

# OFFICER'S RESPONSE TO QUESTIONS FROM THE HEARINGS PANEL

**DATE:** 17 November 2022

**HEARING:** Residential Zones

**HEARING DATE:** 24 November 2022

**PREPARED BY:** Jocelyn Lewes – Policy Planner

## Introduction

The purpose of this report is to provide a written response to the questions posed by the Hearings Panel on the s42A report for Residential Zones.

The responses below should be read in conjunction with the [Joint Officer Response](#) from myself and Ms. Rachael Carruthers dated 17 November 2022, which responds to the questions from the Hearing Panel that relate to potential inconsistencies between the Residential s42A report and the Public Access, Subdivision and Development Areas Section 42A Report.

Recommended amendments to whether submission points are accepted, accepted in part, or rejected, are shown in a consolidated manner in **Appendix 1**.

Recommended amendments to Plan provisions are shown in a consolidated manner in **Appendix 2**.

## Questions and Answers

Paragraph or Plan reference	Question from the Hearings Panel
<b>8.9</b>	<p>In her Public Access, Subdivision and Development Areas Section 42A Report Ms Carruthers recommended accepting Kainga Ora's submission to amend SUB-O1 to refer to "planned form". You have recommended the opposite for RESZ-O1 (and numerous other provisions).</p> <ul style="list-style-type: none"> <li>Can you and Ms Carruthers please advise us of the basis for that inconsistency and whether or not either one of you wishes to amend your recommendations.</li> </ul>
<b>Officer response:</b>	Refer to <a href="#">Joint Officer Response</a>
<b>8.46</b>	<p>RESZ-O6 and RESZ-O7 arguably provide conflicting guidance for decision-makers given that RESZ-O7 appears to list "non-residential activities".</p> <ul style="list-style-type: none"> <li>In response to the submission of Kainga Ora can you please provide wording for our consideration for an Objective that coherently combines RESZ-O6 and RESZ-O7.</li> </ul>

Paragraph or Plan reference	Question from the Hearings Panel
<b>Officer response:</b>	<p><i>An alternative objective that combines RESZ-O6 and RESZ-O7 that the Panel may wish to consider is provided below:</i></p> <p><i>“Residents have access to a range of non-residential activities, including community, education, and health activities and facilities, that contribute to their wellbeing and to the amenity of the area.”</i></p> <p><i>Scope for an amendment to RESZ-O6 and RESZ-O7 would be provided by the relevant submission points DPR-0414.176 and 177 Kāinga Ora.</i></p>
<b>8.59</b>	<ul style="list-style-type: none"> <li>• RESZ-O3 is not amended?</li> <li>• Can you please advise which RESZ objectives would explicitly enable a decision-maker to favourably consider allowing a retirement village in a residential zone?</li> <li>• Can you please advise which if any of the four RES zones are to be preferred for the development of a retirement village?</li> </ul>
<b>Officer response:</b>	<ul style="list-style-type: none"> <li>• <i>No, an amendment to RESZ-O3 has not been recommended. Indicating as such in this paragraph was an oversight in the proofreading of the report before publication.</i></li> <li>• <i>I consider that RESZ-O1 and RESZ-O3 would enable a decision-maker to favourably consider allowing a retirement village in a residential zone. While these objectives do not explicitly enable retirement villages, in the same way that they do not specifically identify other activities which are anticipated in the various residential zones such as supported residential accommodation, they do seek to ensure that a range of housing typologies are provided to meet the needs of the community.</i></li> <li>• <i>Retirement villages are preferred, as conveyed by the RDIS activity status, in the LRZ, GRZ and SETZ zones. Due to the density associated with this form of development, it is not supported in the LLRZ.</i></li> </ul>
<b>8.77</b>	Can you please explain how your conclusion regarding amenity gives effect to NPS-UD Policy 6(b)?
<b>Officer response:</b>	<p><i>In my opinion, amenity is about the pleasantness and functioning of an area and this is determined by the applicable standards for the area/zone, including built form standards or the activity standards.</i></p> <p><i>I consider that the objectives, policies, rules and rule requirements of the PDP, as notified and as recommended to be amended in response to submissions, all provide for an amenity anticipated by the relevant zone, rather than what exists at present.</i></p> <p><i>I consider that the standards within each zone convey to the community how an area may change over time. That is, while an area may currently be developed with single storey residential units, as the PDP provides for a building height of 8m, a two storey residential unit is envisaged within the zone. To maintain the amenity of both the site of development and that of adjoining properties, standards are included in the PDP that seek to manage matters such as outdoor living space or height in relation to boundary, for example.</i></p>

