiwiRail submission from Kāinga Ora in opposition and WEL Network Limited in support.

#### Submission Points Relating to Issue

249.5, 152.4, 152.13, 152.21, 152.29, 152.38, 152.39, 152.41

#### Further Submission relating to Issue

384, 402, 551

#### Analysis of issue

With respect to the submission from Te Awa Lakes, the intention of the setback requirement is to mitigate reverse sensitivity issues associated with the nearby Industrial Zone. Te Awa Lakes also seek amendments to this zoning, however I understand these submission points are not supported by reporting planners and these reverse sensitivity issues therefore remain. The evidence and relief proposed by the submitter is insufficient to justify an amendment to this rule. There is no accompanying acoustic assessment to inform an acoustic level which needs to be achieved. Additionally, “appropriately acoustically treated” is not specific enough to form a rule. I therefore recommend that this submission point be rejected and the further submission point be accepted.

I recommend the submission from KiwiRail be accepted, and subsequently the further submissions by WEL Network Limited be accepted and by Kāinga Ora be rejected. In all Business Zones, buildings are required to be setback 5m when fronting an arterial transport corridor. Additionally, rear and side setback requirements apply to sites adjoining a Residential or Special Character Zone. I consider 5m is an appropriate setback from the rail corridor to preserve the safe access and use of the rail network. I recommend a provision be added to rule 6.4.3 which requires buildings be setback 5m from the rail corridor.

<b>Recommended Changes</b>	
6.4.3 Building Setbacks	
Building setback from	Minimum distance
<b>g. Rail corridor</b>	<b>5m</b>

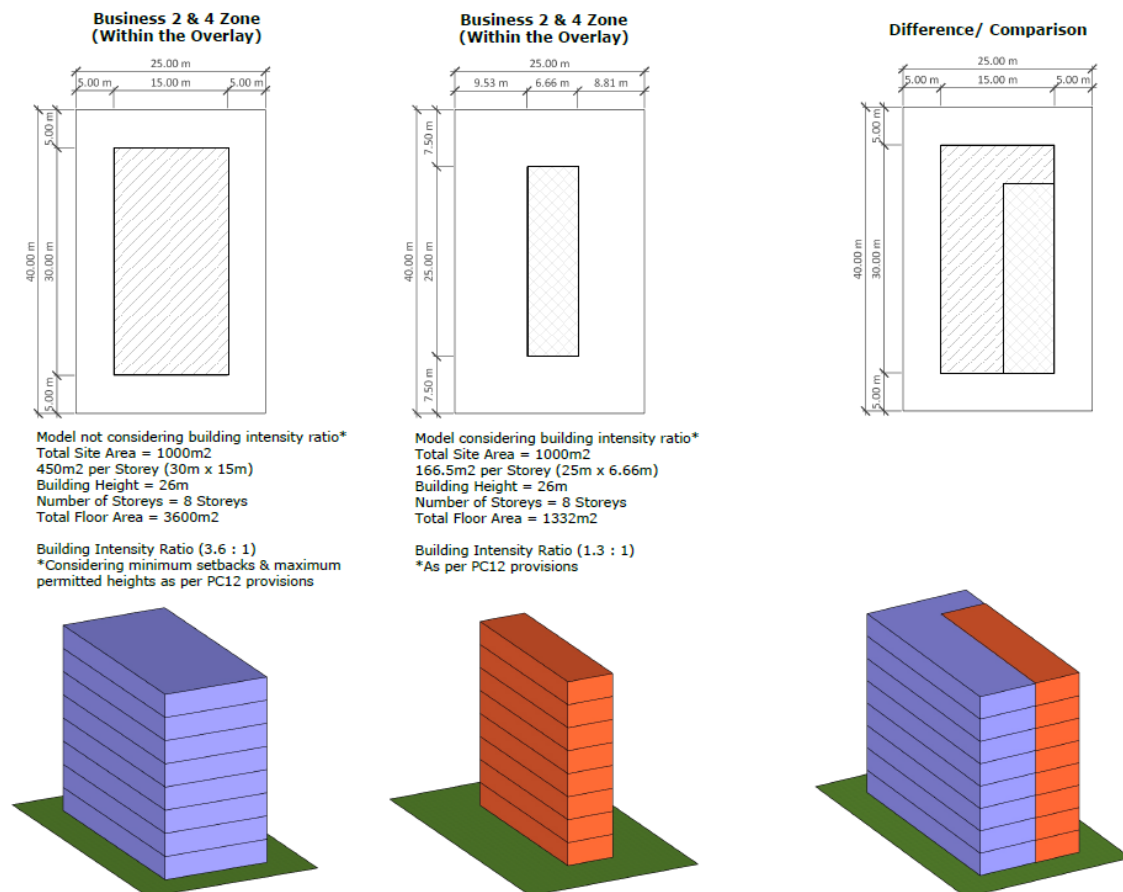
<b>Issue 5 – Building intensity</b>
<p>A number of submitters question Rule 6.4.4 Building Intensity which contains ratios for maximum floor area to net site area. These were not changed in the PC12 notified provisions.</p> <p>The submission from Te Awa Lakes Unincorporated Joint Venture, Perry Group and Horotiu Farms Limited seeks an increase of the building intensity applying to the Business 6 Zone to 2:1 to accommodate more development.</p> <p>Stride Investment Management Limited seek that the maximum floor area ratio (2:1) is deleted from the Business 3 Zone.</p> <p>Property Council New Zealand seek enabling of greater height and density, especially of a mixed-use nature within sub-regional, suburban and neighbourhood centres. This submission point is supported by Foodstuffs North Island Limited on the basis that it aligns with its own submission points.</p> <p>NZIA Registered Architect Practices submit that there appears to be a disconnect between the maximum building intensity and the raised height limits, however they request no specific relief on this matter.</p> <p>The further submission from Oyster Management Limited support the submission from NZIA Registered Architect Practices and seek that Rule 6.4.4 is deleted. This is on the basis that non-compliance with the standard would trigger a requirement for consent despite the building complying with the height limit and inconsistency with the NPS-UD which requires greater intensification.</p> <p>Fonterra Limited in their further submission oppose the submission from Te Awa Lakes Unincorporated Joint Venture, Perry Group and Horotiu Farms Limited on the basis that the rules in Chapter 6 as notified accord with the signed Consent Order for the structure plan area and are necessary for appropriate development including scale and density.</p>
<b>Submission Points Relating to Issue</b>
156.3, 200.2, 249.5
<b>Further Submission relating to Issue</b>
384, 466
<b>Analysis of issue</b>
<p>The building intensity rule has been reviewed in response to submissions. From this review, maximum intensity models have been prepared which compare the maximum allowable development without a building intensity limitation with the maximum allowable development including the existing building intensity limitation for the various Business Zones as shown below.</p>

