

Proposed Private District Plan Change 47

**280 Major Drive, 204 Liverton Road and 50
Kaitangata Crescent**

Decision

At its 8 December 2020 meeting, Hutt City Council passed the following resolution:

That Council:

- (i) receives the report and recommendation of the Hearing Panel dated 2 October 2020, acting under delegated authority pursuant to Section 34A of the Resource Management Act 1991, for the hearing of submissions and further submissions on Private District Plan Change 47;*
- (ii) notes the process under the Resource Management Act 1991 (RMA) for Proposed Private District Plan Change 47: Major Gardens, Kelson – Rezoning to General Residential Activity Area and General Recreation Activity Area;*
- (iii) approves Private District Plan Change 47 in accordance with Clause 29 of Schedule 1 to the Resource Management Act 1991 as recommended in the report by the Hearing Panel and attached as Appendix 1 to the report;***
- (iv) adopts the recommended decision on Private District Plan Change 47 and the further evaluation and reasons for that decision set out in the report by the Hearing Panel contained within Appendix 1 attached to the report; and*
- (v) resolves to publicly notify its decision on Private District Plan Change 47 within 10 working days of this decision, and to serve the decision on the applicant and submitters.”*

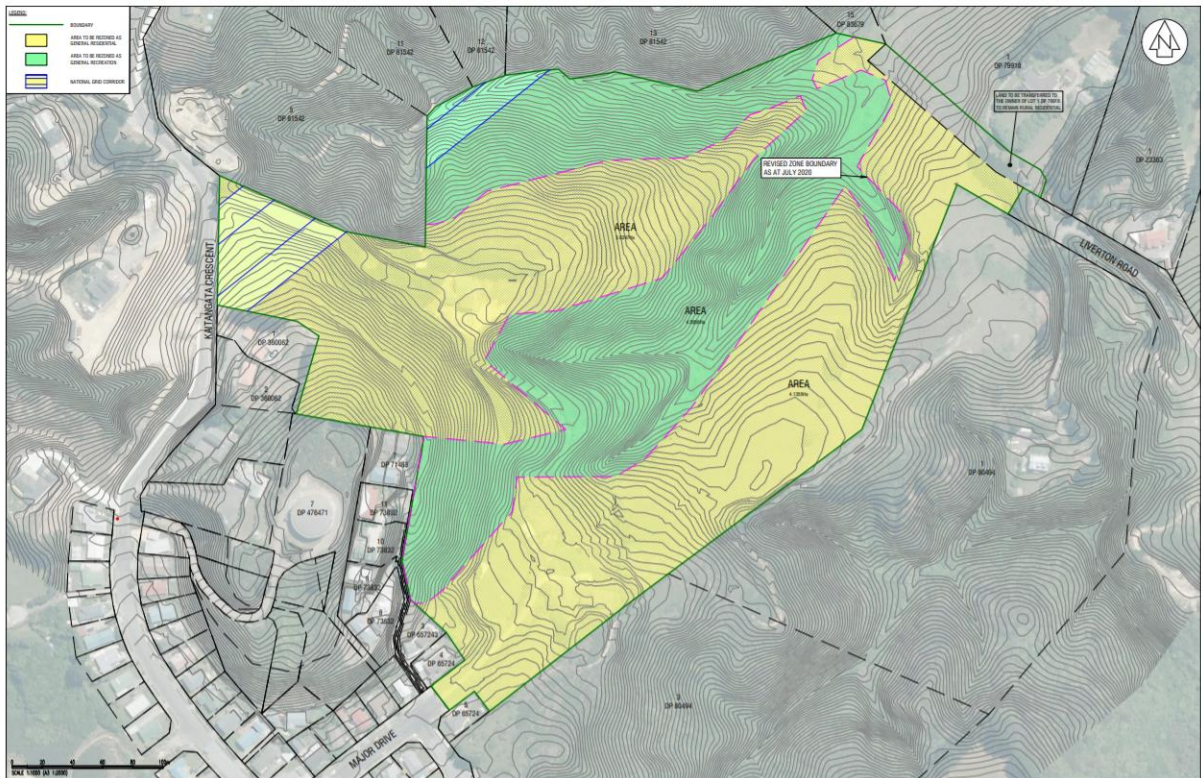
This document is the Council approved Proposed Private District Plan Change 47, which includes adoption of the amendments recommended by the Hearing Panel, as set out below.

Approved by Council on 8 December 2020.

Recommendation of Independent Hearing Panel

PRIVATE PLAN CHANGE 47

MAJOR GARDENS, KELSON – REZONING TO GENERAL RESIDENTIAL ACTIVITY AND GENERAL RECREATION ACTIVITY AREA



**Recommendation Report of the Independent Hearing Panel
appointed by the Hutt City Council
pursuant to section 34A of the Resource Management Act 1991**

2 October 2020

CONTENTS

1. INTRODUCTION	4
▪ Report purpose	4
▪ Role and report outline	5
▪ Comments on the parties' assistance to us.....	6
2. PLAN CHANGE CONTEXT	7
▪ Site and local environment	7
▪ Operative District Plan	8
▪ Plan Change Request: Reasons, Purpose, Evaluations and Provisions	9
▪ Notification and submissions	16
▪ Pre-hearing directions and procedures	17
▪ The Hearing.....	19
3. EVALUATION OF ISSUES	21
▪ Overview	21
▪ Evaluation Preamble – Statutory Framework	21
▪ Preliminary comment regarding PC36 and PC43.....	25
▪ Issue 1: Amenity and character effects	26
▪ Issue 2: Effects on significant biodiversity	29
▪ Issue 3: Stormwater runoff effects on waterways.....	34
▪ Issue 4: Reverse sensitivity effects.....	36
▪ Issue 5: Transport effects.....	37
▪ Issue 6: Effects on infrastructure	41
▪ Issue 7: The appropriateness of rezoning the land to General Residential Activity Area	42
▪ Issue 8: The appropriateness of rezoning the land to General Recreation Activity Area	44
▪ Issue 9: Other matters	47
4. STATUTORY CONSIDERATIONS	49
5. OVERALL RECOMMENDATION	53

SCHEDULE OF APPENDICES

- **APPENDIX 1:** Panel recommendations on relief sought by submissions and further submissions
- **APPENDIX 2:** Annotated version of Plan Change provisions

INDEX OF ABBREVIATIONS

This report utilises several abbreviations and acronyms as set out in the glossary below:

