

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

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Porirua District Plan

**Between** **Various**

**Submitters**

**And** **Porirua City Council**

**Respondent**

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**Response of Michael Rachlin on behalf of Porirua City Council to interim  
questions from the Hearing Panel**

**Date: 20<sup>th</sup> March 2023**

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## **INTRODUCTION:**

1 My full name is Michael David Rachlin. I am employed as a Principal Policy Planner.

2 I have prepared this response on behalf of the Porirua City Council (**Council**) in respect of technical related matters arising from the submissions and further submissions on the Proposed Porirua District Plan (**PDP**).

3 Specifically, this statement of evidence relates to the matters in Hearing Stream 7.

4 I am authorised to provide this evidence on behalf of the Council.

## **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

5 My section 42A reports for Hearing Stream 7 set out my qualifications and experience.

6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

## **SCOPE OF EVIDENCE**

7 My statement provides a response to a number of interim questions raised by the Hearing Panel in their emails dated 14<sup>th</sup> March, 15<sup>th</sup> March, and 17<sup>th</sup> March (Day 1, Day 2, and Day 3).

8 *Does the relevant s42A author have any views regarding the residential policy permutations the panel discussed with Dr Mitchell?*

8.1 I have listened again to the Panel's discussion with Dr Mitchell. This was principally concerned with a policy sought by the RVA to recognise the intensification opportunities provided by

larger sites within all residential zones given their ability to “internalise” the effects of buildings by locating taller buildings towards the centre of a site. The example provided was that retirement villages typically had administration and amenity buildings (containing facilities such as gyms, restaurants, bars etc) located in taller buildings towards the centre of the village. I understood from Dr Mitchell’s presentation that these might breach zone height standards, but their effects are internalised. He was concerned that this created consenting difficulties without a supporting policy.

- 8.2 I do not consider another policy is necessary. The existing policy framework already provides for this situation.
- 8.3 HRZ-O1, MRZ-O1, and MRZ-PREC02-O1 identify the planned urban built environment for the High Density Residential Zone, Medium Density Residential Zone, and MRZ-Residential Intensification Precinct respectively. In relation to building height, each includes the term “predominantly”, which recognises that buildings may be higher than otherwise provided for in the zone or precinct. In addition, RESZ-O3 seeks that the intensity, form and design of use and development in Residential Zones achieves the efficient and sustainable use of residential land.
- 8.4 In my opinion, the above provide the necessary signal regarding intensification opportunities, regardless of site size. Developments with over height buildings would be assessed against RESZ-P7 and RESZ-P8, as a restricted discretionary activity.
- 8.5 RESZ-P7 (Health and well-being – Development not meeting permitted activity standards) requires the following:

*Visual dominance, shading and loss of privacy for adjacent residential sites from over height buildings is mitigated or remedied;*

8.6 An applicant with a tall building can demonstrate this as part of their consent application and I do not consider that another policy along the lines of that discussed with Dr Mitchell would provide any further direction on this matter.

8.7 Likewise, RESZ-P8 (Urban built environment – Development not meeting permitted activity standards) variously requires:

- *The scale, design, and siting of buildings or structures are compatible with the planned urban built environment of the zone or precinct;*
- *Visual dominance in the streetscape arising from the scale and siting of a new building or structure is mitigated or remedied through design responses to the built development or landscaping;*
- *There is adequate provision of landscaping and planting to enhance the development and reduce the visual impact of large buildings and/or extensive areas of hard surfacing, having regard to the planned urban built environment for the zone or precinct;*
- *An increase in the scale of the building or structure or its siting would provide for the retention of established landscaping;*
- *An increase in building or structure height results from a response to natural hazard mitigation*

8.8 As for RESZ-P7, an applicant with a tall building can demonstrate the above in their consent application and I do not consider that another policy along the lines of that discussed with Dr Mitchell would provide any further direction on this matter.