Paragraph or Plan reference	Question from the Hearings Panel
	<p><i>In some zones, I consider that the provisions in the PDP will, if taken up, result in a change to the urban form, however I consider that the same provisions seek to ensure that the pleasantness of the area is retained.</i></p> <p><i>I anticipate that residential environments will change over time, in accordance with both the built form and activity standards of the various zones, and expressed through the relevant rule requirements, but I also consider that those relevant rule requirements exist to ensure that development does not detract from the pleasantness of an area.</i></p> <p><i>I acknowledge that some people may consider that the various provisions within the PDP may lead to development that they consider may detract from the qualities of the area that they currently enjoy. However, I consider that, as these various provisions have been subject to a public consultation process, people have had an opportunity to provide input into those matters that they consider important to them, as have those people who may seek a different outcome for an area.</i></p>
8.103	<ul style="list-style-type: none"> <li>• Can you please advise which aspects of amenity are to be considered by decision-makers over and above the matters of privacy, outlook and access to sunlight?</li> <li>• Is there any particular reason why RESZ-P7 refers to amenity but the similar RESZ-P9.2 does not?</li> </ul>
<b>Officer response:</b>	<ul style="list-style-type: none"> <li>• <i>On reflection, I consider that considerations of privacy, outlook and access to sunlight would be sufficient to consider any adverse effects on the amenity of an adjacent property. As such, I recommend that RESZ-P7 be amended and recommend that DPR-0414.185 Kāinga Ora be accepted in part.</i></li> <li>• <i>There is no particular reason why RESZ-P7, as notified, referred to amenity whereas RESZ-P9.2 did not. However, having regard to the amendment proposed above, I consider that the two provisions are now aligned.</i></li> </ul>
8.179	Please clarify why, when you've added nine new matters of discretion to RESZ-MAT1, that doesn't require a s32AA evaluation?
<b>Officer response:</b>	<i>I did not consider that the additional elements of RESZ-MAT1 constituted a significant deviation from the nature of RESZ-MAT1 as notified. Rather, I considered that the proposed amendments provide greater specificity of the original components of RESZ-MAT1.</i>
8.184	Can you explain what is meant by the term "receiving environment" in RESZ-MAT2 (and other provisions) and how that differs from the term you recommend for RESZ-MAT1 namely "... the scale and character of development anticipated <u>within the zone</u> <del>for the surrounding area</del> and relevant significant natural, heritage, and cultural features."
<b>Officer response:</b>	<i>The components of RESZ-MAT1 relate to the design of a residential unit and how this functions internally within the site and presents to the adjacent streets and open spaces. In this respect, I consider that, as there are four residential zones proposed, there may be a different scale and character of development anticipated within each zone e.g. development of a spacious nature is anticipated in the LLRZ, whereas development in the GRZ is denser, and consideration should be given to this when considering the design of development.</i>