Abbreviation	Means...
"the Act"	Resource Management Act 1991
"the Council"	Hutt City Council
"GWRC"	Greater Wellington Regional Council
"HCC"	Hutt City Council
"LTP"	Hutt City Long Term Plan
"NPS"	National Policy Statement
"NZCPS"	New Zealand Coastal Policy Statement 2010
"NZTA"	Waka Kotahi – New Zealand Transport Agency
"the Plan"	Operative City of Lower Hutt District Plan 2004
"the plan change"	Proposed Change 47 to the Plan
"PC36"	Proposed Plan Change 36 to the Plan (Notable Trees and Vegetation Removal)
"PC43"	Proposed Plan Change 43 to the Plan (Residential and Suburban Mixed Use)
"PC47"	Proposed Change 47 to the Plan (Major Gardens, Kelson – Rezoning to General Residential Activity Area and General Recreation Activity Area)
"PC48"	Operative Plan Change 48 to the Plan (Rezoning of 64 Waipounamu Drive, Kelson)
"PNRP"	Proposed Natural Resources Plan for the Wellington Region
"the Requestor"	F.L.Y. Building Ltd
"RMA"	Resource Management Act 1991
"s[#]"	Section Number of the RMA, for example s32 means section 32
"s42A report"	The report prepared by HCC pursuant to s42A, RMA
"the site"	The land at 280 Major Drive, 50 Kaitangata Crescent and 204 Liverton Road, Kelson – subject to this plan change request
"UGS"	Hutt City Urban Growth Strategy 2012 - 2032

**Hutt City Council
Private Plan Change 47
Major Gardens, Kelson – Rezoning to General Residential Activity
and General Recreation Activity Area**

Recommendation of the Independent Hearing Panel

Proposal Description:

Proposed Private Plan Change 47 to the City of Lower Hutt District Plan:
Major Gardens, Kelson – Rezoning to General Residential Activity and General
Recreation Activity Area

Hearing Panel:

DJ McMahon – Independent RMA Hearing Commissioner, Chair
EA Burge – Independent RMA Hearing Commissioner

Date of Hearing:

26 August 2020

Hearing Officially closed:

15 September 2020

1. INTRODUCTION

Report purpose

- 1.1 This report sets out our recommendation as to a decision on Proposed Private Plan Change 47 to the operative City of Lower Hutt District Plan 2004.
- 1.2 We were appointed by the Council to hear submissions made on the plan change and to consider and make a recommendation as to a decision under delegated authority of the Council under section 34A of the Resource Management Act 1991 as to whether PC47 should be declined, approved or approved with amendments.
- 1.3 The plan change (as notified) seeks to:
- a. rezone the site to a combination of General Residential Activity Area and General Recreation Activity Area;
 - b. add two new policies to the Subdivision chapter of the Plan (Chapter 11) relating to stormwater management and effects on Liverton Road;
 - c. amend existing restricted discretionary activity Rule 11.2.3(d) and discretionary activity Rule 11.2.4(l) of the Plan so that these rules apply to the site; and
 - d. add a new non-complying activity rule to the Subdivision chapter of the Plan.

- 1.4 We will canvass the plan change's background in due course. It has been the subject of a section 32 report¹, consultation with stakeholders, and, of course, the public notification and hearing process, culminating in our recommendation as to a decision.
- 1.5 Before setting out the details of PC47, the submissions to it and our substantive evaluation, there are some procedural matters that we will address, beginning with our role as an Independent Panel.

Role and report outline

- 1.6 As noted above, our role is to make a recommendation as to a decision about the outcome of the plan change on the Council's behalf. The authority delegated in us by the Council includes all necessary powers under the RMA to hear and make a recommendation as to a decision on the submissions received on the plan change.
- 1.7 The purpose of this report is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.
- 1.8 Having familiarised ourselves with PC47 and its associated background material, read all submissions, conducted the hearing and site/locality visits, we hereby record our recommendations.
- 1.9 In this respect, our report is broadly organised into the following two parts:

a. Factual context for the plan change:

This non-evaluative section (comprising **Section 2** in this report) is largely factual and contains an overview of the land subject to the plan change and an outline of the background to the plan change and the relevant sequence of events. It also outlines the main components of the plan change as notified. This background section provides relevant context for considering the issues raised in submissions to the plan change. Here, we also briefly describe the submissions received to the plan change, and provide a summary account of the hearing process itself and our subsequent deliberations. We also consider here various procedural matters about the submissions received.

b. Evaluation of key issues:

The second part of our report (comprising **Sections 3 to 5**) contains an assessment of the main issues raised in submissions to PC47 and, where relevant, amplification of the evidence/statements presented at the hearing (in **Section 3**). We conclude with a summary of our recommendations (in **Section 5**), having had regard to the necessary statutory considerations that underpin our considerations (in **Section 4**). All these parts of the report are evaluative, and collectively record the substantive results of our deliberations.

¹ Section 32 of the RMA sets out the requirements for preparing and publishing reports that evaluate the appropriateness of a plan change.

Comments on the parties' assistance to us

- 1.10 In advance of setting out the plan change context, we would like to record our appreciation at the manner in which the hearing was conducted by all the parties taking part.
- 1.11 All those in attendance enabled a focused hearing process that greatly assisted us in assessing and determining the issues, and in delivering our recommendation as to a decision.
- 1.12 These initial thoughts recorded, we now set out the factual background to the plan change.

2. PLAN CHANGE CONTEXT

Site and local environment

- 2.1 The site is located on the lower slopes of the Western Hutt hills, at the northern end of Major Drive, the main road serving the suburb of Kelson. Totalling 12.6 hectares in area, it comprises three separate properties as follows:
- a. 280 Major Drive (Lot 2 DP 87274);
 - b. 50 Kaitangata Crescent (Lot 4 DP 81542); and
 - c. 204 Liverton Road (Lot 1 DP 87274).
- 2.2 The site is shown in **Figure 1**, overlying the current zoning pattern in the Plan. The area subject to the plan change is outlined in red.² Portions zoned Rural Residential Activity Area are shown in teal; the portion shown in orange is zoned Hill Residential Activity Area.



Figure 1: Plan change site (as notified) and existing zoning pattern in locality. Not to scale. (image source: Appendix 2, Officer's Report on Proposed PC47, 30 July 2020)

- 2.3 The properties at 280 Major Drive and 50 Kaitangata Crescent contain existing dwellings and several detached accessory buildings on each of these developed allotments. 204 Liverton Road is a vacant land holding occupying the northernmost portion of the application site.
- 2.4 The s32 evaluation report for the plan change provides the following description for the site:

The topography of the land is mixed, with the highest portion of the site being located at the western most extent near Major Drive and Kaitangata Crescent. There is a general sloping trend across the site from west to the east down towards Liverton Road where the site is near

² The extent of the area subject to the plan change was modified after notification to exclude a small area on the north eastern boundary. The final, revised extent of the area subject to the plan change is shown in **Figure 4**.