Within the Business Height Overlay, a maximum height of 26 metres for the Business Zones 1 (Commercial Fringe), 2 (Major Event Facilities), 4 (Large Format Retail), 5 (Suburban Centre) and 7 (Frankton Commercial Fringe) will be permitted. Even considering a 2:1 ratio (for the Business Zones 1, 3, 5) in order to build a 6 storey building (just under 21 metres) a maximum building coverage of around 33% will be allowed (see models below).

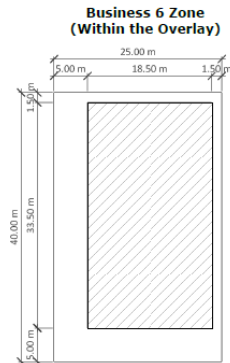
A comparison between the maximum hypothetical building intensity and the permitted building intensity under PC12 notified version is provided below (note that there is no Business Zone 3 within the Business Height Overlay). This comparison considers the existing and proposed requirements for maximum building heights (Rule 6.4.1), height in relation to boundary (Rule 6.4.2), buildings setbacks (Rule 6.4.3) and building intensity (Rule 6.4.4). The left-most diagram shows what can be built on a site when these rules are applied, without the building intensity ratio in each Business Zone. The middle diagram applies the same rules with the building intensity ratio applied. The resulting diagram shows a significant reduction in what can be built on most sites in each Business Zone. The right-most diagram illustrates the difference.

a) Within the Height Overlay (Figure 6.4c – Plan Change 12)

**Business 2 & 4 Zone (Within the Overlay)**

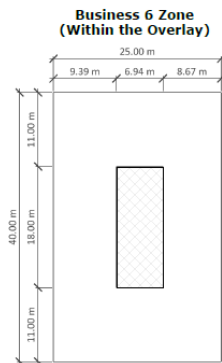
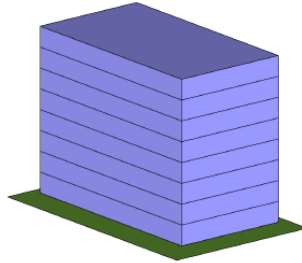


### Business 6 Zone (Within the Overlay)



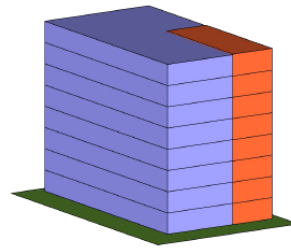
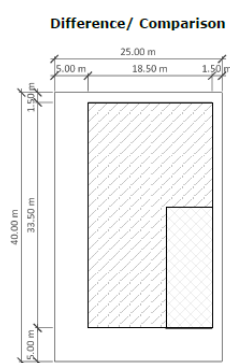
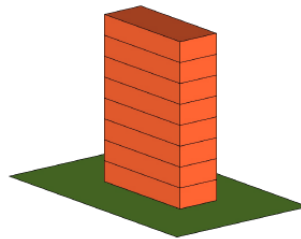
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 619.75m<sup>2</sup> per Storey (33.5m x 18.5m)  
 Building Height = 26m  
 Number of Storeys = 8 Storeys  
 Total Floor Area = 4958m<sup>2</sup>

Building Intensity Ratio (4.9 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions

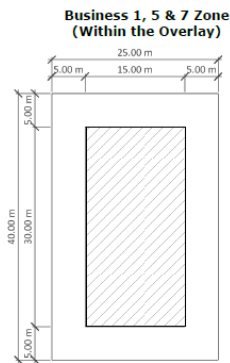


Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 125m<sup>2</sup> per Storey (18m x 6.94m)  
 Building Height = 26m  
 Number of Storeys = 8 Storeys  
 Total Floor Area = 1000m<sup>2</sup>

Building Intensity Ratio (1 : 1)  
 \*As per PC12 provisions

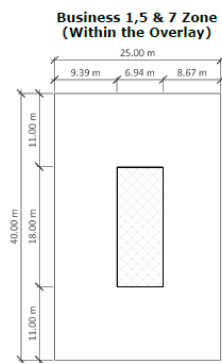
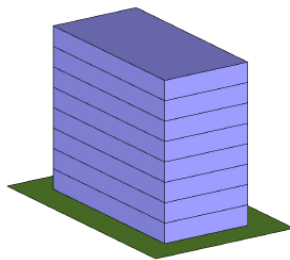