Paragraph or Plan reference	Question from the Hearings Panel
	<i>RESZ-MAT2 (and others) relates to the consideration of the effects of an infringement of a bulk and location standard. In this respect, I consider that the effect is on the receiving environment, including on adjacent properties, and beyond.</i>
<b>8.213</b>	Can you explain why you use the term “shading” in RESZ-MAT6.2 whereas other provisions use the term “access to sunlight and daylight” (for example RESZ-P3.2).
<b>Officer response:</b>	<i>I consider that ‘access to sunlight and daylight’ is the intended policy outcome, which contributes to a pleasant living environment. This is then managed by the setbacks, height and height in relation to boundary provisions. Where development infringes these provisions, shading is a likely effect. It is for this reason that ‘shading’ is generally used within the matters, not only within the RESZ chapter, but across the PDP.</i>
<b>8.214</b>	Is the intent of your recommended RESZ-MAT6.6 to <u>avoid</u> buildings, balconies, or decks being constructed above, on, or over the railway corridor?
<b>Officer response:</b>	<i>No. Amendments recommended to LRZ-REQ5 and LRZ-REQ7 would require a greater setback for buildings from any operational railway corridor boundary. Where this setback is infringed, RESZ-MAT6.6 would consider the effect of a reduced setback, with a view to considering if it would still enable the construction or maintenance of buildings without accessing the railway corridor. I consider that, if building was proposed that was above, on, or over the railway corridor, this would infringe general property right obligations.</i>
<b>8.258</b>	<p>Submitters comments to RESZ-MAT13 at paragraphs 8.254, 8.245, 8.246 infer that it’s not critical for a residential retirement village to be located near a town centre or to community facilities. The Section 42A Report refers to the reasons given in relation to RESZ-12 in response to these submissions. Under the analysis of submissions on RESZ-P12 you say (at paragraph 8.138) “.... <i>consideration should be given to the proximity of services, given the possible challenges to mobility that likely residents may face</i>”.</p> <ul style="list-style-type: none"> <li>To assist our consideration of submissions on RESZ-MAT13, can you please further explain why retirement villages need to be located close to a town centre or community facilities?</li> </ul>
<b>Officer response:</b>	<i>Contrary to the position advanced by the various submitters, I do not consider that all residents of a retirement village would be incapable of walking short distances, nor would they wish to have their movements limited by the schedule of a shuttle. Rather, I consider that it is likely there are residents within retirement villages that would wish to retain their independence, to varying degrees. As I consider that not all retirement villages provide a complete range of facilities such that the residents do not need to leave the village, I consider that it is appropriate that consideration be given to the location of such activities, such that residents are not limited or restricted from maintaining their independence due to location. It is for these reasons that I consider it is appropriate to consider the location of retirement villages in relation to other facilities, such as shops, community facilities and public transport services should be a matter for consideration.</i>

Paragraph or Plan reference	Question from the Hearings Panel
8.268	<ul style="list-style-type: none"> <li>• Can you explain how the design of a retirement village can “provide engagement with” the RES-MAT14i.1.a, c, d and e matters?</li> <li>• In RES-MAT14i.2 you use the term “appropriate on-site amenity”. Where would a decision-maker look to determine what “appropriate” means in this context?</li> <li>• In RES-MAT14i.3 are the words “<u>as required to achieve a safe, secure environment</u>” a necessary qualifier to the incorporation of CPTED principles?</li> </ul>
<b>Officer response:</b>	<ul style="list-style-type: none"> <li>• <i>I do not consider that the intent of the matter is that retirement village provide engagement with RESZ-MAT14.i.1.a, c, d, or e. Rather the degree to which a retirement village responds to a, c, d and e are indicators of the extent to which a retirement village provides engagement with adjacent streets and public open spaces. I would consider that, if a retirement village provided open style fencing, orientated buildings towards streets, used a variety of architectural details and located parking areas such that they did not dominate the streetscape, then these considerations would contribute to engagement with the surrounding environment. However, should a retirement village seek to establish a solid fence or orientate all buildings internally, then I consider that this would not provide for engagement with the adjacent streets.</i></li> <li>• <i>I consider that decision makers would look to the relevant plan provisions within the TRAN chapter and relevant residential zone to determine the permitted baselines in relation to transport and waste management matters, and then consider if the manner in which these are to be provided is appropriate to the application before them.</i></li> <li>• <i>No. I have recommended that RESZ-MAT14.i.3 be amended to remove these words.</i></li> </ul>
9.175	LLRZ REQ7 and related REQ in other zones i.e., LRZ REQ10. In terms of landscaping and the requirement for a specimen tree what particularly distinguishes supported residential accommodation and visitor accommodation activities from other anticipated development in residential zones?
<b>Officer response:</b>	<p><i>I consider that supported residential accommodation and visitor accommodation activities can be distinguished from other anticipated development within residential zones as they are likely to be of a larger scale, both in terms of site area and built form, incorporate more commercial elements, such as signage and carparking, and potentially involve more vehicle movements.</i></p> <p><i>I note that the rule requirement relating to landscaping within the other residential zones is also applied to non-residential activities, such as commercial activities, educational facilities, and community facilities.</i></p> <p><i>I consider that the requirement to landscape the road boundary setback, including the provision of trees within this area, assists in softening the appearance of developments of this nature and integrating their appearance with that of the surrounding residential area.</i></p>
10.277	<p>Submission DPR-0409.028 on LRZ-REQ14 considers “ that design outcomes can be frustrated by the subjective nature of this provision... ”.</p> <ul style="list-style-type: none"> <li>• Can you please reconcile the conflict between LRZ-REQ14.1.b with your paragraph 10.279 where you say “ <i>While certain level of conformity in these larger scale</i></li> </ul>