*its lowest point. A densely vegetated gully occupies the middle of the site. Vegetation in this gully is comprised of regenerating native bush and at the low point of the gully a stream drains the catchment. The southernmost portion of the site is occupied by a spur which runs from Major Drive down to the top of Liverton Road. The vegetation cover along the spur is limited and is generally comprised of open grass paddocks used for the non-intensive grazing of livestock.*³

- 2.5 Main vehicle access to the site is obtainable from Major Drive to the south-west and Kaitangata Crescent to the west. Access to the site is also possible from Liverton Road to southeast.
- 2.6 The residential suburb of Kelson lies to the southwest of the site. Other areas on the periphery of the site generally consist of larger rural-residential type properties with a higher proportion of vegetation cover (including pasture and indigenous vegetation).
- 2.7 We also observe that the headwaters of unnamed tributaries of the Hutt River lie within the site. As noted in the stormwater and ecological assessment attached to the s32 evaluation report,⁴ the streams, collectively referred to as Liverton Road Stream and tributaries, include perennial, intermittent and ephemeral watercourses.

Operative District Plan

- 2.8 The majority of the site inclusive of the portions to the north, east and south are zoned Rural Residential in the operative Plan, whereas the western portion is zoned Hill Residential. The current zoning of the site and broader area is illustrated in **Figure 1**.
- 2.9 We note that the Plan became fully operative on 18 March 2004 and since that time has been subject to ongoing monitoring and review. Plan changes 36 and 43, relating to notable trees and vegetation removal, and residential and suburban mixed-use provisions respectively, are particularly pertinent to this plan change. These plan changes have now advanced to the point where they have been made operative in part, with the operative provisions replacing previous provisions in the Plan. Other parts of PC36 and PC43 remain subject to appeal.
- 2.10 The significance of PC36 and PC43 is that they respectively introduce provisions that will affect residential density and vegetation removal over the land covered by PC47. We will address the combined implications of the three plan changes in **Section 3** of this report.
- 2.11 The following Zone and District-wide objectives, policies and rules are relevant to the management of natural and physical resources on the site:
- a. Chapter 1.10.1 – Resource Management and Tangata Whenua of Lower Hutt;
 - b. Chapter 1.10.2 – Amenity Value;
 - c. Chapter 1.10.3 – Residential Activity;
 - d. Chapter 1.10.4 – Recreation and Open Space;
 - e. Chapter 1.10.5 – Rural Activity;

³ Proposed Private District Plan Change 47 – Part 5: Request and Section 32 Evaluation, para 22, page 53

⁴ Proposed Private District Plan Change 47 – Part 5: Request and Section 32 Evaluation: Appendix 3b – Stormwater Assessment and Further Ecological Assessment – Morphum Environmental, page 4

- f. Chapter 4A – General Residential Activity Area;
- g. Chapter 4D – Hill Residential Activity Area;
- h. Chapter 7A – General Recreation Activity Area;
- i. Chapter 8A – Rural Residential Activity Area;
- j. Chapter 11 – Subdivision;
- k. Chapter 14A – Transport; and
- l. Chapter 14I – Earthworks.

Plan Change Request: Reasons, Purpose, Evaluations and Provisions

- 2.12 Part 2 of the RMA's First Schedule sets out various requirements for private plan changes such as PC47. Under clause 22, any private plan change request is to:
- a. explain in writing the purpose of, and reasons for, the proposed change;
 - b. contain the required evaluation under s32 of the Act; and
 - c. describe the anticipated environmental effects of the proposal in such detail that corresponds with the scale and significance of the effects.
- 2.13 Each of these are discussed further below, followed by a summary of the proposed plan change provisions.

Reasons and Purpose for the plan change

- 2.14 As notified, the plan change proposes to rezone the area to which it relates from Hill Residential and Rural Residential Activity Areas to a combination of General Residential and General Recreation Activity Areas, as illustrated in **Figure 2**.

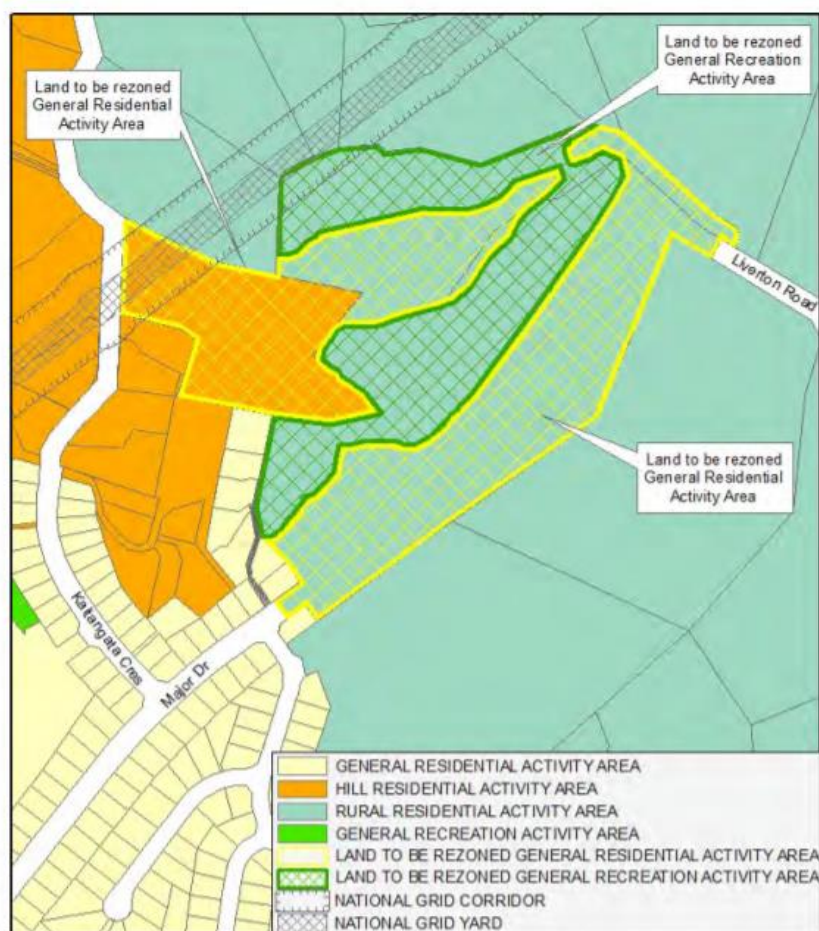


Figure 2: Plan change site (checked areas) and locality (as notified). Not to scale. (image source: Proposed Private Plan Change 47 – Part 3 Proposed Amendments to Chapter 11 and District Plan Map E1, page 12)⁵

2.15 The purpose of the plan change is described in the s32 evaluation report as follows:

The proposed General Residential Activity Area zone would allow for a greater residential yield than the existing Rural Residential Activity Area and Hill Residential Activity Area zoning on the site. The proposed General Residential Activity Area would result in an extension of the General Residential Activity Area zoning and development pattern along Major Drive, to the south-west. Once rezoned, the application site could yield approximately 62 complying allotments, with access to the sites provided from Major Drive and Kaitangata Crescent. An indicative development plan has been submitted (Appendix 2) which shows this. It should be recognised that this is only one of a number of development scenarios that could occur under the proposed zoning. Any final design and layout of allotments would be subject to resource consent process and approval.

