

Proposed District Plan Change 49

Copeland Street Reserve

Rezoning to General Residential Activity Area – Medium
Density and General Recreation Activity Area

Decision

IN THE MATTER OF

the Resource Management Act 1991

AND

the Operative City of Lower Hutt District Plan

IN THE MATTER OF

Proposed District Plan Change 49 – Copeland Street Reserve. Rezoning to General Residential Activity Area – Medium Density and General Recreation Activity Area

HEARINGS PANEL OF HUTT CITY COUNCIL:

Hearing for Proposed Change 49 to the City of Lower Hutt District Plan – Copeland Street Reserve.

Held in the Council Chambers, Hutt City Council, Lower Hutt, on 2 February 2018.

1. **DECISION**

- 1.1. In accordance with a delegation by the Hutt City Council (“the Council”), pursuant to the provisions of section 34 of the Resource Management Act 1991 (“the RMA”), I, Gina Sweetman, have been delegated the power to determine changes to the Operative City of Lower Hutt District Plan (“the District Plan”) on behalf of Council following the hearing of submissions.
- 1.2. After considering all of the information relating to Proposed Plan Change 49 (“PPC49”), I, on behalf of Council, determine:
 - a) That pursuant to section 32(2)(a) of the RMA, the Council adopts the evaluation of PPC49 contained within this decision, including the conclusion that PPC49 is the most appropriate means of achieving the objectives of the District Plan, and in doing so, achieving the overall purpose of the RMA.
 - b) That, pursuant to Clause 10 of Schedule One of the RMA, the Council approves PPC49.
 - c) That the decisions requested by submissions are accepted or rejected for the reasons outlined in this decision.

2. **HEARING**

- 2.1. I sat alone on this hearing.
- 2.2. Prior to the hearing, I issued a minute dated 18 January 2018 which set out directions for pre-circulation of the Council Officer’s report and the submitters’ expert evidence, if any.
- 2.3. I heard this matter on Friday 2 February 2018, in the Council Chambers, Hutt City Council, 30 Laings Road, Lower Hutt, commencing at 9.30am. I adjourned the hearing on the same day at the end of the Officer’s right of reply.
- 2.4. The following people appeared at the hearing:

For the Council:

Dan Kellow – Resource Consents Planner – Contractor
Andrew Cumming – Divisional Manager District Plan
Bruce Hodgins – Divisional Manager Parks and Gardens

Submitters:

Dr Linda Mead (DPC49/3)
Mr David and Mrs Christine Tourell (DPC49/4)

- 2.5. Rachel Meek, Administrative Support Officer, and Susan Haniel, Committee Advisor provided support to participants through the hearing process.
- 2.6. In short, the Hearing commenced with Mr Kellow providing an overview of his s42A report. I also asked Mr Hodgins and Mr Cumming to discuss particular aspects of PPC49 and its background. Submitters then presented their submissions. Dr Mead tabled a map of Epuni from Proposed Plan Change 43 – Residential and Suburban Mixed Use (PPC43).
- 2.7. Following the adjournment, I issued a second minute, dated 2 February 2018 which set out directions for the provision of further evidence from the three Council officers. which was to be made available to submitters to review and comment on. Dr Mead provided further comment on the information.
- 2.8. I issued a third minute on 14 February 2018 which set our further directions for officers to respond to the further submissions received.
- 2.9. I issued a fourth and final minute on 20 February 2018 to inform all participants that no further information was required and the Hearing was formally closed.

3. **BACKGROUND, SITE CONTEXT AND SUMMARY OF PPC49**

- 3.1. The background to the Plan Change is set out more fully in the Officer's s42A report and the PPC49 documentation, all held on Hutt City Council's file. For brevity, I have not repeated the full detail, but have outlined the key points.

Site and surrounding area

- 3.2. The Copeland Street Reserve is a flat site located in the centre of the block formed by Witako Street, Copeland Street, Hall Crescent and Mitchell Street. The site has pedestrian access from Witako Street and driveways leading in from Copeland Street, Hall Crescent and Mitchell Street. The Reserve is an "enclosed" reserve as such, and has no direct road frontage.
- 3.3. There are five buildings within this site. The two buildings in the south eastern area are occupied by the IHC and Wellington Early Intervention Trust (WEIT). The two buildings in the middle of the site were formerly occupied by the Lower Hutt Women's Bowls Club and are now generally vacant, except for some use by the Hutt Valley Sword Club. The building in the northern corner is used as a Scout Den. Site boundaries with adjacent residential land are generally fenced or screened with high fencing and or planting.
- 3.4. 51 and 53 Hall Crescent are flat residential sites that currently contain semi-detached dwellings. 53 Hall Crescent is adjoined by a residential site to the north. To the south is a driveway that leads into the Copeland Street Reserve.

- 3.5. The sites subject to the plan change are legally described as Lot 11 DP 25931 (Copeland Street Reserve) with an area of 1.2254ha and Lots 6 and 7 DP 25931, which have a combined area of 854m².
- 3.6. The reserve is zoned General Recreation Activity Area. 51 and 53 Hall Road, and the surrounding residential land is all zoned General Residential Activity Area - Medium Density. Housing development in the surrounding area is typically one or two storied single dwellings on sites, of an older housing stock, circa the 1950s. There are some examples of attached dwellings, such as 51 and 53 Hall Crescent, as well as a reasonably small number of new dwellings.

Revocation of the Reserve

- 3.7. As a result of the Lower Hutt Women's Bowls Club leaving its site on Copeland Street Reserve (the Reserve), Council reviewed the recreational values of the Reserve. In 2012 Council resolved to consult with the local community pursuant to the Reserves Act 1977 to consider the future of the land. Through the consultation period, the Council amended the proposal from revoking the entire Copeland Reserve to limiting the revocation to the central and southern portions of the site.
- 3.8. The area to be revoked is the area of land formerly occupied by the Bowling Club and the land currently occupied by the IHC and Wellington Early Intervention Trust. The reduction in recreation land is the land exclusively used by the bowling club, the IHC and the WEIT. The Council also decided to redevelop 51 and 53 Hall Crescent, both owned by UrbanPlus Limited, a property company of Council, as reserve and vest them accordingly.
- 3.9. On 14 September 2016 the Department of Conservation agreed under the Reserves Act 1977 to revoke the reserve status of the land. Gazettal of these changes would occur when PPC49 is complete.

Summary of the Plan Change

- 3.10. The following is taken from the Minister of Conservation's decision and section 32 of the RMA report accompanying PPC49 and is a summary of the changes in land area and zoning that would result:
 - a) Of the area to be revoked 1,980m² has been occupied by the IHC and the WEIT
 - b) The reserve area to be revoked is approximately 8,250m²
 - c) A total of approximately 4,820m² of reserve would remain, which includes the new 854m². This area would be contiguous.

- d) There would be a loss of approximately 5,344m² of General Recreation Activity Area zoned land (excluding the land used by IHC and WEIT).
- e) All of that land formerly occupied by the Bowling Club and currently occupied by the IHC and WEIT would be rezoned from General Recreation Activity Area to General Residential Activity Area – Medium Density.
- f) 51 and 53 Hall Crescent would be rezoned from General Residential Activity Area - Medium Density to General Recreation Activity Area.