8.9 In summary, I am satisfied that the objectives and policies of the RESZ – General objectives and policies for residential zones, together with HRZ-O1, MRZ-O1, and MRZ-PREC02-O1 do not create a regulatory barrier to the scenario described by Dr Mitchell, whereby taller buildings effectively internalise their adverse effects. Another policy would not, in my opinion, provide any greater direction.

9 *Please check Figs 27 and 28 - there appears to be an additional area within both school and park catchments*

9.1 It was agreed at the Day 2 hearing that the Council team will review this area at Papakowhai where Kāinga Ora seek it be identified as MRZ-Residential Intensification Precinct, together with the other extensions proposed to the High Density Residential Zone and MRZ-Residential Intensification Precinct from Kāinga Ora to identify if:

- Any have merit in being rezoned/made subject of the MRZ-Residential Intensification Precinct based on the Council's mapping methodology; and
- The reason why any area is not considered appropriate, based on the Council's methodology.

9.2 This will be addressed in the Council's right of reply, to allow time for the assessments to be undertaken, including site visits where necessary.

9.3 As was identified during the Council's presentation on Day 3 and in response to questions from the Panel, the Council's mapping methodology contains three key steps, these being:

1. Identifying the intersect between walking distances to a train station and/or the Metropolitan Centre Zone

with primary well-functioning urban environment factors;

2. For those areas that failed a primary well-functioning urban environment factor, to consider a range of secondary factors that supported “upzoning”; and
3. Applying a range of “rules” to refine and define the exact boundaries.

9.4 Stages 2 and 3 included qualitative assessments of an area’s suitability to support residential intensification and allowed a more enabling approach than simple reliance on step 1 (in other words, the Council did not simply adopt a binary “in-out” approach).

9.5 The “up zoning” of Mana is a good example of this approach. In my oral evidence in relation to another point, I also referred to Kenepuru Landing and how due to its topography and master planned approach to its development, the whole site had been included within the High Density Residential Zone. It too did not comply with all walking distances (parts of the site are more than 800m walking distance from a train station or Metropolitan Centre Zone).

10 *Please check Kāinga Ora evidence (Rae at 6.12ff) that approach to walkable catchment criteria inconsistent.*

10.1 I have looked again at Mr Rae’s evidence at 6.12 together with the other paragraphs around it. In this he considers that the Council has been inconsistent in applying its methodology and cites Mana and Paremata as two examples of this.

10.2 I would note that in paragraph 6.11 of his evidence, Mr Rae has incorrectly identified that the MRZ-Residential

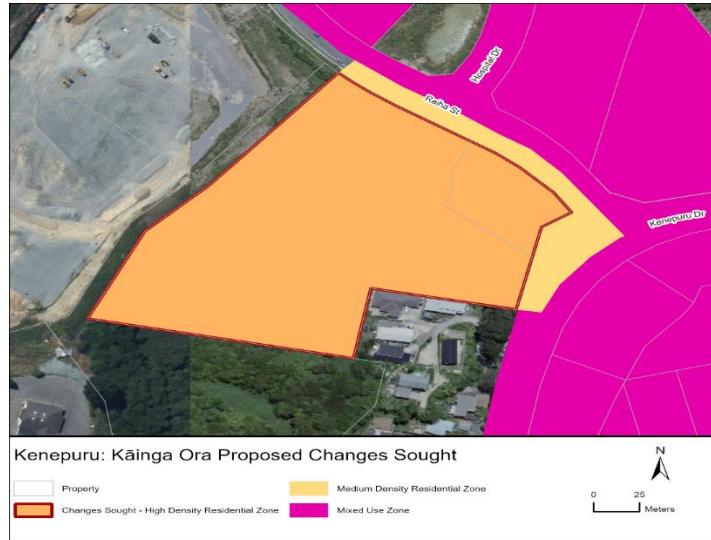
Intensification Precinct were subject to all three primary well-functioning urban environment factors (primary school, supermarket, local park). For the MRZ-Residential Intensification Precinct, only two primary factors were applied, these being a primary school and local park. This reflected that these areas were located within a walking distance of a Local Centre Zone, where it can be anticipated that people are able to access a range of commercial activity and community services either now or in the future.