The proposed General Recreation Activity Area zoning is being sought for two reasons:

- *This area contains the majority of the draft SNA's within the site. The proposed General Recreation Activity Area zone is considered the most*

⁵ The extent of the area subject to the plan change was modified after notification to exclude a small area on the north eastern boundary. The delineation between the two areas to be rezoned was also altered. The final revised extent of the area subject to the plan change and the delineation between the zones is shown in **Figure 4**.

appropriate zone to ensure that future development in this area is limited, thereby ensuring that this vegetation is retained.

- *This area proposed for General Recreation Activity Area is likely to be vested as reserve as part of the future subdivision of the site. As such, this proposed Plan Change would ensure that the site is already appropriately zoned for Council management for recreation purposes. Initial conversations with Council Officers suggest that Council would seek to take this land on as reserve.*

As part of the proposed Plan Change, site-specific policies, and alterations to an existing rules and standards are proposed to address specific environmental constraints associated with the development of the site. These provisions are primarily designed to ensure that stormwater runoff from any future subdivision of the site does not adversely affect the ecological integrity of the onsite streams and any downstream receiving environments and that the proposal does not result in undue traffic safety effects on Liverton Road.⁶

2.16 In the covering letter accompanying the request, the Requestor also sets out the reasons why the plan change should be adopted by the Council, as follows:

- *The proposed plan change allows for Council to meet the intentions of the Urban Growth Strategy, which identifies the application site as a future urban growth area;*
- *The rezoning would assist with Council meeting its housing needs under the National Policy Statement on Urban Development Capacity;*
- *The rezoning provides for a flexible of housing typologies to be provided, including potential areas of Medium Density Development providing it can meet the framework of the District Plan;*
- *The proposed zoning is consistent with the District Plan approach to zoning in the Hutt Valley, with General Residential Activity Area zoning being the prominent zone for residential development away from main shopping centres and public transport routes. However, this zoning still provides a consenting framework for a variety of residential development forms to be provided, subject to the outcomes as outlined under the objectives and policies being met and the environmental effects are addressed;*
- *The proposal includes the protection of the significant vegetation on the site through the use of the General Recreation Activity Area zone; and*
- *Council has adopted previous plan changes that provide housing supply (for example 64 Waipounamu Drive).⁷*

⁶ Proposed Private District Plan Change 47 – Part 5: Request and Section 32 Evaluation, paras 19 - 21, page 53

⁷ Letter titled *Plan Change 280 Major Drive and 50 Kaitangata Crescent*, Kelson, James Beban, Urban Edge Planning Ltd, dated 24 April 2019, Proposed Private District Plan Change 47 – Part 5: Request and Section 32 Evaluation, page 43

Section 32 Report

- 2.17 The Requestor's s32 evaluation report is labelled as 'Section 32 Evaluation' in the plan change request bundle. It includes an evaluation of the proposed objectives' implementation of the Act's purpose, and an evaluation of the proposed policies and methods in their implementation of the proposed objectives, including costs, benefits and alternatives.
- 2.18 The s32 report finds that:
- a. the policies that it is proposed be added to Chapter 11 – Subdivision of the Plan, as part of the plan change, will achieve the relevant objectives in that chapter;
 - b. the addition of rules and standards in Chapter 11 – Subdivision, as proposed will ensure that outcomes sought under the relevant higher order provisions of the Plan will be achieved.⁸
- 2.19 The s32 report also includes a discussion of the risk of acting or not acting. Such an evaluation is only required under s32 of the Act where there is uncertain or insufficient information about the subject matter of the plan change provisions. There is no indication in the report that those circumstances exist, but the risk assessment finds that (in summary):
- a. the risks of acting (i.e. proceeding with PC47) are limited to the resulting change in the existing undeveloped form of the site, arising from the facilitation of residential development; and
 - b. the risks of not acting are a lost opportunity to develop the site beyond the existing densities provided for in the Plan resulting in the Council not being able to meet its growth requirements under the NPS on Urban Development Capacity and no protection being afforded on-site stream or terrestrial vegetation under current Plan provisions.⁹

Environmental effects assessment

- 2.20 The plan change request includes an assessment of environmental effects titled 'Effects of the Proposed Plan Change'. It draws on the various technical expert reports relating to servicing, ecological, stormwater and further ecological, landscape and visual assessment, geotechnical and traffic matters also attached to the plan change request bundle and outlined in paragraph 2.22 below.
- 2.21 The Requestor's effects assessment concludes:
- a. Given existing Plan rules, any resulting effects on character and amenity from the development of the property for residential purposes would be appropriately addressed and that the proposed plan change will not result in unacceptable environmental outcomes.

⁸ s32 Report (April 2019), paras 306-314, pages 114-122

⁹ s32 Report (April 2019), para 303, page 113

- b. The rezoning of vegetation and gully areas as General Recreation Activity Area, which discourages development, will adequately protect the majority of these areas.
- c. On-site streams and downstream receiving environments will be protected from the effects of stormwater runoff by proposed new Plan policy, alterations to existing rules and standards, and the provisions of the PNRP.
- d. Existing Plan considerations pertaining to earthworks and the proposed rezoning of a significant proportion of the site to General Recreation Activity Area will ensure that any effects on natural character resulting from the development of the property for residential purposes would be appropriately addressed.
- e. Existing infrastructure either has sufficient capacity to accommodate additional demand generated by residential development of the site, or where constraints exist, provision of new infrastructure is best addressed via the resource consent process.
- f. There are no natural hazard risks that would result in the proposed General Residential Activity Area zone being appropriate for the site.
- g. There are no recreational, historical or cultural effects that would result in the proposed plan change being inappropriate for the site.
- h. Potential traffic effects can be appropriately addressed by existing Plan rules and the proposed plan change would not result in any significant traffic effects.
- i. There are no economic effects that would make the proposed plan change inappropriate for the site.¹⁰

2.22 The plan change documentation, as notified, included a number of expert effects assessments as follows:

- a. *Infrastructure Assessment*, prepared by Cuttriss Consultants Ltd (April 2019);
- b. *Assessment of Potential Ecological Effects*, prepared by Wildland Consultants (January 2018);
- c. *Ecological Assessment*, prepared by Morphem Environmental Ltd (April 2019);
- d. *Landscape and Visual Assessment*, prepared by Drakeford Williams Ltd (March 2019);
- e. *Geotechnical Investigation*, prepared by Abuild Consulting Engineers Ltd (July 2018); and
- f. *Transportation Assessment*, prepared by Harriet Fraser Traffic Engineering & Transportation Planning (March 2019).