Proposed Plan Change 43

- 3.11. One matter that was raised by a submitter that I consider is important to set out as part of the background and context to PPC49 is Proposed Plan Change 43 (PPC43). PPC43 was notified on 7 November 2017, with submissions closing on 9 March 2018. PPC43 proposes to change the General Residential Activity Area provisions and introduce two new activity areas; a Medium Density Residential Activity Area and a Suburban Mixed Use Activity Area.
- 3.12. Mr Kellow's advice was that the proposed General Residential Activity Area (Medium Density) zoning would change to a new zoning called Medium Density Residential Activity Area under PPC43, as would the surrounding residential sites.
- 3.13. His position was that the fact that PPC49 and PPC43 overlap in terms of timing and area may not be ideal but the overlap does not create any obstacles to a decision being made on PPC49. As notified, the planning framework that PPC43 proposes would allow a greater intensity of development than under the provisions of PPC49.
- 3.14. I do not agree with Mr Kellow's analysis that PPC43 would amend the proposed rezoning of the site under PPC49. This is simply because the rezoning map notified with PPC43 does not show the site being subject to PPC43; rather, it shows it as being General Recreation Activity Area. In my opinion, should the Council wish the changes in PPC43 to apply to the site, they would need to do so by way of a plan variation to PPC43, or a subsequent plan change. The Council may want to seek legal advice on this matter.
- 3.15. The relevance of PPC43 to this proceeding is its potential impact on the development yield in the surrounding area, and whether this would increase the demand for additional reserve land to be available for future residents.

Plan Change process

- 3.16. Council resolved on 23 May 2017 to promulgate an amended PPC49 for consultation. The consultation undertaken by Council during preparation of

PPC49 is outlined in paragraphs 17 to 19 of the Officer's report.

3.17. PPC49 was notified on 29 August 2017. Notification included:

- a) The Minister of Conservation's consent to revoke part of the Reserve;
- b) An indicative scheme plan showing how the area to be rezoned General Residential Activity Area – Medium Density could be developed;
- c) An infrastructure assessment investigating the availability of existing services to support residential development on the site;
- d) A statement from the Parks and Garden Manager on the current and future open space needs of Epuni;
- e) A statement from the Traffic Asset Manager investigating capacity of Copeland Street and Hall Crescent to support residential development on the site;
- f) A Cultural Values Report for the reserve, prepared by Raukura Consultants in association with Port Nicholson Block Settlement Trust and the Wellington Tenth's Trust.

Submissions

3.18. Submissions closed on 29 September 2017 with six submissions received. The summary of submissions was notified on 24 October 2017, with no further submissions received at the closing date of 7 November 2017.

3.19. The following submitters lodged submissions on PPC 49:

Submission number	Name of Submitter	Submission Reference
DPC49/1	Claire and Geoffrey Hall	1.1
DPC49/2	Simon Roche on behalf of Powerco	2.1
DPC49/3	Dr Linda Mead	3.1
DPC49/4	David and Christine Tourell	4.1
DPC49/5	Laurence Beckett on behalf of Accessible Properties	5.1
DPC49/6	Christine Chong on behalf of Housing New Zealand	6.1

3.20. Mr Kellow's s42A report, which provided recommendations on the matters raised in submissions, was circulated on 18 January 2018. The s42A was accompanied

by a Detailed Site Investigation Contamination Report prepared by Pattle Delamore Partners Ltd.

- 3.21. Mr Laurence Beckett provided a statement of evidence on behalf of IHC New Zealand Incorporated (Accessible Properties) dated 26 January 2018. Mr Beckett did not attend the hearing and I have taken the evidence as read.

4. **STATUTORY FRAMEWORK**

- 4.1. Section 74 of the RMA sets out the matters to be considered by a territorial authority in preparing or changing its district plan. These matters include doing so in accordance with its functions under section 31, the provisions of Part 2 and its duty under section 32. Further, statutory consideration is also required of other documents, including operative and proposed regional planning documents, management plans and strategies prepared under other Acts and iwi planning documents.
- 4.2. Section 75 of the RMA requires that a district plan must give effect to any national policy statement, any New Zealand Coastal Policy Statement, any regional policy statement and must not be inconsistent with a regional plan. There is currently only an operative Regional Policy Statement for the Wellington Region. A district plan has to give effect to an operative regional policy statement. Mr Kellow has identified the National Policy Statement on Urban Development Capacity 2016 (the NPSUDC) as being relevant.
- 4.3. Section 31 addresses the functions of territorial authorities under the RMA and includes:
- (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;*
 - (b) *the control of any actual or potential effects of the use, development, or protection of land,...*
- 4.4. Section 32 RMA provides for the consideration of alternatives, benefits, and costs and requires that an evaluation must be carried out and that the evaluation must:
- (a) *examine the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) *examine whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives by –*

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) *summarising the reasons for deciding on the provisions; and*
- (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

4.5. An assessment under s32(1)(b)(ii) must:

- (a) *Identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*
 - (i) *Economic growth that are anticipated to be provided or reduced; and*
 - (ii) *Employment that are anticipated to be provided or reduced; and*
- (b) *If practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *Assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matters of the provisions.*

4.6. If the proposal will amend an existing plan provision, including zoning, the examination under s32(1)(b) must relate to –

- (a) *The provisions and objectives of the amending proposal; and*
- (b) *The objectives of the existing proposal to the extent that those objectives –*
 - (i) *Are relevant to the objectives of the amending proposal; and*
 - (ii) *Would remain if the amending proposal were to take effect.*

4.7. Part 2 of the RMA, being the purpose and principles of the RMA, is the overarching part of the RMA. Any decision on a plan, and plan change, is subject to Part 2.

4.8. Clause 10 of the First Schedule states a local authority must give a decision on the provisions and matters raised in the submissions and must include the reasons for accepting or rejecting any submissions. In doing so, a local authority may address the submissions by grouping them according to the provisions of the

plan change to which they relate or the matters to which they relate and, may include matters relating to any consequential alterations necessary to the plan change arising from the submissions. A local authority is not required to give a decision that addresses each submission individually.

Part 2

4.9. Section 6 sets out matters of national importance. Of the eight matters of national importance which are required to be recognised and provided for, Mr Kellow identified s6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga as being relevant. Section 7 of the Act details other matters which I am required to have particular to. Mr Kellow identified the following other matters as being relevant to this hearing:

7(b) the efficient use and development of natural and physical resources

7(c) the maintenance and enhancement of amenity values

7(f) the maintenance and enhancement of the quality of the environment

4.10. Mr Kellow also identified section 8, the Treaty of Waitangi, as being relevant. As Mr Kellow rightly identified, s8 requires that when proposing a plan change the principles of the Treaty of Waitangi need to be taken into account.

4.11. The Council consulted with Port Nicholson Block Settlement Trust, the Wellington Tenth Trust and Te Rūnanga o Toa Rangatira when preparing PPC49. Mr Kellow advised that Te Rūnanga o Toa Rangatira has no concerns and that the Wellington Tenth Trust support the proposal but requested that they work together with Urban Plus to see how there could be further recognition of the people of Te Atiawa. Further, and as outlined earlier, Raukura Consultants prepared a Cultural Values Report in association with Port Nicholson Block Settlement Trust and the Wellington Tenth Trust, and this directly informed the plan change.

National and regional policy statements

4.12. Under s75(3), Council is required to 'give effect' to any higher order relevant national and regional planning instruments: as the Supreme Court has noted, 'give effect to' simply means 'implement'.¹ The Court went on to note:

"We have said that the "give effect to" requirement is a strong directive, particularly when viewed against the background that it replaced the previous "not inconsistent with" requirement. There is a caveat, however. The implementation

¹ Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] 1 NZLR 593, [2014] Paragraph 80, NZRMA 195

of such a directive will be affected by what it relates to, that is, what must be given effect to. A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.”