### Business 1, 5 & 7 Zone (Within the Overlay)



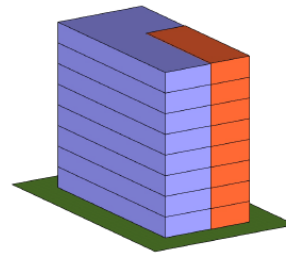
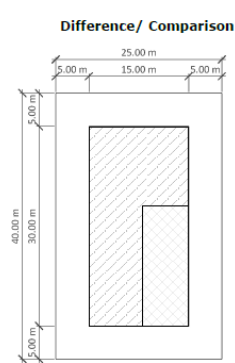
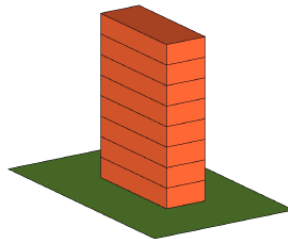
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 450m<sup>2</sup> per Storey (30m x 15m)  
 Building Height = 26m  
 Number of Storeys = 8 Storeys  
 Total Floor Area = 3600m<sup>2</sup>

Building Intensity Ratio (3.6 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions



Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 1000m<sup>2</sup> per Storey (18m x 6.94m)  
 Building Height = 26m  
 Number of Storeys = 8 Storeys  
 Total Floor Area = 1000m<sup>2</sup>

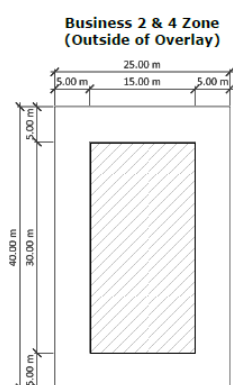
Building Intensity Ratio (1 : 1)  
 \*As per PC12 provisions





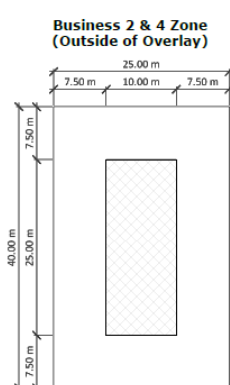
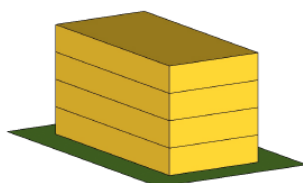
## b) Outside the height overlay

### Business 2 & 4 Zone (Outside of Overlay)



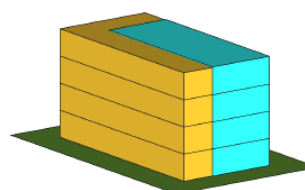
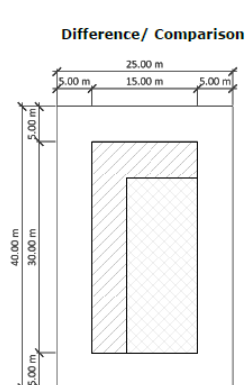
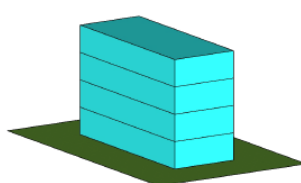
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 450m<sup>2</sup> per Storey (30m x 15m)  
 Building Height = 16m  
 Number of Storeys = 4 Storeys  
 Total Floor Area = 1800m<sup>2</sup>

Building Intensity Ratio (1.8 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions

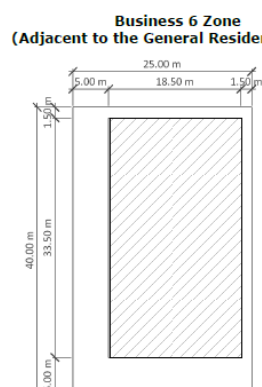


Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 250m<sup>2</sup> per Storey (25m x 10m)  
 Building Height = 16m  
 Number of Storeys = 4 Storeys  
 Total Floor Area = 1000m<sup>2</sup>

Building Intensity Ratio (1 : 1)  
 \*As per PC12 provisions

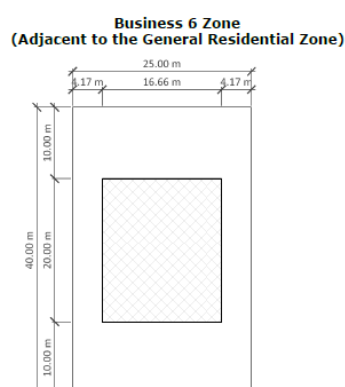
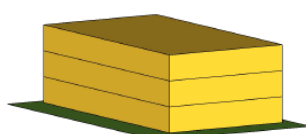


### Business 6 Zone (Adjacent to the General Residential Zone)



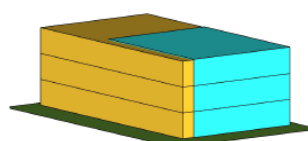
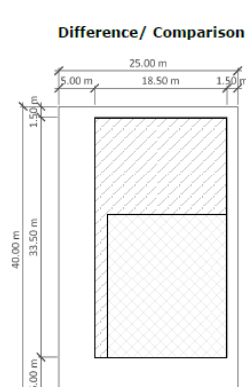
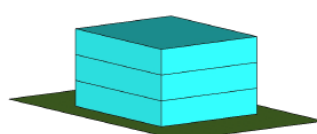
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 619.75m<sup>2</sup> per Storey (33.5m x 18.5m)  
 Building Height = 11m  
 Number of Storeys = 3 Storeys  
 Total Floor Area = 1860m<sup>2</sup>

Building Intensity Ratio (1.86 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions



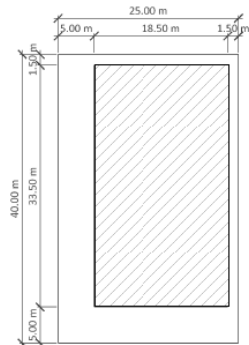
Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 333.2m<sup>2</sup> per Storey (20m x 16.66m)  
 Building Height = 11m  
 Number of Storeys = 3 Storeys  
 Total Floor Area = 1000m<sup>2</sup>