¹⁰ s32 Report (April 2019), paras 251-301, pages 99-106

Plan Change provisions

- 2.23 The additions and edits to the Plan as proposed by PC47 as notified can be summarised as follows:
- a. **Amendment 1:** Adding new Engineering Standards Policy 11.1.2(c): *“The engineering practices maintain the ecological values of the onsite stream and the downstream receiving environments from stormwater runoff resulting from the subdivision of the land identified in Appendix 8.”*
 - b. **Amendment 2:** Adding new Engineering Standards Policy 11.1.2(d): *“To restrict access and avoid increased traffic volumes from land identified in Appendix 8 to Liverton Road, to maintain traffic safety and efficiency.”*
 - c. **Amendment 3:** Adding new Rule 11.2.3(d) so that subdivision of the site that meets the existing allotment design standards of the Subdivision chapter is a restricted discretionary activity.
 - d. **Amendment 4:**
 - Adding reference to Appendix Subdivision 8 to clause (c) of the matters of discretion under 11.2.3.1, so that the matters of discretion apply to subdivision of the site.
 - Amending the matters of discretion listed under Section 11.2.3.1(c) as follows:
 - Adding reference to Appendix subdivision 7 to clause (xiv);
 - Adding reference to proposed engineering measures to manage stormwater runoff (clause xv).
 - e. **Amendment 5:** Amending Rule 11.2.4(l) so that subdivision of the site that does not meet the existing allotment design standards of the Subdivision chapter is a discretionary activity.
 - f. **Amendment 6:** Amending assessment criteria 11.2.4.1(e) for discretionary activities to ensure Council would assess a subdivision of the site against the matters of discretion in Section 11.2.3.1(c).
 - g. **Amendment 7:** Adding new Rule 11.2.5(b) so that any subdivision that results in lots with residential dwellings with vehicular access to Liverton Road is a non-complying activity.
 - h. **Amendment 8:** Addition of Appendix Subdivision 8 to Chapter 11 (Subdivision). This appendix shows the area identified as Appendix Subdivision 8.
 - i. **Amendment 9:** Amending Planning Map E1 to rezone the site to a combination of General Residential Activity Area and General Recreation Activity Area.
- 2.24 The proposed provisions enable portions of the site proposed to be rezoned General Residential Activity Area to be developed for suburban residential development at a similar density and pattern as that currently provided for within the neighbouring Kelson suburb. The remainder of the site is proposed to be rezoned General Recreation Activity Area and it is anticipated that this area would be vested with the Council as reserve at the time of subdivision.
- 2.25 Following its notification, further amendments to the plan change were made by the Requestor following feedback from submitters to address matters raised in submissions, and in response to comments made by Council officers, as follows:

- a. Altering the extent of the area subject to the plan change to exclude a small area on the north eastern boundary, as illustrated in **Figure 3**.
 - b. Altering the delineation between the two areas to be rezoned to include a ‘finger’ of land as General Recreation Activity Area, as illustrated in **Figure 3**.
 - c. Further amending new Policy 11.1.2(c) to refer to ‘onsite streams’, rather than ‘onsite stream’.
 - d. Further amending Rule 11.2.3(d), matter of discretion (c) under 11.2.3.1, and assessment criteria 11.2.4.1(e) to refer to ‘sites’ rather than ‘site’.
 - e. Further amending matters of discretion (c)(xv) under 12.2.3.1, to refer to ‘or enhance’ in the context of ‘maintain’.
 - f. Adding new matters of discretion to Section 11.2.3.1(c) to ensure Council can, when considering a resource consent for subdivision of the site under the amended Rule 11.2.3(d), consider:
 - i. any measures to control reverse sensitivity effects in relation to noise (clause xvi);
 - ii. the measures to maintain the ecological values of the indigenous vegetation contained within the General Recreation Activity Area portion of the site. This includes the protection of indigenous vegetation within the General Recreation Activity Area portion of the site through appropriate legal mechanism and on-site measures to manage edge effects during any adjacent development activities (clause xvii); and
 - iii. the measures to retain the indigenous vegetation contained within the General Residential Activity Area portion of the site. This includes the use of legal mechanisms and on-site measures to protect stands of indigenous vegetation that are adjacent to the General Recreation Activity Area and that provide connectivity to native fauna (cause xviii).¹¹
 - g. Further amending Rule 11.2.5(b) to refer to ‘any residential lots’ in substitution of ‘any lots with residential dwellings’.
- 2.26 These and further amendments posed during the course of the hearing (and set out in **Appendix 2**) are considered in detail under the relevant issue in **Section 3** of our report.

¹¹ This proposed amendment was subsequently deleted from the plan change, given the decision by the Requestor to include a further area of indigenous vegetation (known as the “finger”) within the proposed General Recreation Activity Area portion of the site, as noted in **paragraph 3.44** of our report.

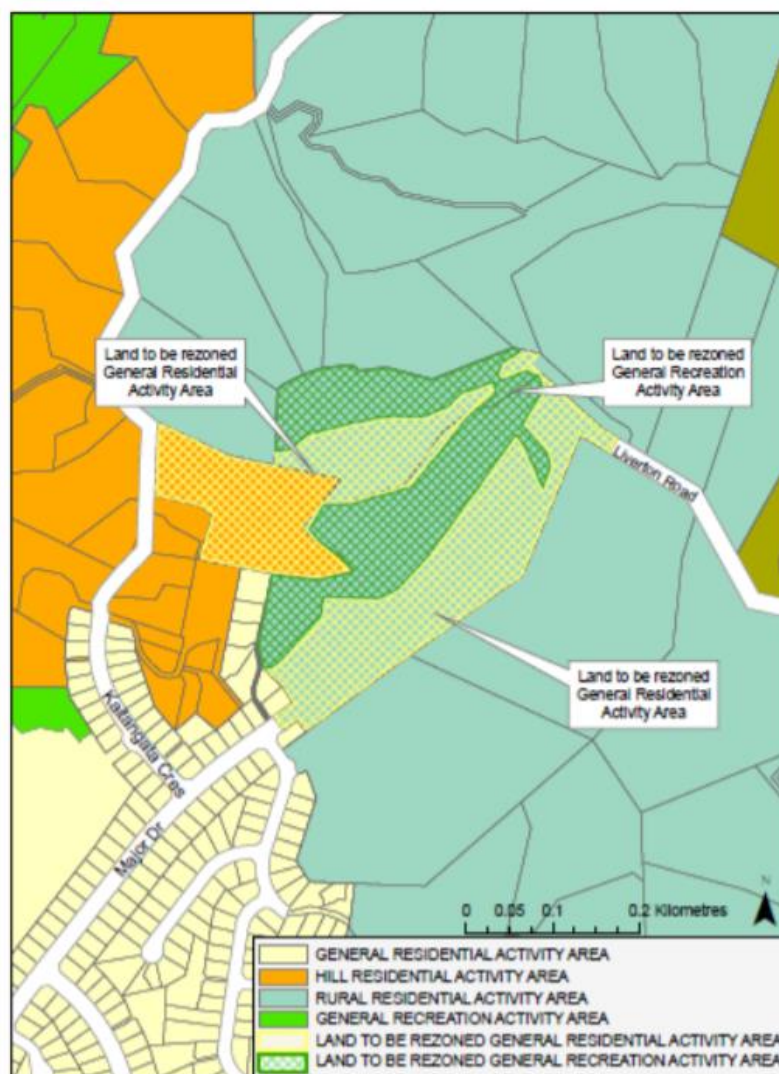


Figure 3: Plan change site (checked areas) and locality (as amended). Not to scale. (*image source: Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, Appendix 2, page 12*)¹²