4.13. The NPSUDC came into effect in December 2016.

4.14. Policies PA1 to PA4 of the NPSUDC requires the Council to have feasible short term, medium term and long term development capacity, serviced with development infrastructure, and the infrastructure required to support urban developments are likely to be available.

PA1:Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

<i>Short term</i>	<i>Development capacity must be feasible, zoned and serviced with development infrastructure.</i>
<i>Medium term</i>	<i>Development capacity must be feasible, zoned and either:</i> <ul style="list-style-type: none"> • <i>serviced with development infrastructure, or</i> • <i>the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act 2002.</i>
<i>Long term</i>	<i>Development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.</i>

PA2: Local authorities shall satisfy themselves that other infrastructure required to support urban development are likely to be available.

PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:

- a) *Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;*
- b) *Promoting the efficient use of urban land and development infrastructure and other infrastructure; and*

- c) *Limiting as much as possible adverse impacts on the competitive operation of land and development markets.*

PA4: When considering the effects of urban development, decision-makers shall take into account:

- a) *The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and*
- b) *The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.*

4.15. Section 75(3)(a) requires a District Plan to give effect to the policies above. One means the Council is implementing the NPSUDC is through PPC43, which I have mentioned earlier. However, I must also consider the NPSUDC in respect of this plan change; the relevance here being whether it will assist the Council to meet its short, medium and long term capacity requirements.

4.16. The District Plan must also give effect to the relevant provisions in the Wellington Regional Policy Statement (WRPS). I concur with Mr Kellow that the objective and policies most relevant to PPC49 are as follows:

Regional Form, Design and Function

Objective 22

A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:

- (e) urban development in existing urban areas, or when beyond urban areas, development that reinforces the region's existing urban form; ...*
- (g) a range of housing (including affordable housing);*
- (h) integrated public open spaces;*
- (k) efficiently use existing infrastructure (including transport network infrastructure); ...*

Policy 31

Identifying and promoting higher density and mixed use development.

Policy 33

Supporting a compact, well designed and sustainable regional form.

Policy 54

Achieving the region's urban design principles.

Policy 55

Maintaining a compact, well designed and sustainable regional form.

Policy 58

Co-ordinating land use with development and operation of infrastructure.

Policy 67

Maintaining and enhancing a compact, well designed and sustainable regional form.

- 4.17. Objective 22 and the associated policies seek to ensure that urban development is undertaken within the existing urban environment in a manner which represents an efficient use of existing infrastructure. I note that the WRPS has yet to be amended to give effect to the NPSUDC; therefore in terms of weighting, it remains relevant to consider the NPSUDC.
- 4.18. Mr Kellow has also identified the Proposed Natural Resources Plan for the Wellington Region. Given the nature of this application, which relates to the use of land, I agree with Mr Kellow that there are no relevant objectives and policies contained in that Plan that are directly applicable to PPC49, and give it no further consideration.
- 4.19. Finally, in regard to rules, s75(1) requires a District Plan to include these, if necessary, to implement the policies. In other words, rules may not be required to implement some policies. Under s76, rules have the force and effect of a regulation. In making a rule, a Council needs to have regard to the actual or potential effect on the environment of activities.
- 4.20. In respect of this matter, the Council is seeking to rezone part of the Copeland Reserve and two residential sites. In considering submissions on PPC49, I must therefore determine whether that rezoning would be the most appropriate means of achieving the objectives in the Plan, and ultimately, meet the purpose of the RMA, at the same time considering the high level direction given through the NPSUDC and the WRPS.
- 4.21. Because the focus is on the rezoning of the sites, it is also relevant to set out the relevant objectives and policies from the District Plan. This is because the zoning of a site is a method to implement the objectives and policies. The relevant test for this plan change under s32 is whether the zoning is the most appropriate means of achieving the relevant objectives, and then the objectives are the most appropriate means of achieving the purpose of the RMA.
- 4.22. Chapter 1 of the District Plan identifies the area wide objectives which the District Plan seeks to achieve. The area wide objectives and policies that Mr Kellow considered to be relevant to the proposal are:

Objective 1.10.1 Resource Management and the Tangata Whenua of Lower Hutt

To respond to the principles of the Treaty of Waitangi and other matters of significance to tangata whenua as specified in the Act.

Policy 1.10.1 Resource Management and the Tangata Whenua of Lower Hutt

- (d) *To consult with tangata whenua when discharging functions and duties under the Act.*

Objective 1.10.2 Amenity Values

To identify, maintain and enhance the character and amenity values of the different activity areas.

Policy 1.10.2 Amenity Values

To identify within all activity areas the general character and amenity values of that area.

Objective 1.10.3 Residential Activity

To accommodate residential growth and development through consolidation of the existing urban area but to allow some peripheral development.

Policy 1.10.3 Residential Activity

- (a) *To provide opportunities for gradual intensification of residential densities by:*
- (i) *Enabling higher densities along major transport routes and near suburban focal points*
 - (ii) *Providing for infill development throughout the established residential areas to appropriate minimum standards, and*
 - (iii) *Managing the rate at which land at the periphery of the urban area is developed for residential purposes.*
- (b) *To accommodate residential growth and development through consolidation of the existing urban area but to allow some peripheral development.*

Objective 1.10.6 Recreation and Open Space

To provide and maintain a diverse range of open space and recreation facilities for the enjoyment of residents and visitors which meet the needs of different sectors of the community.

Policies 1.10.6 Open Space and Recreation

- (a) *To ensure the adequate provision of open space for the passive recreational needs of the community.*
- (b) *To ensure adequate provision of larger open space areas for active and passive recreation.*

4.22 The key zone specific objectives are as follows

Objective 4A 1.1.1 Residential Character and Amenity Value

To maintain and enhance the amenity values and residential character of the General Residential Activity Area of the City.

Objective 4A 1.1.2 Medium Density Residential Development

To ensure opportunity is made for medium density residential development around some commercial centres, along major transport routes, and where amenity values will not be affected adversely and where there is appropriate servicing of development.

Objective 4A 1.2.1 Building Height, Scale, Intensity and Location

To avoid, remedy or mitigate adverse effects caused by building height, intensity and location on the amenity values of adjacent residential sites and the residential character of the surrounding residential area.

Objective 7A 1.1.1 Adverse Effect of Recreation Activities on Adjoining Residential Activity Area

To ensure that recreation activities have adverse effects, which are no more than minor on adjoining residential activity areas.