Building Intensity Ratio (1 : 1)  
 \*As per PC12 provisions



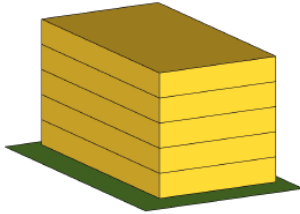
## Business 6 Zone (Adjacent to the Medium Density Residential Zone)

**Business 6 Zone**  
(Adjacent to the Medium Density Residential Zone)

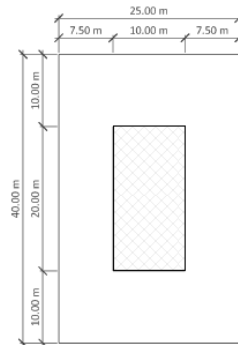


Model not considering building intensity ratio\*  
Total Site Area = 1000m<sup>2</sup>  
619.75m<sup>2</sup> per Storey (33.5m x 18.5m)  
Building Height = 16m  
Number of Storeys = 5 Storeys  
Total Floor Area = 3098.75m<sup>2</sup>

Building Intensity Ratio (3 : 1)  
\*Considering minimum setbacks & maximum permitted heights as per PC12 provisions

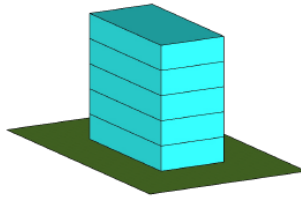


**Business 6 Zone**  
(Adjacent to the Medium Density Residential Zone)

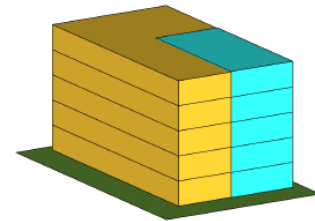
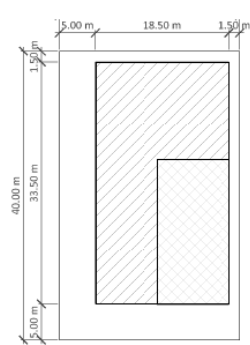


Model considering building intensity ratio\*  
Total Site Area = 1000m<sup>2</sup>  
200m<sup>2</sup> per Storey (20m x 10m)  
Building Height = 16m  
Number of Storeys = 5 Storeys  
Total Floor Area = 1000m<sup>2</sup>

Building Intensity Ratio (1 : 1)  
\*As per PC12 provisions

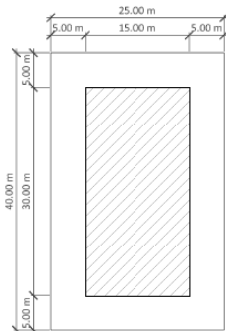


**Difference/ Comparison**



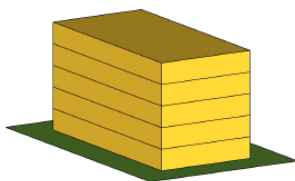
## Business 1,5 & 7 Zone (Outside of Overlay)

**Business 1,5 & 7 Zone**  
(Outside of Overlay)

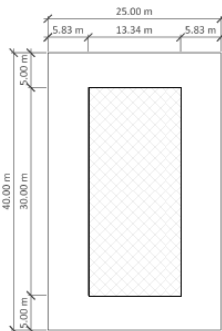


Model not considering building intensity ratio\*  
Total Site Area = 1000m<sup>2</sup>  
450m<sup>2</sup> per Storey (30m x 15m)  
Building Height = 16m  
Number of Storeys = 5 Storeys  
Total Floor Area = 2250m<sup>2</sup>

Building Intensity Ratio (2.25 : 1)  
\*Considering minimum setbacks & maximum permitted heights as per PC12 provisions

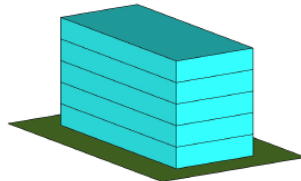


**Business 1,5 & 7 Zone**  
(Outside of Overlay)

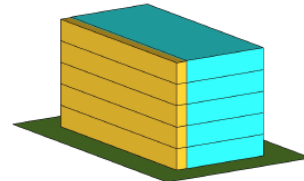
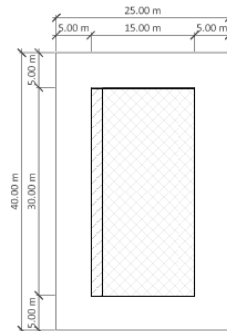


Model considering building intensity ratio\*  
Total Site Area = 1000m<sup>2</sup>  
400m<sup>2</sup> per Storey (30m x 13.34m)  
Building Height = 16m  
Number of Storeys = 5 Storeys  
Total Floor Area = 2000m<sup>2</sup>

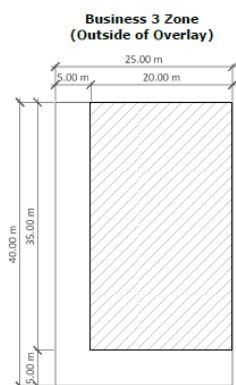
Building Intensity Ratio (2 : 1)  
\*As per PC12 provisions



**Difference/ Comparison**

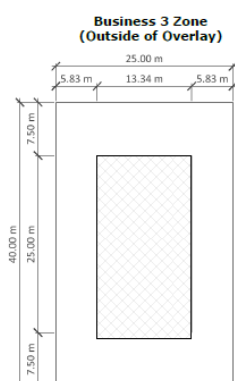
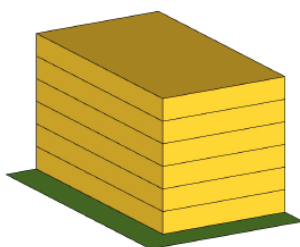