Notification and submissions

- 2.27 The plan change was publicly notified on 13 August 2019. The closing date for submissions was 10 September 2019.
- 2.28 A total of seven submissions were lodged with the Council.
- 2.29 A summary of submissions was prepared and subsequently notified for further submissions on 1 October 2019 with the closing date for receiving further submissions being 15 October. Three further submissions were received. **Table 1** provides a list of submitters and further submitters to the proposed plan change. We provide a full summary of the submissions received in **Appendix 1**, including our recommendations on the relief sought by each submitter.

¹² The extent of the area subject to the plan change was modified after notification to exclude a small area on the north eastern boundary. The delineation between the two areas to be rezoned was also altered. The final revised extent of the area subject to the plan change and the delineation between the zones is shown in **Figure 4**.

Submissions	
Submission number	Submitter
DPC47/1	Daniel Kinnock
DPC47/2	Powerco Ltd
DPC47/3	Transpower NZ Ltd
DPC47/4	Richard and Sarah Able
DPC47/5	Trevor Izzett
DPC47/6	GWRC
DPC47/7	Waka Kotahi - NZ Transport Agency
Further Submissions	
Submission number	Submitter
DPC47F/1	Royal Forest & Bird Protection Society of NZ Inc
DPC47F/2	Waka Kotahi - NZ Transport Agency
DPC47F/3	Richard and Sarah Able

Table 1: List of submitters and further submitters to PC47

- 2.30 The three submissions from Mr Kinnock, Powerco Ltd and Waka Kotahi are neutral, although Mr Kinnock seeks corrections and clarifications with respect to the proposed plan change. The two submissions from Transpower NZ Ltd and GWRC are supportive, albeit the latter seeks some amendments to the proposed plan change. The two submissions from Mr and Mrs Able and Mr Izzett are in opposition to the proposed plan change, and seek its rejection.
- 2.31 Of the further submissions received, the one from Royal Forest & Bird supports the submission by Mr and Mrs Able, whereas the Ables' and Mr Izzett's submissions are opposed by Waka Kotahi in its further submission.
- 2.32 Without taking away from the finer detail provided in the submissions, the matters raised generally fall into one of more of the following categories:
- a. effects on amenity and character;
 - b. protection of significant indigenous biodiversity;
 - c. management of stormwater runoff effects on waterways;
 - d. reverse sensitivity effects from new residential activities on existing rural activities; and
 - e. traffic safety concerns, particularly in relation to Liverton Road.
- 2.33 We discuss these issues (and the submissions underpinning them) in greater detail under our key issue evaluation in **Section 3** of this report below.

Pre-hearing directions and procedures

- 2.34 Prior to the commencement of the hearing, we issued five minutes to the parties to address various administrative and substantive matters. These minutes, and the others we issued through the course of the hearing and deliberations processes are available on Council file.
- 2.35 In summary, these minutes addressed the following:

- a. **Minute 1** (10.04.2020) – this provided a brief summary of the hearing process and our suggestion that the Requestor endeavoured to continue to engage with submitters to discuss issues raised in submissions and resolve any issues, where practical. We sought a state of play report on that engagement by 20 May 2020 at the latest;
 - b. **Minute 2** (27.05.2020) – this acknowledged our receipt of the state of play report from the Requestor and our suggestion that the Council, in conjunction with the Requestor, advised of a timeline for confirming with two submitters whether they withdrew their right to be heard at the hearing, whether any further information requests were required and when that request would be provided to the Requestor, and when the response to that request would be provided to the Council;
 - c. **Minute 3** (10.06.2020) – this advised parties of our proposed approach to the site visit and hearing, granted an extension of time relating to the provision of further information, and noted the implications of this for final confirmation of some parties' wish to be heard;
 - d. **Minute 4** (20.06.2020) – this advised of the likely date for the hearing and, on that basis, the required dates for the pre-circulation of expert evidence; and
 - e. **Minute 5** (21.07.2020) – this advised that the further information provided by the Requestor now formed part of the plan change to be considered by us, confirmed final dates for the pre-circulation of expert evidence, indicated our support for any further pre-hearing discussions and conferencing, and advised on hearing presentations.
- 2.36 In the lead up to the hearing, the following reports and evidence were received and made available to all parties in accordance with the proposed timetable:
- a. The s42A officer's report, prepared by Ms Magill, dated 30 July 2020, and incorporating:
 - i. A statement of evidence from Mr Rose, Wellington Office Manager at Envelope Engineering Ltd, relating to servicing and earthworks matters;
 - ii. An ecological assessment, prepared by Dr van Meeuwen-Dijkgraaf, Team Leader Terrestrial Ecology at Cardno (NZ) Ltd; and
 - iii. A brief of evidence, and supplementary evidence from Mr Wanty, Director / Principal of Wanty Transportation Consultancy Ltd.
 - b. A statement of evidence in chief (EiC) from Mr Beban and Ms Tessendorf, on behalf of F.L.Y. Building Ltd, dated 7 August 2020, and incorporating:
 - i. Supplementary evidence from Mr Farrant, Principal Ecological Engineer and Southern Sector Manager at Morphem Environmental Ltd.
 - c. An addendum to Mr Beban and Ms Tessendorf's EiC dated 21 August 2020.
- 2.37 In addition, during the course of the hearing we received and made available to all parties the following:
- a. Summary statements of evidence from Ms Magill, Dr van Meeuwen-Dijkgraaf, Mr Wanty and Mr Rose, dated 25 August 2020.
 - b. Summary of transportation assessment and response to further information request from Ms Fraser, dated 25 August 2020.

- c. An opening statement from Mr Beban, dated 26 August 2020.
- d. An oral submission by Mr Izzett (a hard copy of this was provided subsequent to the hearing).

2.38 No expert evidence was received on behalf of submitters either during the lead up to or during the course of the hearing.

The Hearing

2.39 The hearing commenced at 9:00am on Wednesday, 26 August 2020 in the Lower Hutt Events Centre at 30C Laings Road, Lower Hutt.