Policies 4A 1.1.1 Residential Character and Amenity Values

- (a) That opportunity be provided for a diversity of residential activities.*
- (b) To restrict the range of non-residential, and commercial activities to those which will not affect adversely the residential character or amenity values.*
- (c) To ensure residential amenity values are retained, protected and enhanced through the establishment of a net site area per dwelling house.*
- (d) That adverse effects arising from noise, dust, glare, light spill and odour be managed.*

4A 1.1.2 Medium Density Residential Development

- (a) That opportunity for higher dwelling densities be made along major transport routes, around some commercial centres, in the residential area between Jackson Street and The Esplanade, Petone, where existing dwelling densities are higher, and where amenity values will not be affected adversely and where there is appropriate servicing of development.*
- (b) To avoid, remedy or mitigate the adverse effects of higher dwelling densities on the surrounding area, caused by height of buildings, intensity, scale and location.*
- (c) That medium density development be encouraged where it is in general accordance with the direction provided by the Design Guide for Medium Density Housing (Appendix 19) and maintains and enhances on site amenities and consistency with the surrounding residential character and minimises impact on the natural environment.*

4A1.1.4 Non-Residential Activities

- (a) *To ensure that any adverse effects caused by the size, scale and nature of non-residential activities, and any associated storage of hazardous substances, light spill, noise, glare, vehicle and pedestrian activity upon surrounding residential properties, are avoided, remedied or mitigated.*
- (b) *To control the number of signs, and ensure that any adverse effects of sign location and appearance on surrounding properties, are avoided, remedied or mitigated.*
- (c) *To recognise that Site Management Plans may be appropriate to manage matters beyond those addressed in the Plan.*

4A 1.2.1 Building Height, Scale, Intensity and Location

- (a) *To establish a minimum net site area and maximum site coverage requirement to ensure medium density development is achieved.*
- (c) *To ensure all new development is of a height and scale, which is compatible with surrounding residential development.*
- (d) *To ensure a progressive reduction in height of buildings the closer they are located to a site boundary, to maintain adequate daylight and sunlight to adjoining properties.*
- (e) *To manage the siting of all buildings so as to minimise detracting from the character and visual attractiveness of the surrounding residential activity area.*
- (f) *To manage the siting of all buildings so as to minimise detracting from the amenities of adjoining properties.*
- (g) *That where practicable, the siting of accessory buildings be managed to maintain safety and visibility during manoeuvres.*

7A 1.1.1 Adverse Effect of Recreation Activities on Adjoining Residential Activity Area

- (a) *To ensure that recreation activities are of a scale and character that amenity values of adjoining residential activity areas are not affected adversely.*
- (b) *To ensure that adverse effects, such as noise, glare, light spill and odour, generated by activities in the General Recreation Activity Area, are managed to ensure that residential amenity values are maintained.*

4.23 I concur with Mr Kellow that these are the most relevant objectives and policies.

4.24 Mr Kellow has also raised the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NES). While this generally is relevant to resource consent applications involving earthworks, subdivision and changes in land use, I agree that it is relevant to consider in terms of the potential reuse of the former bowling green land for residential development. As Mr Kellow identifies, any change in land use and disturbance to

soil is likely to trigger the NES at the time of development. As Mr Kellow notes, this was not raised as matter of contention.

- 4.25 In terms of other relevant plans and strategies prepared under other legislation, Mr Kellow has also identified the Hutt City Urban Growth Strategy 2013-2032 and Environmental Sustainability Strategy 2015-2045. The Urban Growth Strategy intends to increase the number of dwellings to meet the increasing demand for housing in Lower Hutt. The Environmental Sustainability Strategy sets out Council's ambitions to protect, enhance or repair the environment.

5. EVALUATION OF SUBMISSIONS

- 5.1. As outlined earlier, there were six submissions received on PPC49. Mr Kellow has outlined the submissions made, the submission points and his recommendations on those points in his s42A report. In summary, the submission points on PPC49 are:

- That Council ensures an appropriate balance between recreation and housing needs is found and that the area of land behind 57 Hall Crescent is retained as General Recreation Activity Area (Claire and Geoffrey Hall DPC49/1).
- That the plan change address the Powerco gas line (Powerco DPC49/2)
- That the plan change does not proceed / the reserve status stays as it is now (Dr Linda Mead DPC49/3; David and Christine Tourell DPC/4)
- If development does occur, it should be limited to the old bowling green site (David and Christine Tourell DPC/4)
- The land should be sold to the highest bidder (David and Christine Tourell DPC/4)
- That the plan change be adopted in full (Accessible Properties DPC49/5)
- That the plan change is approved subject to more investigation into the capacity of infrastructure (Housing New Zealand DPC49/6)

- 5.2. As outlined earlier, there were no further submissions received.

- 5.3. While I am not required to give a decision that addresses each submission individually, given the small number of submissions received, I have chosen to do so, while also grouping the submissions together where I can. I have used sub-headings to differentiate the submission points.

Zoning of land behind 57 Hall Crescent – DPC49/1 Claire and Geoffrey Hall

Submission point:

- 5.4. The submission from Claire and Geoffrey Hall requests the Council find a balance between recreation and housing needs, and that the area of land behind 57 Hall Crescent remains General Recreation Activity Area.

Evidence:

- 5.5. The Hall's submission is in two parts; the balance of land to be rezoned and the retention of the zoning behind 57 Hall Crescent. I consider these to be two different points. To that end, I focus now on the second part of the request being the land behind 57 Hall Crescent (DPC49/1.2), and address the wider balance of the rezoning request later in this decision (DPC49/1.1). I note that the submission also raises concerns that there was no reference to the proposed revocation of the reserve status on the Land Information Memorandum they obtained when they purchased their site. This is not a matter relevant to this plan change decision. I suggest that the Council addresses this directly with the Halls, if they have not done so already.
- 5.6. Mr Kellow's advice is that the land behind 57 Hall Crescent is proposed to be retained as General Recreation Activity Area and recommends that the submission be accepted.

Evaluation:

- 5.7. I accept Mr Kellow's evidence.

Decision:

- 5.8. I accept DPC49/1.2 in that PPC49 would not change the zoning behind 57 Hall Crescent. There are no changes required to PPC49 as a result.

Gas line – DPC49/2 Powerco

Submission point:

- 5.9. The submission from Simon Roche on behalf of Powerco (DPC49/2) is neither in support of or opposition to PPC49 and sets out no specific relief sought. The submission raised the matter of the live gas pipe which runs along the side of the access driveway that enters the site from Copeland Street. The submitter wishes to ensure recognition and protection of its infrastructure, that access to the infrastructure is maintained and to ensure new development can be supplied with gas.

Evidence:

- 5.10. Mr Kellow's recommendation was that the submission point should be accepted. This is based on that this matter is most appropriately dealt with at the time of subdivision consent, land use consent or building consent. The District Plan already recognises network utilities through its network utilities chapter; this plan change will not change access to the gas pipe, and the installation of gas is a decision made by a developer.

Evaluation:

- 5.11. I accept Mr Kellow's evidence.

Decision:

- 5.12. I accept DPC49/2 in that this matter is best addressed at the time of resource consent. There are no changes required to PPC49 as a result.

Infrastructure capacity – DPC49/6.2 Housing New Zealand

Submission:

- 5.13. The submission from Housing New Zealand (DPC49/6) is in neither support of or opposition to the plan change. It seeks that the plan change be approved, subject to more investigation into the capacity of infrastructure. In expansion, the submitter considers that the plan change is good and will increase the available land area in the Hutt for more residential development. However, the submitter considers there should be further investigation into infrastructure capacity, with a view that density should be intensified because of the site's proximity to amenities and services. I have separated this submission into two points; the approval of the rezoning (DPC46/6.1) and the need to undertake a further infrastructure capacity assessment (DPC46/6.2). I address the rezoning later in this decision.