### Business 3 Zone (Outside of Overlay)



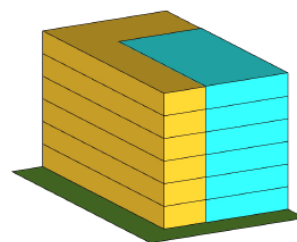
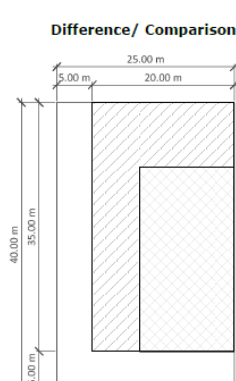
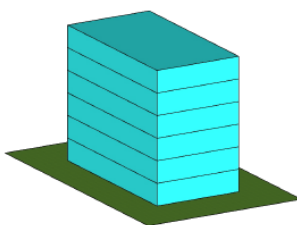
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 700m<sup>2</sup> per Storey (35m x 20m)  
 Building Height = 20m  
 Number of Storeys = 6 Storeys  
 Total Floor Area = 4200m<sup>2</sup>

Building Intensity Ratio (4.2 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions

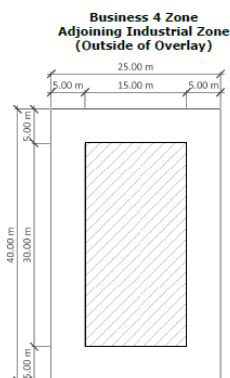


Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 333.5m<sup>2</sup> per Storey (25m x 13.34m)  
 Building Height = 20m  
 Number of Storeys = 6 Storeys  
 Total Floor Area = 2000m<sup>2</sup>

Building Intensity Ratio (2 : 1)  
 \*As per PC12 provisions

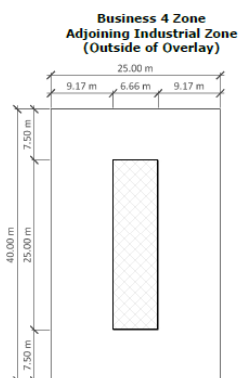
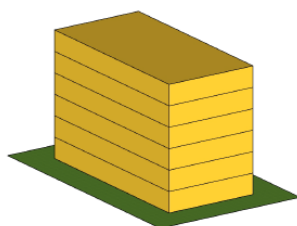


### Business 4 Zone - Adjoining Industrial Zone (Outside of Overlay)



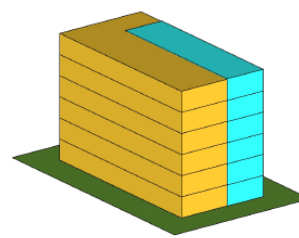
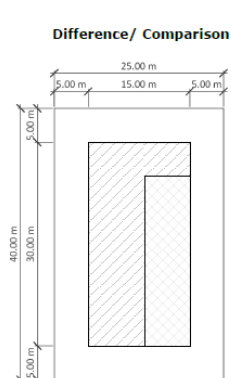
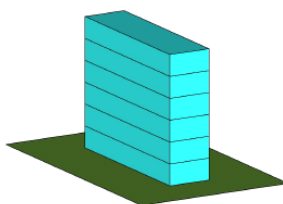
Model not considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 450m<sup>2</sup> per Storey (30m x 15m)  
 Building Height = 20m  
 Number of Storeys = 6 Storeys  
 Total Floor Area = 2700m<sup>2</sup>

Building Intensity Ratio (2.7 : 1)  
 \*Considering minimum setbacks & maximum permitted heights as per PC12 provisions



Model considering building intensity ratio\*  
 Total Site Area = 1000m<sup>2</sup>  
 166.5m<sup>2</sup> per Storey (25m x 6.66m)  
 Building Height = 20m  
 Number of Storeys = 6 Storeys  
 Total Floor Area = 1000m<sup>2</sup>

Building Intensity Ratio (1 : 1)  
 \*As per PC12 provisions



The results of the model are summarised in the following table:

<b>Zone and Location</b>	<b>Without building intensity limitation</b>	<b>With building intensity limitation</b>
Business Zones 2 and 4 within the height overlay	3.6 : 1	1 : 1
Business 6 within the height overlay	4.9 : 1	1 : 1
Business 1, 5 and 7 within the height overlay	3.6 : 1	2 : 1
Business Zones 2 and 4 outside the height overlay	1.8 : 1	1 : 1
Business 6 outside the height overlay (adjacent to the General Residential Zone)	1.86 : 1	1 : 1
Business 6 outside the height overlay (adjacent to the Medium Density Residential Zone)	3:1	1:1
Business 1, 5 and 7 outside the height overlay	2.25 : 1	2 : 1
Business 3 outside the height overlay	4.2 : 1	2 : 1
Business 4 outside the height overlay adjoining industrial zone <sup>8</sup>	2.7 : 1	1: 1

As evident from the models, the intensity ratio appears to be suitable for Business Zones situated outside the height overlay. However, it appears to act as a hindrance to construction in the Business Zones within the height overlay. While there might be slight variations in the building intensity ratio due to the model not considering a hypothetical site that adjoins a Residential Zone (therefore no height in relation to boundary restriction was applied), it would be advisable to consider increasing the building intensity ratio within the height overlay.