2.40 At the outset of proceedings, we outlined the manner in which we expected the hearing to be conducted, and called for appearances and introductions from the attendees. We also set out a range of procedural matters and outlined our role and the relevant statutory matters framing our consideration of the proposal.

2.41 No procedural matters were raised during the course of the hearing that we were obliged to make a finding on.

2.42 Over the course of the proceedings, we heard from the following people:

Requestor

- James Beban, Director of Urban Edge Planning Ltd
- Corinna Tessendorf, Senior Planner at Urban Edge Planning Ltd
- Stu Farrant, Principal Ecological Engineer and Southern Sector Manager at Morphem Environmental Management Ltd
- Harriet Fraser from Harriet Fraser Traffic Engineering and Transportation Planning Ltd
- Colin McElwain, Director of Cuttriss Consultants Ltd and Registered Professional Surveyor

Council s42A Advisors

- Kate Magill, Senior Planner at Align Ltd
- Ryan Rose, Wellington Office Manager at Envelope Engineering Ltd
- Dr Astrid van Meeuwen-Dijkgraaf, Team Leader Terrestrial Ecology at Cardno (NZ) Ltd
- David Wanty, Director / Principal at Wanty Transportation Consultancy Ltd

Submitters

- Trevor and Niamey Izzett – local residents

2.43 All other submitters had formally withdrawn their right to be heard. However, the issues raised in submissions remain 'live' for our consideration and we have done so, as we are required to do. A number of observers and interested parties were also present at the hearing.

Hearing adjournment and post-hearing

- 2.44 We adjourned the hearing on 26 August 2020, noting verbally at the time that we would be advising the parties subsequently of a date to reconvene or close the proceedings.
- 2.45 We adjourned the hearing for the following reasons:
- a. To enable us to undertake a more detailed site visit.
 - b. To provide time for the Requestor and the Council to respond in writing to several questions posed by us at the hearing. In large part, these were intended to assist us further in determining the most appropriate approach to protecting significant indigenous vegetation, relating to:
 - i. the content and operation of relevant zone rules;
 - ii. what zone options were considered with respect to the protection of such areas;
 - iii. options for legal mechanisms to protect such areas; and
 - iv. the status of the inundation wetland under the RMA and means for its protection under the Plan; and
 - c. At the same time, we also sought information from the Requestor and the Council regarding the operation of subdivision provisions relating to access and staging, and views on the wording of proposed policies and rules.
 - d. To allow time for the Requestor's right of reply.
- 2.46 We have since completed our site visit. Further, we received the responses to the questions we posed, and the Requestor's right of reply, on 4 September 2020. These are all available on the council file. We had also received a copy of Mr Izzett's oral submission on 1 September, following a specific request in that regard.
- 2.47 Accordingly, we issued **Minute 6** on 15 September 2020, confirming that:
- a. we had completed our site visit; and
 - b. having reviewed all the information provided by the Requestor, submitters and the Council, we were satisfied that there is no further information required to deliver our recommendation as to a decision on the proposed plan change.
- 2.48 On that basis, we thanked all parties in attendance and advised that as we had completed our deliberations that the hearing was now closed. Our closing minute is available on Council file.

3. EVALUATION OF ISSUES

Overview

- 3.1 For the purposes of this evaluation, we have grouped our discussion of the submissions and the reasons for accepting, rejecting, or accepting them in part by the *matters*¹³ to which they relate – rather than assessing each issue on a submitter-by-submitter basis.
- 3.2 This approach is not to downplay the importance of the input from submitters; to the contrary, their input has been invaluable in shaping the grouping of issues and for our consideration of those matters. However, we note that there was some commonality among the submissions on key issues and we consider it will be to everyone’s benefit for our recommendation as to a decision to be as tightly focused on the key issues as possible.
- 3.3 For those parties who are only interested in a particular matter as it pertains to their submission(s), reference can be made to the submitter-by-submitter summary of decisions requested in **Appendix 1**, which includes our recommendation on each relief point sought. Those specific decisions have been derived from our issues assessment below.
- 3.4 To that end, we have organised our discussion of issues as follows:
- **ISSUE 1:** Amenity and character effects
 - **ISSUE 2:** Effects on significant indigenous biodiversity
 - **ISSUE 3:** Stormwater runoff effects on waterways
 - **ISSUE 4:** Reverse sensitivity effects
 - **ISSUE 5:** Transport effects
 - **ISSUE 6:** Effects on infrastructure
 - **ISSUE 7:** The appropriateness of rezoning the land to General Residential Activity Area
 - **ISSUE 8:** The appropriateness of rezoning the land to General Recreation Activity Area
 - **ISSUE 9:** Other matters

Evaluation Preamble – Statutory Framework

- 3.5 Before formally recording our consideration of the above issues, we summarise here the relevant statutory matters that frame our evaluation. They have been derived from the Environment Court’s *Colonial Vineyards* decision¹⁴, and include the following considerations:

¹³ Clause 10(2)(a) of Schedule 1, RMA sets out that a plan change decision may address submissions by grouping them according to either the provisions of the plan change to which they relate, or to the matters to which they relate.

¹⁴ ENV-2012-CHC-108, [2014] NZEnvC 55

General Requirements

- a. the District Plan should be designed in accordance with¹⁵, and assist the Council to carry out, its functions¹⁶ so as to achieve the purpose of the Act;¹⁷
- b. when changing the District Plan, the Council must:
 - i. give effect to any NPS¹⁸, the NZCPS¹⁹ or any RPS²⁰;²¹
 - ii. have regard to any *proposed* RPS;²²
 - iii. have regard to any management plans and strategies under any other Acts and to any relevant entry on the NZ Heritage List and to various fisheries regulations (to the extent relevant), and to consistency with plans and proposed plans of adjacent authorities;²³
 - iv. take into account any relevant planning document recognised by an iwi authority;²⁴
 - v. not have regard to trade competition;²⁵
 - vi. be in accordance with any regulation;²⁶
- c. in relation to regional plans:
 - i. the District Plan must not be inconsistent with an operative regional plan for any matter specified in s30(1) or any water conservation order;²⁷ and
 - ii. shall have regard to any proposed regional plan on any matter of regional significance;²⁸
- d. the District Plan must also state its objectives, policies and the rules (if any) and may state other matters;²⁹
- e. the Council has obligations to prepare an evaluation report in accordance with section 32 and have particular regard to that report;³⁰
- f. the Council also has obligations to prepare a further evaluation report under s32AA where changes are made to the proposal since the s32 report was completed;

Objectives

- g. the objectives of the plan change are to be evaluated to the extent which they are the most appropriate way to achieve the Act's purpose;³¹

¹⁵ s74(1), RMA

¹⁶ s31, RMA.

¹⁷ ss 72, 74(1), RMA.