Evidence:

- 5.14. Mr Kellow's advice was that "*the proposed provisions provide for medium density housing subject to obtaining resource consent for a restricted discretionary activity. The consideration of a medium density or multi-unit development includes an assessment against the Design Guide for Medium Density Housing. Neither the Design Guide nor any other provisions stipulate minimum section sizes. A well designed townhouse development could be expected to be granted resource consent and this could result in housing that would be more intensive than the existing development on the surrounding sites which is in line with the submission from Housing New Zealand. Accordingly it is not considered necessary to undertake further investigation into the infrastructural capacity of the area as the proposed provisions anticipate medium density development*".

- 5.15. Further, the Council has undertaken an assessment of infrastructure capacity, included as Appendix 4 to the Plan Change. This assessment states, in summary, that there is sufficient stormwater capacity for any residential development of the site; and that there is water supply and wastewater service for the site. Mr Kellow set out that the existing District Plan General Residential Medium Density provisions provide for medium density development, with no limitation on minimum section size.

Evaluation:

- 5.16. The submitter has not provided a compelling reason why a further infrastructure assessment is necessary. As Mr Kellow has outlined, the General Residential Activity Area Medium Density provides for more intensive development on such zoned sites. I therefore concur with Mr Kellow that this aspect of the Housing New Zealand submission be rejected.

Decision:

- 5.17. I reject DPC46/9.2 for the reasons given above.

Approve / reject plan change – DPC49/1.1 Claire and Geoffrey Hall, DPC49/3 Dr Linda Mead, DPC/4 David and Christine Tourell, DPC49/5 Accessible Properties, DPC49/6.1 Housing New Zealand

Submissions:

- 5.18. The Halls sought that PPC49 achieves an appropriate balance between housing land supply and recreation space and through rezoning two Hall Crescent sites is expected to result in a better utilised recreation area due to the increased visibility and accessibility of the site.
- 5.19. Dr Mead requested that the plan change does not proceed. She considered that there is potential to link the site with the Hall Street reserve to the south and Mitchell Park to the north. The submitter considered that urban design including the “proposed high density residential areas” review should be completed to determine the best use of the land. The submission also raised concerns with the reduction of permeable land which could lead to poor drainage and flooding. She also contended that the s32 report was not valid because it had not considered scenarios with high density residential areas.
- 5.20. Mr and Mrs Tourell requested that the reserve status stays as it is now but that if development does occur then this should be limited to the old bowling green site. They also request that the land should be sold to the highest bidder.
- 5.21. Accessible Properties (DPC49/5) and Housing New Zealand (DPC49/6.1) sought that the rezoning be approved.

5.22. Mr Laurence Beckett's submission on Behalf of IHC New Zealand Incorporated, (DPC49/5) acknowledged that PPC43 may introduce a planning regime that is more permissive with regard to the density of development that can occur within the part of the Reserve that is proposed to be rezoned. However, IHC supported PPC49 on the grounds that it will have positive outcomes in terms of the future uses of the land. This will result in a more appropriate planning framework for the existing buildings on the site, which are owned by IHC and which have wide community benefit.

Evidence:

5.23. Firstly, I set out a summary of Mr Kellow's evaluation of why the rezoning is the most appropriate way, ultimately, of achieving the purpose of the RMA:

Higher level planning instrument	Evaluation
NPSUDC	There is adequate safeguards in place in the District Plan to maintain amenity, and adequate infrastructure to provide for future development.
NES	A resource consent will be required.
WRPS	It meets objective 22 as it provides for medium density housing in close proximity to local amenities
PNRP	The plan change is consistent
Urban Growth Strategy	Consistent as it provides for additional residential development
Environmental Sustainability Strategy	Does not conflict
District Plan	
Area wide objectives and policies	<p>Consistent because:</p> <ul style="list-style-type: none"> • Protects the amenity of adjoining residential sites, by applying same provisions • Consolidates the existing urban area • Preserves an adequate amount of recreation space in the Epuni area, as well as improving the connection of the reserve through rezoning 51 and 53 Hall

	<p>Crescent.</p> <ul style="list-style-type: none"> • Better utilisation of remaining recreation space by opening up the site. • The recreational land to be rezoned has been determined to be surplus to requirements • There are other recreational uses in the local area • The existing recreation zoned area would be enhanced through the rezoning of 51 and 53 Hall Crescent.
Zone objectives 4A 1.1.1, 4A 1.1.2, 4A 1.2.1 and 7A 1.1.1	<ul style="list-style-type: none"> • No issues have been raised by submissions that highlight the need for site specific provisions different to those of surrounding residential area in order to preserve amenity values. • The existing provisions will protect residential amenity from any development on the recreation zoned sites. No new or additional provisions are considered necessary.
Zone policies 4A 1.1.1, 4A 1.1.2, 4A 1.2.1 and 7A 1.1.1	<ul style="list-style-type: none"> • The proposed General Residential Medium Density zoning is appropriate given the zone of adjacent properties • The existing rules are sufficient to ensure any amenity effects are managed
RMA	
Section 6 RMA	Met, and ongoing engagement with iwi.
Section 7 RMA	Future development would be undertaken in a manner consistent with the established amenity and character of the local environment.
Section 8 RMA	Met, and ongoing engagement with iwi.
Section 5 RMA	The proposed residential zoning would be consistent with the zoning of the surrounding area. The residential provisions and general rules and in case of non-compliance with these provisions, the resource consent

	<p>process, will address any potential adverse effects on the amenity of the surrounding area. The Recreation zoning of 51 and 53 Hall Crescent is critical in improving the connectivity and visibility of the Copeland Street Reserve which should make the reserve more widely used.</p>
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- 5.24. Mr Kellow considers that the proposed rezoning to General Residential is the most appropriate zoning option to proceed with, as it:
- a) Most efficiently and effectively achieves the objective of the plan change;
 - b) Helps the Council to meet the objectives expressed in the Urban Growth Strategy;
 - c) Gives effect to the NPSUDC; and
 - d) Best meets the objectives of the District Plan, and is consistent with surrounding residential zoning.
- 5.25. In respect of the rezoning of 51 and 53 Hall Crescent, he considers that it is the most appropriate zoning option as it:
- a) Provides for the greatest recreational opportunities;
 - b) Provides a level of compensation for the loss of recreational land; and
 - c) Is consistent with the remaining portion of the Reserve.
- 5.26. Mr Beckett's statement of evidence included a summary position where he agreed that:
- a) The proposed zoning is consistent with the surrounding area and the resource consent process will address any potential adverse effects on the amenity of the surrounding area;
 - b) PPC49 is consistent with section s7(b), (c) and (f) of the RMA;
 - c) The proposed zoning ensures future development would be undertaken in a manner consistent with the established amenity and character of the local environment;
 - d) That appropriate consultation has been and is still being undertaken;
 - e) Safeguards in the District Plan will ensure that amenity is maintained;