The results show that the overlay has the biggest potential impact in the Business 2, 4 and 6 Zones within the height overlay. There is also a significant difference in what is enabled in the Business 4 Zone outside the overlay and where adjoining an industrial zone, however zones that adjoin industrial zones are not good candidates for residential intensification and being a zone for vehicle based large format retail, it is unlikely to require retail space on upper floors. This zone has not therefore been considered any further. As described above, the other zones specifically raised in submissions are the Business 6 and Business 3 Zones.

The existing ratio for building intensity (6.4.4) is considered appropriate for all Business Zones outside the Business Height Overlay. Within the overlay, however, it seems that these ratio should be reviewed to allow development of building with the permitted height. Further to the amended provisions published on 27<sup>th</sup> May 2024, the building intensity ratio need to be further amended to accommodate the increase in permitted building height proposed. In light of the provisions amended on 27<sup>th</sup> May 2024, it is necessary to revise the building intensity ratio to reflect the proposed increase in permitted building height. This further adjustment will ensure that development regulations remain consistent with the new structural height permissions, thereby facilitating a harmonious urban development framework. For Business Zones 2 and 4, a building intensity ratio of 3.5:1 is considered suitable. For Business Zone 6, a building intensity

<sup>8</sup> The Business 4 Zone has a greater maximum height (20m) where it adjoins an industrial zone.

ratio of 4.5:1 is considered suitable. These ratios will enable efficient use of the site, while also promoting a built form which is appropriate for the site.

I recommend rejection of the further submission from Oyster Management Limited seeking deletion of Rule 6.4.4. Overall development intensity is determined by more than just height, and the changes through PC12 enable greater intensification in accordance with the NPS-UD.

#### Recommended Changes

##### 6.4.4 Building Intensity

Business Zones	Maximum ratio of floor area to net site area
i. Business Zones 1, 3, 5, 7	2:1
ii. Business Zones 2, 4, 6 (adjacent to the General Residential Zone)	1:1
iii. <b>Business 6 outside the height overlay (adjacent to the Medium Density Residential Zone)</b>	<b>3:1</b>
iv. <b>Business Zones 2 and 4 (within the height overlay)</b>	<b>3.5:1</b>
v. <b>Business Zones 6 (within the height overlay)</b>	<b>4.5:1</b>
b. In determining the floor-area ratio:	
i. Floor space used for parking within Business Zones 3 and 5 shall be excluded when it does not increase the maximum permitted floor area by more than 50%.	
ii. Underground parking is fully excluded.	

#### Issue 6 – Storage areas

PC12 amends the storage area requirements to introduce a minimum storage area volume and to adjust the minimum dimensions (Rule 6.4.7 f.).

Kāinga Ora seek deletion of this standard and inclusion as an assessment criterion to allow for more flexibility to reflect the higher intensity of development within Business Zones.

The submission from Sam Shears and Matthew Grant supports the intention behind storage area standards, however they seek clarification and/or amendment to minimum volumes where they contradict the minimum dimensions (i.e. the minimum dimensions do not equal the minimum volume). Additionally, they are of the view that the minimum height should be height and/or width.

#### Submission Points Relating to Issue

160.21, 265.48

#### Further Submission relating to Issue

None

#### Analysis of issue

I recommend that the submission point from Kāinga Ora requesting deletion of this standard be rejected. Activities permitted in the zone will not be subject to assessment criteria therefore there would be no requirement for a storage area. Storage areas are an important component of higher density residential living where residential unit sizes are usually smaller and garages may be absent.

I dispute that the minimum dimensions should equal the minimum volumes as submitted by Sam Shears and Matthew Grant. These are minimum requirements for the various dimensions. One or more of these dimensions would need to be extended to meet minimum volume requirements.

The storage area requirements have a minimum height of 1.8m which means that most people will be able to walk or step into the storage area. A minimum width requirement of the same size would not provide the same storage benefits, as this may result in storage areas which are difficult to access. I therefore recommend this submission point be rejected.

The requirements for storage areas and external outlook areas were introduced through sections 6.4.7(f) and 6.4.7(h) of Plan Change 12, respectively. These elements are relevant for creating habitable spaces within Business Zones, as previously stated, and are deemed appropriate.

#### **Recommended Changes**

None

#### **Issue 7 – Residential unit size**

PC12 removes the minimum residential unit size from the Business Zone standards to align with the residential standards which do not contain minimum unit sizes.

Kāinga Ora seek that this standard is retained with amendments to set a minimum liveable area for apartment sizes and avoid the establishment of undersized apartments. Sought amendments are to apply only to studio units and units of 1 or more bedrooms (i.e. no specific standard for a 2 or 3+ bedroom unit), remove the typology number requirements (as notified) and specify that the minimum floor area relates to the internal area excluding balconies.

#### **Submission Points Relating to Issue**

160.211

#### **Further Submission relating to Issue**

None

#### **Analysis of issue**

The recommendation of the proponent planner for the Residential Zones is relevant to this discussion, as the planner recommends that minimum residential unit sizes be retained within that zone. I agree that a minimum unit size standard should be in place to ensure units are not undersized and contribute to poor living conditions.

I agree with the Central City Zone reporting planner that the Kāinga Ora proposed minimum unit sizes do not reflect the purpose of ensuring adequate minimum unit sizes, particularly for units with two or three or more-bedroom units. The current Operative District Plan sizes generally reflect market demands at a minimum level and the contemporary apartment sizes being consented in the city.

I do not consider that an amendment is required to state that the minimum floor area relates to the internal floor area. The definition of 'floor area' in the District Plan currently specifies captures this:

*Floor Area (for residential units in the Residential Intensification zone, Medium Density Residential Zone, General Residential Zone, Central City zone and Business Zones): Means that total square metres (m2) of the floor space of each residential unit when measured from the outer edge of the unit's exterior walls, including from the mid-point of the inter-tenancy walls shared with adjoining units. But excludes garages, carports and other accessory buildings associated with the residential unit; and communal spaces such as pedestrian access, stairwells or service areas within the building.*

Floor area is measured from the unit's exterior walls therefore no amendment is required.