Paragraph or Plan reference	Question from the Hearings Panel
	<p><i>residential developments is anticipated, I consider that variation in appearance assists in the internal legibility ... allowing for 'individual houses to be distinguished from one another' ...".</i></p> <ul style="list-style-type: none"> <li>To assist our consideration of DPR-0409-028, can you please draft some alternative wording for LRZ-REQ14.1.b that could enable variations in individual designs (reflecting people's diverse tastes) to be met alongside the conformity needs of the larger scale residential developments described in paragraph 10.279</li> </ul>
<b>Officer response:</b>	<ul style="list-style-type: none"> <li><i>I do not consider that there is a conflict between LRZ-REQ14.1.b and paragraph 10.279. I consider that the purpose of LRZ-REQ14.1.b is to ensure that there is not a monotonous repetition of the same residential unit, thereby making one unit indistinguishable from the next. I consider that even subtle changes in an element of the residential units, such as the arrangement or colour of cladding materials, is important to distinguish one residential unit from another.</i></li> <li><i>I consider that LRZ-REQ14 is applied to residential units that are generally developed in a co-ordinated manner. As such, I considered that there is limited, if any scope, for the diverse tastes of individuals to be reflected in the design and appearance of the residential unit at the time of consent, as it is likely that the proponent of such development seeks a more co-ordinated vision for the development.</i></li> <li><i>However, as the Panel have requested an alternative wording LRZ-REQ14.1.b, I propose the following:</i>  <i><u>"no more than two residential units in a row shall <del>be exactly the same design, materials, and colour</del> include exactly the same architectural detailing, glazing, materials, or colour;"</u></i></li> </ul>
<b>11.288</b>	Has your recommendation to amend to RDIS been incorporated in Appendix 2?
<b>Officer response:</b>	<i>No. Appendix 2 has now been updated.</i>
<b>13.15</b>	<p>You have recommended amendments to SUB-R10 that differ from those recommended by Ms Carruthers in her Section 42A Report for the Public Access, Subdivision and Development Areas chapters.</p> <ul style="list-style-type: none"> <li>Can you and Ms Carruthers please liaise and advise us of the basis for that inconsistency and whether or not either one of you wishes to amend your recommendations.</li> </ul>
<b>Officer response:</b>	Refer to <a href="#">Joint Officer Response</a>
	Can you and Ms Carruthers please advise liaise and determine if there are any other areas of inconsistency with your respective H14 and H22 recommendations and if there are, can you please identify these for us and advise whether or not either one of you wishes to amend your recommendations
<b>Officer response:</b>	Refer to <a href="#">Joint Officer Response</a>