- f) The proposal is consistent with the NPSUDC;
 - g) The Detailed Site Investigation demonstrates the land is suitable for residential use; and
 - h) Mr Kellow's assessment against the regional and district plans is correct.
- 5.27. Dr Mead opposed PPC49 because consultation had not included scenarios with high density residential areas, as described in PPC43, as "Medium Density Residential Activity Area". Her contention was that under the current rules, Medium Density zoning would allow site coverage of 40% and building heights of 8m. However, under PPC43, the Medium Density Residential Activity Area zones would increase site coverage to 60% and heights to 10m. She queried whether the people living next to the Reserve knew that they could have three storey buildings built next door to them when PPC43 came into effect.
- 5.28. She highlighted that PPC43 was currently out for consultation and she tabled its proposed map of Epuni which showed Copeland Street Reserve as it is currently, and not reduced in size.
- 5.29. Dr Mead maintained that the population densities would increase in the neighbouring areas and the Reserve would become an important recreational area. In her opinion, under s7(c) of the RMA, the amenity values for people living nearby would be better with a green walking connection. Under s7(f), the quality of the environment would be greatly improved with spaces just outside the door for people to gather and play. Under s7(i), the effect of climate change with high rainfall storms would be reduced with more permeability for water to drain and trees for shade on hot days. However, she did not provide an expert report to support her assertions on ground permeability.
- 5.30. Dr Mead disagreed with the Officer's assessment of the NPSUDC, PA3, in regard to the wellbeing of future generations. She submitted that with increased housing and population density, the area could be greatly improved with a network of reserves that linked together, to utilise the existing Reserve as an improved play area for children.
- 5.31. She also submitted that if parks are safe, that property values are higher, and referred to a study sourced from the internet but did not provide a reference. She was concerned that the District Plan is a broad brush, and when land is sold, the Council has limited control. Also, that the Council would not be able to buy the Reserve back if it was lost.
- 5.32. Dr Mead also thought greater consideration should be given to opportunities to activate the Reserve area, so that it was a safe and sociable space. This would include urban design measures such as ensuring overlooking of the Reserve from

dwellings. She felt it was important that the Reserve be retained as is until thoughtful urban planning including the high density residential areas had been done. She also felt that the s32 was not valid as it had not considered the scenarios about high density residential areas.

- 5.33. Mr and Mrs Tourell (DPC49/4) spoke to their submission. They argued that the Reserve should stay as it is because it was a safe place for children to play ball games, and for people to exercise and train dogs. They acknowledged that Mitchell Park and the Hall Crescent Reserve opposite Copeland Street Reserve were nearby. However, they felt that Mitchell Park had rose bushes and a busy road which curtailed these activities and the Hall Crescent Reserve was not wide enough to play ball games.
- 5.34. Mr and Mrs Tourell said that they would be affected by PPC49 because housing would shade their back yard, they would lose their open outlook to the Tararua Ranges, flooding in Copeland Street would increase, and sewage blockages would be a problem.
- 5.35. Mr Kellow advised that he considered that there would be sufficient open space available in Eponi to meet the needs for residents. In respect of the rezoning of the land occupied by the IHC and WEIT, he advised that while any development of these facilities would still require a resource consent under a General Residential zoning, it would be less contrary to the objectives and policies of the General Recreation zoning that currently applies.
- 5.36. Mr Kellow advised that the matter of a change in property values was not a relevant resource management consideration. In terms of effects arising from a rezoning, Mr Kellow acknowledged that there would be likely effects arising from a loss of open space, outlook and openness, as well as a change in noise.
- 5.37. In respect of the issue of the design of the reserve and Dr Mead's desire for overlooking and passive surveillance, he identified that even if Council changed the rules, if people wanted to keep their high fences, they could under existing use rights. The only way this would occur would be through people's willingness to do so.
- 5.38. In respect of shading of properties raised by Mr and Mrs Tourell, Mr Kellow advised that the existing provisions have bulk and location standards to limit the effects of shading, but not to prevent all shading. He advised that there was no record in Council of the Copeland Street area flooding and the infrastructure report had addressed wastewater capacity.
- 5.39. In respect of the other matters raised by Mr and Mrs Tourell, he advised in his s42A report that:

- a) *If only the Bowling Green land was used for residential development as proposed by the submitter, it would leave two small parks at either end of the site and would not allow the connection from Hall Crescent to be created, because the bowling green overlaps with this area, which is key to opening up the park.*
- b) *The submitter comments that if the land is to be sold then it should be put on the open market to ensure the best price is obtained. This is not a matter relevant to the consideration of the appropriateness of the plan change.*
- 5.40. In respect of Dr Mead's concerns regarding permeability, Mr Kellow noted that no specialist or technical information was supplied to support the assertion, and that the Council's evaluation has demonstrated that the capacity of the stormwater main is sufficient.
- 5.41. Mr Cumming said that the decision that came out of PPC43 would apply to PPC49 and to all General Residential land in the City. He anticipated that PPC43 may take up to two years to become operative. He agreed that if PPC49 rezoning to Medium Density went ahead, when PPC43 came into effect, building height could increase to 10m, and there would be the potential for terraced housing and shared parking. Given the stage that PPC43 is at, he recommended that I give it little weight.
- 5.42. Mr Kellow's advice from his s42A report was that the impact of PPC43 is broad as it proposes changes to the General Residential Activity Area provisions and the introduction of two new activity areas – a Medium Density Residential Activity Area and a Suburban Mixed Use Activity Area. In relation to this site the proposed General Residential Medium Density Activity Area zoning would change to a new zoning called Medium Density Residential Activity Area under PPC43, as would the surrounding residential sites.
- 5.43. In his opinion, the fact that PPC49 and PPC43 overlap in terms of timing and area may not be ideal but the overlap does not create any obstacles to a decision being made on PPC49. As notified, the planning framework that PPC43 proposes would allow a greater intensity of development than under the provisions of PPC49.
- 5.44. Mr Hodgins evidence² was that, should PPC49 become operative, the Reserve land available in Epuni would be sufficient to meet future requirements. He advised that there were four different reserve properties within the immediate vicinity, being Mitchell Park, Copeland Street Reserve, Epuni Community Hall Reserve and Hall Crescent Reserve. A large part of the Reserve that has had

² Hutt City Council Hearings Panel - Order Paper for PPC49 Hearing on Friday 2 February 2018, Page 66.

approval for its reserve status to be revoked had not been available to the public for general use because it had been leased for exclusive long term use.

- 5.45. Mr Hodgins said that if PPC49 came into effect, the altered Reserve would be a sufficient size for some ball games to take place, depending upon the age of the children. The installation of a playground would meet the target to have a playground within 8.5 minutes' walk, or 400m of where people lived. The area would be enhanced and the old bowling greens would become public reserve, making the accessible reserve larger than it had been.
- 5.46. I asked Mr Hodgins what would happen if the Council considered that additional reserve areas were required in the future. Mr Hodgins then took me through the history of the revocation of the Copeland Reserve, including the studies undertaken to support it. In respect of the Reserve, it was found that part of the solution was acquiring 51 and 53 Hall Crescent so that it would open up the Reserve and be more visible to the street.
- 5.47. He advised that if the Council did in the future see that additional reserves were required, that it had two options:
- 1) Work with developers on redevelopment proposals (such as Housing New Zealand on the other side of the railway line); and
 - 2) Purchase land for that purpose.
- 5.48. Mr Cumming added to this, advising that it is possible to take a developed area and make it open space. He also advised that the Council uses financial contributions to fund upgrades to existing and the acquisition of new reserves.
- 5.49. Mr Hodgins described Copeland Reserve as being not untypical of reserves developed around the 1950s. They were spaces that were originally well used, which were not fenced, at the time when there was no television. He said that times have changed now and the Council was focused on making best use of its assets. This included opening up reserves and providing activities that provide use. In terms of Dr Mead's comments about opening up the reserve, he said that generally people want privacy in their backyards.
- 5.50. In terms of Mr and Mrs Tourell's concerns about having an adequate area to kick a ball around, in his opinion the area left would be suitable to kick a ball around, with the area available for such activities actually becoming larger.
- 5.51. Mr Cumming advised that the review undertaken of the Valley Floor reserves and the further work done on residential intensification and demand for reserves had informed the development of PPC43.