Consequently, I recommend acceptance in part of the submission from Kāinga Ora where the minimum residential unit size is reintroduced as per the current Operative District Plan standards.

#### Recommended Changes

6.4.7g	Residential Unit Size
The minimum floor area required of each residential units (excluding ancillary residential units)	
Unit Type	Floor Area
i. Studio unit	35m <sup>2</sup>
ii. One bedroom unit	45m <sup>2</sup>
iii. Two bedroom unit	55m <sup>2</sup>
iv. Three bedroom unit	75m <sup>2</sup>
v. Four or more bedroom unit	90m <sup>2</sup>

#### Issue 8 – Public interface

Business Zones Policies 6.2.1f, 6.2.2h, 6.2.3c, 6.2.8b and 6.2.9b state the following:

*Upper floor residential development which contributes to safe streets is encouraged where each residential unit is provided with adequate storage space, useable outdoor living areas and access to daylight.*

The Business Zones chapter has a corresponding public interface standard (Rule 6.4.7 g.) which requires street facing units to have a minimum of 20% of the street facing façade in glazing. Submissions from Jones Lands Limited/Hamilton Campground Limited and Rotokauri North Holdings Limited request unspecified policy amendments because in their view the drafting implies residential activities are only encouraged where they contribute to safe streets. Kāinga Ora seek deletion of Rule 6.4.7 g. on the basis that it sets a standard that may not be possible to meet for dwellings that would otherwise provide a decent standard of living.

#### Submission Points Relating to Issue

160.212, 241.26, 343.5

#### Further Submission relating to Issue

None

#### Analysis of issue

Safe street requirements are critical for ensuring the safety, accessibility, and viability of Business Zones. They can help to create a more vibrant and liveable community, support local businesses, and improve the overall quality of life for residents and visitors alike.

‘Safe streets’ is not defined within the district plan however in accordance with urban design principles, and as included in Hamilton’s city design guide ‘Vista’ (page 29), development should contribute to passive surveillance of the street. Rule 6.4.7 g. helps achieve this, i.e. the rule is for principally for urban design rather than dwelling amenity reasons. The proposed policy 6.2.1(f) is deemed adequate to ensure that safe streets requirements (particularly through passive surveillance) are considered in a development.

The overall provisions are enabling of upper floor residential development and Rule 6.4.7 g. only applies to dwellings facing the street. It is my opinion that the policy wording and the rule would not be an impediment to residential development.

I therefore recommend that these submission points be rejected.

#### Recommended Changes

None

### Issue 9 – External outlook area

The external outlook standards (Rule 6.4.7 h.) have been amended through PC12 to align with the MDRS. Kāinga Ora seek deletion of the standard on the basis that it sets a standard that may not be possible to meet for dwellings that would otherwise provide a decent standard of living.

Kāinga Ora also oppose Policies 6.2.1f, 6.2.2h, 6.2.8b, 6.2.9b and 6.2.3c because the policies don't recognise higher density living in Business Zones and outlook requirements should not be mandatory in a higher density living situation. They seek amended policy wording which does not reference access to daylight and unspecified amendment to relevant rules.

The submission from Sam Shears and Matthew Grant seeks clarification and/or amendments to requirements for outlook space to reduce the minimum 4m depth and 4m width where this could contradict with the minimum outdoor living area dimension of 3m.

#### Submission Points Relating to Issue

160.2, 160.197, 160.201, 160.203, 160.205, 160.213, 265.48

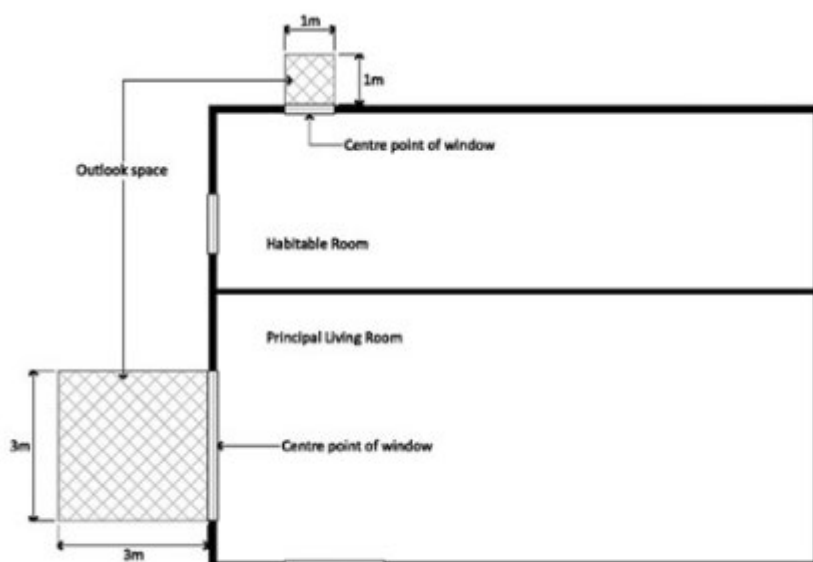
#### Further Submission relating to Issue

None

#### Analysis of issue

I recommend rejecting submission points on external outlook space as the outlook requirements are based on the MDRS and are important for residential amenity. The potential contradiction of outlook space with outdoor space requirements is noted however these standards are based on the MDRS. They are separate requirements and the outlook requirement could be achieved over a street, park or other public space (not necessarily over the outdoor living area).