10.3 As discussed in 9 above, the Council applied a range of secondary factors in determining the location and boundary of the intensification areas (HRZ and MRZ-RIP) and this may have resulted in “inconsistencies”. This simply reflects the Council’s enabling approach and broader assessment process.

10.4 In any event, as set out in 9.1, I have agreed to review all of the extensions to the HRZ and MRZ-Residential Intensification Precinct requests from Kāinga Ora.

11 *Please check and confirm whether there are any issues with the recommended changes to Height Variance Controls/ upzoning to HDRZ due to the interface with any heritage sites or sites of significance to Māori. We discussed 1 Mungavin Avenue (and Messrs Bowman and Vossler confirmed that wasn’t a problem), but are there any others we should be aware of?*

11.1 Following the Panel’s oral request, I have checked the PDP in relation to land at Kenepuru, which I recommended to be rezoned HRZ from MRZ in my supplementary planning statement. I can confirm that there is no interface with heritage sites or sites and areas of significance to Māori. I show this site below:



**Figure 1: Land at 58 and 60 Raiha Street, Kenepuru**

11.2 36m height limit at land at Titahi Bay Road and Kenepuru Drive

I have checked the PDP for this site and can confirm that there are three listed heritage buildings identified in SCHED3 – Historic Heritage Items Group B in the area proposed for the 36m height limit. They are:

- HHB007 - House at 4 Kenepuru Drive
- HHB008 - House at 8 Kenepuru Drive
- HHB009 - House at 10 Kenepuru Drive

11.3 The listing identifies each house as a heritage feature and their entire site as heritage settings.

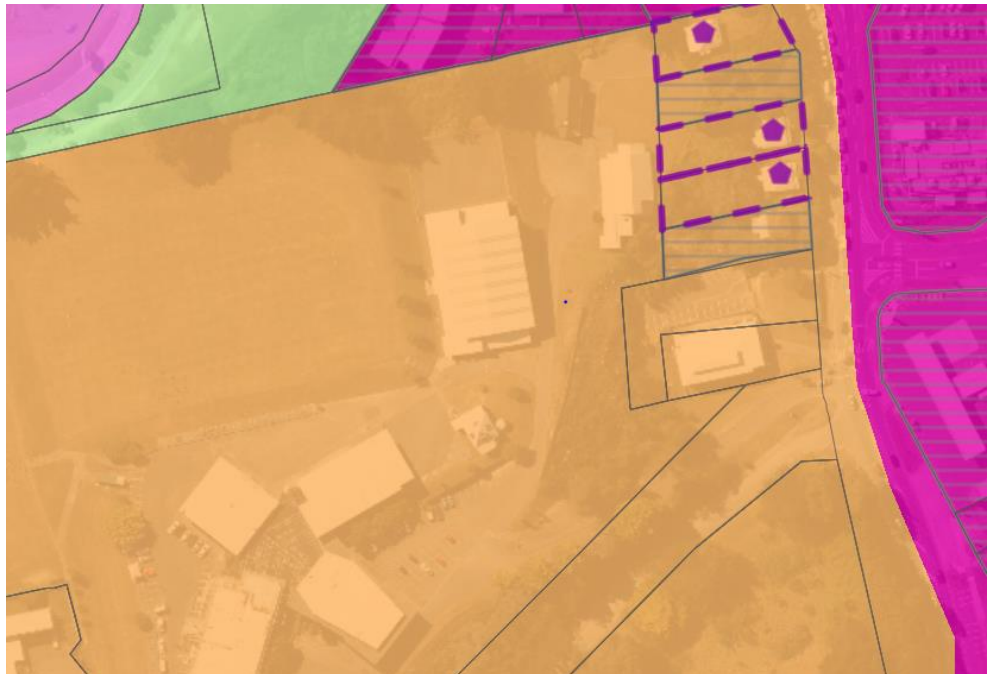
11.4 I show the site proposed for the 36m height limit below:





**Figure 2 – Land at Titahi Bay Road and Kenepuru Drive proposed for 36m height limit.**

11.5 Below, I include a screenshot from the PDP showing the heritage buildings, and heritage settings:



**Figure 3: Heritage sites and sites subject to height and height in relation to boundary controls.**

11.6 The sites shown with a purple star and hatched boundary line are the scheduled heritage buildings and settings. The light blue hatched sites are subject to the following height variation controls and height in relation to boundary controls:

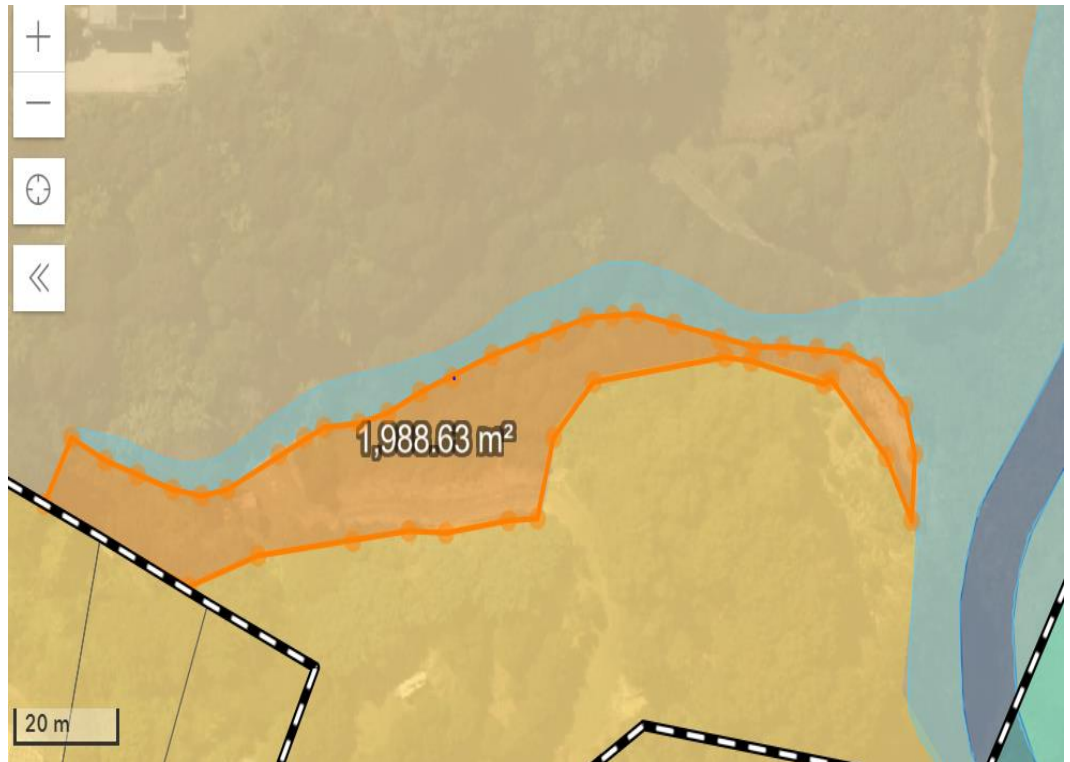
- Height Control - Heritage A – 11m (underlying HRZ zone standard is 22m)
- HIRB Control Heritage A – 3m x 45° on any boundary with a site containing a heritage item or heritage setting (underlying HRZ zone standard is 8m x 60°)

11.7 Mr Bowman and Mr Vossler wish to undertake a site visit to assess whether there are any issues with the proposed 36m height limit and have been unable to do this in time for my response to this interim questions statement. As such, I will address this matter in the Council's Right of Reply including any necessary updates to my recommendation for a 36m height limit by way of a height variation control.

12 *Please quantify the area of land at 10A The Track between the identified flood hazard and the notified MDRS.*

12.1 I have measured the area of Rural Lifestyle Zone land situated between the boundary of the Medium Density Residential Zone located to the south and to the boundary of the flood ponding area identified on the Proposed District Plan.