- 5.52. At my request, the Council provided copies of two reports which were referred to but not attached to the s32 and s42A reports. These were:
- a) Hutt City: Planning for the Future, a Long-Term Vision for Future Housing Growth and Choice dated 12 September 2016, prepared by Jacobs New Zealand Limited (the Jacob Report) and
 - b) Review of Valley Floor Reserves dated June 2013, prepared by PAOS (the Valley Floor Report).
- 5.53. I also requested that the concept plan that Mr Hodgins referred to in questioning be provided to participants.
- 5.54. These were circulated to all participants to comment on. Of the six submitters, only Dr Mead provided comment with Powerco advising that it had no comment to make.
- 5.55. Dr Mead raised several points in respect to the circulated material. Her primary point was that there is no real analysis of the number of adequacy of the reserves. In respect of Epuni, she raised that the Jacobs report gave Epuni a grade of 2 for its “reserves, amenity and open space.” Grade 2 was defined as “Reserves over 400m from area or limited / undersupply of open space.” She quoted the description of reserves in the Epuni area, as follows: “Reserves are constrained in this area with limited formal playgrounds. Playgrounds and reserves are more limited to the west of the railway line with only the Epuni community hall area and Mitchell Street Gardens. The Copeland Street reserve has been revoked, but we understand there may be future options from development of this that may provide for some playground provision. However Epuni school provides some open space to the east of the railway tracks”. She was uncertain if the 2 grade applied before or after the loss of land from the Reserve.
- 5.56. In Dr Mead’s opinion, the Copeland Street recreation area is important to retain and will become more important as density increases. The Valley Floor document identifies a shortage of neighbourhood reserves, and an increasing demand. She was concerned that the vision of Plischke, which is referenced in the Valley Floor document, for enclosed reserves such as this should be achieved, making them safe places for children without the need for “helicopter” parental supervision.
- 5.57. In her opinion, the new park is small; and the whole park should be retained and landscaped to the same degree. The enclosed play area would mean any child playing there would need to be accompanied by an adult and there were safety elements. She also noted that losing the southern end of the reserve would mean that more households would be deprived of a park within a 400m walk.

- 5.58. Overall she considered that there is no evidence or analysis in either report to demonstrate that the Reserve is not needed and will not be needed in the future; and rather, that neighbourhood parks would become increasingly necessary. In her opinion, the reason for selling it seems to be monetary gain, and once lost would be almost impossible to replace.
- 5.59. Mr Kellow provided a final response to Dr Mead's comments. In respect of the description of the Epuni area in the Jacobs report, which is set out below, Mr Kellow advised that he considers that language is clear and that Jacobs were only considering the Epuni Community hall area and Mitchell Street gardens as available reserve land, with weight not being given to the existing Hall Street reserve land or the remaining Copeland Street reserve area.
- 5.60. He set out the scoring used by Jacobs as follows:
- 1 relates to inadequate open space provision
 - 2 relates to reserves over 400m from area or limited/undersupply of open space
 - 3 relates to reserves, public open space and facilities within 400m walking distance.
- 5.61. Mr Kellow considered that it was clear from the Valley Floor report that there were enough reserves in terms of their location and spread and that the undeveloped potential related to the fact reserves are either enclosed or not well defined. As such, the Jacobs score of 2, instead of a higher 3, appears to be as a result of the undersupply of open space within 400m with the appropriate characteristics such as being connected and visible from the public realm. In his opinion, supported by Mr Hodgins, PPC49 would open up the Reserve through the connection to Hall Crescent, improve its visibility and therefore help to address this shortcoming.
- 5.62. In respect to the quote from Dr Mead from page 20 of the Jacobs report, Mr Kellow set out the full quote as follows:
- “There is a demand for more good quality neighbourhood reserves, especially in the light of the intensification and changing demographics under the operative district plan. There are also a number of existing enclosed reserves had opportunities for enhancement through revegetation and improvement of facilities. The identified short falls in neighbourhood reserves have been taken into account with the evaluation of areas which could provide for further intensification. Key area of interest where there are short falls have been:*
- *Ava, Petone and Petone West*
 - *West Alicetown*

- *CBD Edge, Avalon and Boulcott; and*
- *Fairfield.”*

- 5.63. Mr Kellow’s position was that the conclusion in the Jacob’s report is different to that of Dr Mead, and that Epuni was not identified as having a shortfall of neighbourhood reserves either through passive reserve open space or formal play areas.
- 5.64. He also further noted that the District Plan had limitations in regard to how much it could address the reality of the existing situation of the reserve being surrounded by high solid fences and having houses facing the street. In respect of the size of the park, he considered that at 50m wide and 70m long, it is not small for a neighbourhood park and could accommodate a range of recreation activities. In terms of accessibility, he also noted that residents would have the same access to a reserve because Hall Crescent Reserve would remain, which is located directly opposite the southern entrance to the Reserve. The distance from the southern entrance to the entrance on Witako Street was approximately 200m and the distance to the Hall Crescent entrance was approximately 117m.
- 5.65. Mr Kellow recommended that:
- a) the submission of Claire and Geoffrey Hall be accepted
 - b) the submission of Dr Mead be rejected
 - c) the submission by David and Christine Tourell be rejected
 - d) the submission by Accessible Properties be accepted
- 5.66. I note that he did not provide a recommendation in respect of Housing New Zealand’s request that the plan change be approved; rather he focussed on the point that more investigation into the capacity of infrastructure be undertaken.

Evaluation

- 5.67. The matter of who the land is sold to is not a relevant consideration of this plan change request. I therefore reject that part of Mr and Mrs Tourell’s submission PPC49/4.
- 5.68. I have previously addressed infrastructure and its adequacy. The report provided by the Council states that there is sufficient capacity within the existing network to accommodate residential development. I therefore reject that part of Mr and Mrs Tourell’s submission PPC49/4. However, it may be that there is an existing blockage issue with a particular part of the existing network and I recommend that

the Council liaises directly with Mr and Mrs Tourell on this, as an asset maintenance matter.

- 5.69. The key areas of contention as I see it are:
- a) The timing of PPC49 with PPC43;
 - b) Whether all the Reserve is required to meet existing and future recreational needs in the Epuni area, and as a subset of that, will the remaining area of Reserve, including the addition of 51 and 53 Hall Crescent be adequate; and
 - c) Whether rezoning the southern end of the Reserve to residential is appropriate.
- 5.70. I have discussed the issue of the timing of PPC49 and PPC43 earlier in this decision. As I have set out, I do not believe that the zoning introduced by PPC43 would apply to the Reserve, as it is not shown as being subject to PPC43 in the zoning maps accompanying that plan change. That is a matter for the Council to consider and I may be wrong. Whether I am right or wrong though is irrespective to a large degree, given Mr Cumming has advised that little weight should be given to PPC43 at this point of time regardless. What is of primary issue is whether the change in zoning to provide for medium density residential development on some of the Reserve and the change in zoning to allow additional land to be incorporated into the Reserve is appropriate.
- 5.71. Thus, the primary importance is ensuring that the rezoning would meet the existing objectives and policies in the District Plan, which are not proposed to be amended, and it would give effect to higher order planning instruments and ultimately achieve the purpose of the RMA itself.
- 5.72. I appreciate Dr Mead and Mr and Mrs Tourell's concerns about the loss of useable recreation space in the Epuni area and the loss of land from this reserve in particular. From the evidence before me, I find that the Council has assessed the adequacy of reserve land provision in Epuni which has taken into account both the implications of PPC43 and the revocation of at least part of the Copeland Street Reserve. In doing so, the Council has determined that there is adequate land available to serve both existing and future needs. This includes projected demand should PPC43 as notified be made operative. Dr Mead and Mr and Mrs Tourell did not provide evidence to the contrary. To that end, I find that PPC49 achieves Policy 1.10.6 Open Space and Recreation.
- 5.73. In respect of the useability and accessibility of the Reserve, the evidence before me from the Council is that the remaining Reserve area, augmented by 51 and 53 Hall Crescent, will be a better useable space, which would serve different recreational needs (the Scouts, a playground and an open space for free play)