It is further noted that the unreferenced diagram within this standard is in discordance with standard 6.4.5(h)(ii) (the diagram shows an outlook space of 3m x 3m rather than 4m x 4m as per the standard) (see image below). This error should be corrected and the standard should be amended to 3m x 3m for consistency with requirements in the Residential Zone.



#### Recommended Changes

- i. External Outlook Area
- ii. A principal living room of a dwelling must have an outlook space with a minimum dimension of **3m** depth and **3m** width.



#### Issue 10 – Historic heritage areas and historic heritage items

Waikato Heritage Group submit that there are no controls on historic heritage items and there should be height and density controls for historic heritage items in Business Zones. They seek the inclusion of rules that control heights above historic heritage items and setbacks and density standards as per historic heritage areas.

#### Submission Points Relating to Issue

155.1

#### Further Submission relating to Issue

None

#### Analysis of issue

The following areas have Business Zones within or adjoining Historic Heritage Areas (HHAs):

#### Hayes Paddock and Hamilton East HHA



Figure 1 Hayes Paddock and Hamilton East HHAs

## Maeroa HHA



Figure 2 Maeroa HHA

## Oxford Street, Claudelands, Myrtle Street, and Te Aroha Street HHA



Figure 3 Oxford Street, Claudelands, Myrtle Street and Te Aroha HHAs

Historic heritage items have their own provisions in Chapter 19 Historic Heritage. Within this chapter changes to historic heritage items generally require resource consent. These provisions should satisfy the concerns of the submitter and I therefore provisionally recommend rejection of this submission point pending further evidence on this matter.

<b>Recommended Changes</b>
None

#### 5.4 Theme 3 – Miscellaneous matters

Theme 3 is miscellaneous matters that do not fall within the above themes.

<b>Issue 1 – Development of sites adjacent to the Hamilton East Suburban Centre</b>
<p>The Retirement Villages Association of New Zealand Incorporated support the provision for a range of activities to be established adjacent to the Hamilton East Suburban Centre and seek retention of Objective 6.2.8.</p> <p>Kāinga Ora support the amendment to Policy 6.2.8a which inserts the word ‘planned’ with respect to the character and scale of the Hamilton East Suburban Centre and surrounding area which must be had regard to.</p>
<b>Submission Points Relating to Issue</b>
160.202, 330.117
<b>Further Submission relating to Issue</b>
None
<b>Analysis of issue</b>
<p>This objective was in the operative provisions and is unchanged by PC12. I recommend acceptance of the submission point from the Retirement Villages Association of New Zealand Incorporated.</p> <p>I also recommend acceptance of the submission point by Kāinga Ora as it recognises that the character and scale of the Hamilton East Suburban Centre and surrounding area is likely to change through the PC12 amendments.</p>
<b>Recommended Changes</b>
None

<b>Issue 2 – Restricted discretionary activities matters of discretion and assessment criteria</b>
<p>PC12 makes a minor amendment to Table 6.6 which removes apartments from the list of activities. This is because there are no restricted discretionary activity apartments in the activity status table as a result of the PC12 amendments.</p> <p>Kāinga Ora support this amendment and seek retention of this provision.</p>
<b>Submission Points Relating to Issue</b>
160.195
<b>Further Submission relating to Issue</b>
None
<b>Analysis of issue</b>
I recommend acceptance of this submission point which is in support of the amendment.
<b>Recommended Changes</b>
None

<b>Issue 3 – Enabling community corrections activities in Business Zones</b>
<p>The submission from Ara Poutama Aotearoa the Department of Corrections seeks that the activity table (6.3) is amended to enable “community corrections activities” as a permitted activity in the Business 1, 3, 5 and 7 zones. This change is requested on the basis that with more housing there will be a need for correction facilities as essential social infrastructure within Business Zones.</p>

Submission Points Relating to Issue
154.2
Further Submission relating to Issue
None
Analysis of issue
<p>It should be noted that the submitter also seeks the inclusion of a new district plan definition of “community corrections activity” as follows:</p> <p><i>“Community corrections activity: Means 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.”</i></p> <p>These types of activities are already provided for within the District Plan as ‘offices’. The district plan definition of ‘offices’ includes:</p> <p><i>Offices: Means premises used for administration, consultation, or management of and shall include:</i></p> <p><i>d. Non-custodial premises used by Corrections staff for administration and delivery of community-based activities, including, inter alia, Probation Centres and bases for Community Work activities.</i></p> <p>I recommend this submission point be rejected as the activities described are already provided for under the definition of ‘offices’. Office activities, including non-custodial premises used by corrections staff, are provided for within Business Zones variously as permitted, restricted discretionary, discretionary or non-complying activities depending on the size and location of the office.</p>
Recommended Changes
None

## 6.0 Conclusion

Based on my analysis, I recommend that the amendments to the PC12 provisions listed in Table 2 as set out in more detail earlier in this report and shown in Appendix A<sup>9</sup> be accepted:

**Table 2 PC12 provisions this report recommends be amended**

District Plan Volume	Proposed Plan Change 12 Chapters or Appendices	Proposed Plan Change 12 Sections
1	Chapter 6 Business Zones 1 to 7 Zones	6.3 Activity Status Table
		6.2.8c Policy
		6.4.1 Maximum Building Height
		6.4.2 Height in Relation to Boundary
		6.4.3 Building Setbacks
		6.4.4 Building Intensity
		6.4.7g Residential Unit Size
		6.4.7i External Outlook Area

<sup>9</sup> The Officers Recommendation Version of PC12 can be accessed on Council’s website.

The recommended changes will improve the District Plan's clarity and certainty, while achieving the outcomes sought by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 taking into account qualifying matters as they relate to Hamilton City.