12.2 The land area is 1,989m<sup>2</sup>. I show this in Figure 1 below:



**Figure 1 – land area at 10A The Track situated between urban boundary (MRZ-Medium Density Residential Zone) and flood ponding area shown on PDP.**

13 *Please comment on an alternative term to ‘safeguard’ to better capture the intention in relation to residential privacy.*

13.1 At the hearing I agreed with the Chairman that this term amounted to an “avoid” policy and this was not the intent. As discussed below, the intent is to require a careful assessment of breaches of the density standards given that they result in a development “stepping outside” of the planned urban built environment and as such the anticipated effects on adjacent properties.

13.2 At this stage and subject to giving the matter further consideration after hearing from other submitters, I would recommend the following amended wording (shown in blue):

Provide for buildings and structures that do not meet the permitted activity standards where it can be demonstrated, as relevant and

having regard to the planned urban built environment for the zone or precinct, that:

1. The separation from site boundaries and heights in respect to site boundaries, ~~safeguards~~ minimises on-site and off-site privacy, mitigates visual dominance to adjacent sites, and ensures adequate access to sunlight and daylight;

13.3 The density standards have been set to achieve the planned urban built environment for their respective zones (as set out in HRZ-O1 and HRZ-O2). As such breaches of these standards result in a development potentially<sup>1</sup> “stepping outside” of the planned urban built environment and the anticipated effects on adjacent properties. As such, I consider that these need to be subject to careful consideration through a resource consent process.

13.4 I will address this matter further in my right of reply following hearing from submitters.

14 *Please advise possible redrafting of RESZ-P10 to exclude activities (e.g. retirement villages) not intended to be the subject of the policy.*

14.1 I have given this matter further consideration and do not consider it is necessary to amend the policy framework to specifically exempt retirement villages, supported residential care activity, and papakāinga from needing to be consistent with the Residential Design Guide. The policy relates only to the number of residential units on a site. Retirement villages, supported residential care activity, and papakāinga are not residential units.

14.2 The activity-based scheme of the PDP already contains activity-based policy and rules framework for these activities. I would also note that policy direction for papakāinga is

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<sup>1</sup> For building heights, the planned urban built environment for each residential zone or precincts contemplates that taller buildings may be appropriate.

contained in Policies PK-P1 and PK-P2 to the Papakāinga chapter of the PDP.

- 14.3 I believe a Note added to RESZ-P10 would be sufficient to address this matter and have provided possible wording this below:

| RESZ-P10  | <b>Urban built environment – Development not meeting permitted activity standard for number of residential units on a site</b> |
|---|--|
| <p>Provide for more than three residential units on a site where it can be demonstrated that the development is consistent with the Residential Design Guide as contained in APP3 - Residential Design Guide.</p> <p><u>Note: This policy does not apply to retirement villages, supported residential care activity, and papakāinga.</u></p> |  |

- 14.4 If the Hearing Panel still consider an amended RESZ-P10 is necessary to address this matter, then I would recommend the following wording (shown in blue):

| RESZ-P10   | <b>Urban built environment – Development not meeting permitted activity standard for number of residential units on a site</b> |
|--|--|
| <ol style="list-style-type: none"><li>1. Provide for more than three residential units on a site where it can be demonstrated that the development is consistent with the Residential Design Guide as contained in APP3 - Residential Design Guide.</li><li>2. <u>Recognise the differing characteristics and requirements of retirement villages, supported residential care and papakāinga from general residential activities by exempting them from the need to be consistent with the Residential Design Guide.</u></li></ol> |  |

- 15 *Please advise possible redrafting of RESZ-P11 to clarify the scale of effects targeted/ the extent of mitigation required.*

- 15.1 In response to questions from the Panel I agreed that this policy might need amending to identify the scale of effects to

be managed more clearly and the extent to which they are to be managed.

15.2 I intend to give this matter further consideration and will make a final recommendation in my right of reply. However, at this point I recommend that the policy should be amended as shown below.