and it would be more readily visible to the street. From my own observation of the Reserve, it is enclosed and screened off from the residential properties that back on to it. While I agree with Dr Mead that the Reserve would be much improved by people turning their properties towards the Reserve and lowering or removing fences, I accept Mr Kellow's evidence that this could not be readily achieved through the District Plan, given existing use rights. While Mr Tourell talked about the loss of a space where his family used to kick a ball around, the evidence before me is that there will remain space on the Reserve to continue to do so. Any development of the playground would be subject to the General Recreation Activity Area provisions which would ensure that any amenity effects are appropriately addressed.

- 5.74. In respect of accessibility to the Reserve, the evidence from Mr Hodgins and Mr Kellow is that the Reserve will remain accessible to the community it supports. I acknowledge that it would result in more of a walk for those who would have previously accessed the site from the Copeland Street entrance, but given the existing layout of the site and the presence of the bowling club, I find it is unlikely there would be a significant number of people affected. People wanting to access the Reserve from this area would still be able to do so from Witako Street and Hall Crescent, with only a slightly longer walk. To that end, I find that PPC49 achieves Objective 1.10.6 Open Space and Recreation in terms of useability and accessibility.
- 5.75. In terms of the rezoning of the southern portion to residential, I accept Mr Kellow and Mr Beckett's evidence that a residential zoning is the most appropriate outcome. This is because of my finding that there is already adequate reserve land available, as well as that the District Plan bulk and location standards would appropriately manage any amenity effects on their property and the site is already surrounded by residential zoned land. I also concur that the rezoning would assist the Council to give effect to the requirements set out in the WRPS and the NPSUDC.
- 5.76. In terms of sections 6(e), 7(a) and 8 in Part 2, I heard no evidence to the contrary that these provisions were not appropriately recognised through PPC49, and therefore I accept Mr Kellow's advice.
- 5.77. Overall, I find that the rezoning proposed through PPC49 is appropriate in context of the nature of the site, surrounding land uses and the availability of reserve land in Epuni. The rules and provisions that would apply to the site under the General Recreation and General Residential Medium Density Activity Area zonings would effectively and efficiently provide for any future development and use in a manner that is compatible with the amenity and values of the area. To that end, I find that PPC49 would achieve the sustainable management of the site and the surrounding area.

Decision:

5.78. I accept DPC49/1.1, DPC49/5 and DPC49/6.1 for the reasons given above.

5.79. I reject DPC49/3 and DPC49/4 for the reasons given above.

6. FURTHER EVALUATION

6.1. Section 32AA of the RMA requires me to undertake a further evaluation of the plan change. However, this only applies for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the plan change was completed.

6.2. As I have not made any changes to PPC49 as notified, I am therefore not required to undertake such an evaluation. In any case, given the submissions which sought PPC49 to be rejected, I have considered the appropriateness of the rezoning in undertaking my evaluation.

7. CONCLUSION

7.1. PPC49 seeks to rezone parts of the Copeland Street Reserve and 51 and 53 Hall Crescent, as follows:

- a) All of that land formerly occupied by the Bowling Club and currently occupied by the IHC and WEIT would be rezoned from General Recreation Activity Area to General Residential Activity Area – Medium Density.
- b) 51 and 53 Hall Crescent would be rezoned from General Residential Activity Area - Medium Density to General Recreation Activity Area.

7.2. As a result of the Lower Hutt Women's Bowls Club leaving its site on Copeland Street Reserve (the Reserve), Council reviewed the recreational values of the Reserve. In 2012 Council resolved to consult with the local community pursuant to the Reserves Act 1977 to consider the future of the land. Through the consultation period, the Council amended the proposal from revoking the entire Copeland Reserve to limiting the revocation to the central and southern portions of the site.

7.3. The area to be revoked is the area of land formerly occupied by the Bowling Club and the land currently occupied by the IHC and Wellington Early Intervention Trust. The reduction in recreation land is the land exclusively used by the bowling club, the IHC and the WEIT. The Council also decided to redevelop 51 and 53 Hall Crescent as reserve and vest them accordingly. The Department of Conservation has agreed under the Reserves Act 1977 to revoke the reserve status of the land. Gazettal of these changes would occur when PPC49 is complete.

7.4. Based on my assessment of all relevant matters, including the section 32 evaluation report, the section 42A report, issues raised by submitters and evidence presented at the hearing, I find that PPC49 would create an appropriate framework to promote the sustainable management of the site in accordance with the purpose and principles of the RMA, in that:

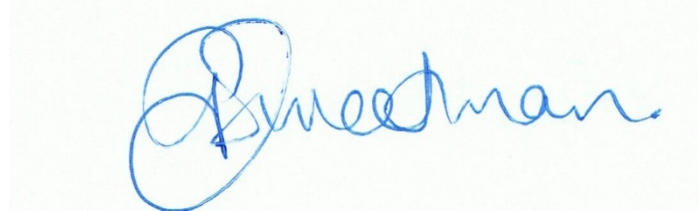
- a) A General Residential Activity Area – Medium Density zoning for the southern and central portion of the site would be compatible with adjoining land uses as well as providing for the ongoing operation of the IHC and WEIT facilities;
- b) With the exception of the need for remediation under the NES, the site to be rezoned to Residential has no identified constraints for its future use for residential purposes;
- c) The General Residential Activity Area – Medium Density bulk and location standards are appropriate to the site and any future development in terms of maintaining amenity values;
- d) There is sufficient recreation land available to meet the demands and needs of current and future generations, taking into account projected growth in population;
- e) The augmentation of the Reserve with the land from 51 and 53 Hall Crescent and its rezoning to General Recreation Activity Area will provide for a more usable and accessible reserve space to serve the recreational needs of the surrounding neighbourhood; and
- f) There are opportunities to better recognise and provide for the relationship of Te Atiawa with the land.

7.5. Consequently, I find that PPC49 would achieve the objectives and policies of the District Plan in relation to:

- a) Maintaining and enhancing the amenity values and residential character of the residential area, while accommodating residential growth;
- b) Avoiding, remedying and mitigating the adverse effects on the amenity of surrounding neighbourhoods;
- c) Providing and maintaining a diverse range of open space and recreation facilities which meet the needs of different sectors of the community; and
- d) The promotion of the sustainable management of physical resources within the existing residential areas of the City.

8. **DECISION**

- 8.1. For the reasons outlined in this decision, I on behalf of the Council, approve PPC49 in accordance with Clause 10 of the First Schedule of the RMA.

A handwritten signature in blue ink, reading "Gina Sweetman". The signature is written in a cursive style with a large, stylized initial "G".

Gina Sweetman, Independent Commissioner

Dated this 19th day of March 2018