**RESZ-P11 Non-residential activities**

Provide for non-residential activities that contribute to the health and wellbeing of people and communities where:

1. These are compatible with the planned urban built environment and amenity of the area;
2. Any significant adverse effects on the amenity values of adjoining sites can be adequately mitigated, including from the location and scale of utility and external storage areas;
3. These do not result in significant adverse effects on the amenity values of adjoining sites from the movement of people and vehicles associated with the activity which cannot be adequately mitigated;
4. The hours of operation are compatible with residential amenity values; and
5. For Emergency Service Facilities, the activity has an operational need or functional need to locate in the zone.

15.3 I consider that as RESZ-O2 anticipates, “..... *other activities that support the health, safety and wellbeing of people and communities, where these are compatible with the planned urban built environment and amenity values of the zone*”, it is appropriate to manage significant adverse effects only. I also consider that the qualifier, “adequately” in clause 2 should be included in clause 3, to identify the extent of management required for these effects.

16 *Please advise whether the permitted activity threshold in HRZ should be a hybrid of residential units and number of buildings, to allow more than 3 residential units in one building subject to a 6 storey height limit*

*(taking account of potential permutations in building ownership arrangements).*

16.1 Mr McIndoe in his response to the interim questions from the Hearing Panel has considered this matter further. He considers that it would not be appropriate to raise the threshold. He identifies a number of concerns in this matter. These include how the design task and complexity increases with the number of residential units on a site and not just with the number of buildings. He considers that the challenge to achieve well-functioning residential environments increases above the threshold of four or more dwellings.

16.2 Based on Mr McIndoe's additional urban design advice on this matter I continue to support the notified threshold of four or more residential units to require an urban design assessment through a restricted discretionary activity consent.

17 *Please quantify in approx. % the split of the former GRZ into:*

- *HRZ*
- *HRZ with HVC*
- *MRZ RIP*
- *MRZ RIP with HVC*
- *MRZ*
- *MRZ with HVC*

17.1 The Council's GIS Manager will undertake these calculations and they will be provided as part of the Council's Right of Reply. Given the work required we have been unable to include them in this response to interim questions from the Hearing Panel.

18 *Please confirm recommendation re MRZ-O2- does extent of mitigation required need to be quantified?*

18.1 I have assumed for this response that the Panel is referring to MRZ-PREC02-O2 (Managing scale of development at MRZ - Residential Intensification Precinct Interface). There is no MRZ-O2, and the question put to me by the Panel were in relation to MRZ-PREC02-O2.

18.2 At the hearing I indicated that it would be appropriate to quantify the extent of mitigation required and that it was appropriate for this type of objective to include this. I have considered the matter further and still believe this to be appropriate. In my opinion the quantification forms part of the outcome sought by the objective and as such is appropriate to include it. I would recommend the following amendment, shown in blue:

|   |  |
|---|--|
| MRZ-PREC02-O2   | <b>Managing scale of development at MRZ - Residential Intensification Precinct Interface</b> |
| Use and development within the MRZ-Residential Intensification Precinct is of a form, design and scale that <u>appropriately</u> mitigates adverse effects on the health and well-being of people residing in adjacent sites located outside of the Precinct. |  |

19 *Please comment on Paremata Business Park alternative relief, rezoning single site.*

19.1 As I indicated at the hearing, I wish to undertake a visit to the site before making a recommendation on the alternative relief sought by the submitter for 17 Paremata Crescent, Paremata. As such I will address this matter and make a recommendation as part of the Council's Right of Reply.

20 *We have already requested consideration of Figs 28 and 29, and whether some of the proposed addition is within the screening catchments. Please recheck the other areas where extension of HRZ or*



*MRZ-RIP is proposed (discussed at pages 32-44) and 'nearly all' the addition is outside the screening catchments.*

20.1 Please see 9 above. This assessment will be undertaken and included together with recommendations in the Council's Right of Reply.

21 *Query where Interpretation section of Commercial Design Guide needs to say Residential Section doesn't apply to Retirement Villages.*

21.1 I have reviewed the design guides for the commercial and mixed use zones<sup>2</sup> and would agree that the Interpretation section to each should be amended to state that the residential section does not apply to retirement villages. I would recommend the following addition to each in the Interpretation section:

#### **Application**

Sections 1-5 apply to all new buildings or additions in the zone.

Section 6 applies to all residential development, [except for Retirement Villages](#), irrespective of the number of units or floor area:

**Part A** applies only to townhouses.

**Part B** applies only to apartments.

21.2 I will attach amended versions of the commercial and mixed use zones design guides with the Council's Right of Reply.

22 *Please confirm whether recommended trigger in NCZ-R10 is 6 or 10 residents in supported residential care*

22.1 At the hearing I indicated that I considered it appropriate to amend NCZ-R10 to increase the resident number from 6 to 10.

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<sup>2</sup> Metropolitan Centre Zone Design Guide, Mixed Use Centre Zone Design Guide, Large Format Retail Zone Design Guide, and Local Centre Zone Design Guide.

This would be an alternative to the current threshold of 6 residents, excluding staff. The other commercial zones do not have any limits on resident numbers.

22.2 I have reflected further on this and still consider it is appropriate to amend the trigger to 10 residents instead of the current trigger. I consider this provides more certainty in the interpretation of the threshold and the scale is appropriate for the Neighbourhood Centre Zone, which are very small scale commercial areas serving their immediately surrounding residential communities.

23 *Please provide a table of notified and recommended height triggers in Commercial zones (i.e. and adapted version of the table in Design memo #18*

23.1 In the table below I show the notified and recommended height limits for each commercial zone:

| <b>Zone</b>                     | <b>Notified permitted height limit</b>                                 | <b>Recommended permitted height limit</b> |
|---------------------------------|--|---|
| <b>Metropolitan Centre Zone</b> | 50m  | 53m                                       |
| <b>Large Format Retail Zone</b> | 22m  | No change                                 |
| <b>Mixed Use Zone</b>           | 18m<br><br>22m where subject to Height Increase A control <sup>3</sup> | No change                                 |

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<sup>3</sup> These sites are within 800m walking distance of a train station or the MCZ

|                                  |   |           |
|----------------------------------|---|-----------|
|                                  | 12m where subject to a Height Control – Heritage B  |           |
| <b>Local Centre Zone</b>         | 18m<br><br>22m where subject to Height Increase A control <sup>4</sup><br><br>12m where subject to a Height Control – Heritage B          | No change |
| <b>Neighbourhood Centre Zone</b> | 12m<br><br>22m where subject to Height Increase A control <sup>5</sup><br><br>18m where subject to Height Increase B control <sup>6</sup> | No change |

24 *Please confirm whether or not Whitireia Polytechnic is designated.*

24.1 I can confirm that Whitireia Polytechnic is not designated.

25 *Please confirm if any Regionally Significant Infrastructure is located in or sufficiently close to the MCZ to require that reverse sensitivity effects on that infrastructure to be addressed*

25.1 I have been unable to undertake this exercise in the time allowed for this response to interim questions from the

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<sup>4</sup> These sites are within 800m walking distance of a train station or the MCZ

<sup>5</sup> These sites are within 800m walking distance of a train station or the MCZ

<sup>6</sup> Where situated within the MRZ-Residential Intensification Precinct

Hearing Panel. I will address this matter in the Council's right of reply.

26 *Roger Gadd's statement to Hearings Panel on Day 4*

26.1 During his presentation to the Panel on Day 4 (17<sup>th</sup> March) Mr Gadd seemed to indicate that his submission points relating to MRZ-S2 and MRZ-S5 had not been addressed in the s42A report.

26.2 I would advise that the submission points [OS75.6, OS75.9] were addressed in part 7.18.5 (Submissions seeking general modifications to the MDRS density standards and other specified density standards and seeking new qualifying matters) of the Officers' Report: Part A – Overarching Report. Both were recommended for rejection.

**Date:** 20<sup>th</sup> March 2023



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