¹⁸ National Policy Statement

¹⁹ New Zealand Coastal Policy Statement

²⁰ Regional Policy Statement for the Wellington Region

²¹ s75(3)(a)-(c), RMA.

²² s74(2), RMA.

²³ s74(2)(b)-(c), RMA.

²⁴ s74(2A), RMA.

²⁵ s74(3), RMA.

²⁶ s75(1)-(c), RMA.

²⁷ s75(4), RMA.

²⁸ s74(1)(f), RMA.

²⁹ s75(1)-(2), RMA.

³⁰ Schedule 1, Part 2, Clause 22, RMA.

³¹ s32(1)(a), RMA.

Provisions

- h. the policies are to implement the objectives, and the rules (if any) are to implement the policies;³²
- i. each provision is to be examined as to whether it is the most appropriate method for achieving the objectives of the District Plan, by:
 - i. identifying other reasonably practicable options for achieving the objectives;³³
 - ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives³⁴, including:
 - a) identifying and assessing the benefits and costs anticipated, including opportunities for economic growth and employment opportunities that may be provided or reduced;³⁵
 - b) quantifying those benefits and costs where practicable;³⁶
 - c) assessing the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions;³⁷

Rules

- j. in making a rule, the Council shall have regard to the actual or potential effect on the environment of activities, including (in particular) any adverse effect;³⁸ and

Other Statutes

- k. the Council may be required to comply with other statutes

3.6 Our powers in relation to this proposal is set out in clause 29(4) of Schedule 1 of the Act. Under this clause, we may recommend declining the proposal, approving it, or approving it with modifications. We must give reasons for the recommendation as to a decision that we reach. In arriving at our recommendation, we must undertake the further evaluation required under s32AA and have regard to that evaluation. As indicated above, the further evaluation under s32AA is required only in respect of any changes arising since the plan change was notified. This evaluation must:

- a. examine the extent to which the objectives of PC47 are the most appropriate way to achieve the purpose of the Act;
- b. examine whether the policies, rules, standards, zoning and other methods of PC47 are the most appropriate way to achieve the existing Plan objectives and the PC47 objectives;
- c. in relation to 'b.' above, to the extent relevant:
 - i. identify any other reasonably practicable options for achieving the existing and proposed objectives; and

³² s75(1), RMA.

³³ s32(1)(b)(i), RMA.

³⁴ s32(1)(b)(ii), RMA.

³⁵ s32(2)(a), RMA.

³⁶ s32(2)(b), RMA.

³⁷ s32(2)(c), RMA.

³⁸ S76(3), RMA.

- ii. assess the efficiency and effectiveness of the provisions in achieving the objectives; and
 - d. 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.
- 3.7 Further, in relation to matter 'b' above, we note that PC47 contains no new objectives. In accordance with section 32(6), the purpose of the proposal stands in for objectives where these are not otherwise contained or stated by the proposal. In other words, the term 'objective' is synonymous with the plan change's purpose and not the technical meaning of the term otherwise used in the Plan.
- 3.8 For our evaluation of the provisions of the plan change against the objectives (matter 'b' above), however, the term 'objective' assumes a dual meaning:
 - a. those goals or aspirations set out in the plan change's purpose; and
 - b. the relevant (and settled) objectives of the operative Plan.
- 3.9 Accordingly, we have considered whether the proposed plan change:
 - a. has been designed to accord with, and assist the Council to carry out its functions so as to achieve the purpose of the Act;
 - b. gives effect to any relevant NPS and the NZCPS;
 - c. gives effect to the regional policy statement ("RPS"); and
 - d. is consistent with any regional plans.
- 3.10 In considering all of the matters above, we record that our recommendation as to a decision is based upon our consideration of the following documents:
 - a. the notified plan change and s32 evaluation as notified and subsequently amended;
 - b. the submissions and further submissions received;
 - c. the Council's s42A report;
 - d. the s32AA evaluations provided by over the course of the hearing; and
 - e. the statements/presentations from all parties appearing before us.
- 3.11 As we emphasised at the hearing, it is important that all parties understand that it is not for us to introduce our own evidence on the nine sets of issues listed above, and we have not done so – rather, our role has been to:
 - a. establish that all relevant evidence is before us (or where it isn't, consider whether we should commission additional reports or information³⁹); and
 - b. test the evidence of others, and to determine the most appropriate outcome based on the views we consider best achieve sustainable management.

³⁹ Under s 41C(4) of the Act.

- 3.12 It is that dual role to which the following evaluation addresses. Before doing so, and as a closing comment to this preamble, we observe that s32AA(1)(d)(ii) enables our further evaluation reporting to be incorporated into this report as part of the decision-making record. To this end, our evaluation of each issue has been structured to satisfy the evaluation report requirements of s32AA as outlined above. In other words, for each issue we have considered the merits of any proposed alterations to the notified provisions to assist in ascertaining the appropriateness of the provisions.

Preliminary comment regarding PC36 and PC43

- 3.13 Since PC47 was notified, PC36 and PC43 have progressed to the point that they are now operative in part.
- 3.14 **PC36** relates to notable trees and vegetation clearance provisions in the Plan and, as notified, sought to remove restricted discretionary rules on vegetation clearance, making it a permitted activity in General Residential Activity Areas.⁴⁰ The scope of PC36 relates only to residential activity areas in the Plan, and we were advised by Ms Magill and Mr Beban that vegetation clearance in the General Recreation Activity Area, as an unlisted activity, assumes discretionary activity status and that resource consent applications have been processed on that basis.⁴¹ Under appeal, and still before the Environment Court, the provisions of PC36 have been found to have an unintended consequence given the construction of the residential activity area rules; effectively making vegetation clearance a non-complying activity.
- 3.15 The Council, together with other parties, have made submissions to the Court as part of a s293 process to resolve this. At present, the effect of the Court's decision is that, broadly speaking, the removal of indigenous vegetation is a permitted activity in limited circumstances, and otherwise a restricted discretionary activity, in the General Residential Activity Area.
- 3.16 We pick up the issue of vegetation clearance and its status – particularly in respect to the general recreation zone – later in this section, under **Issues 2 and 8**.
- 3.17 In respect to **PC43**, and as noted in Ms Magill's s42A report, that plan change seeks "to provide for greater housing capacity and a wider range of options for housing styles and sizes at medium densities within the existing urban area".⁴² It inserts a new 'Chapter 4A' into the Plan, and enables increased dwelling density in the General Residential Activity Area, while providing for comprehensive development proposals. Where breaches of activity standards would previously have triggered discretionary activity consent status, PC43 pulls the default status back to a restricted discretionary activity. In summary, then, it enables a potential higher density and lot yield in the area subject to PC47.
- 3.18 The implications for PC47, of PC43, are that lot yield arising from the subdivision of the site will increase, over and above the provisions of the Plan prior to the notification of the latter plan change. Estimates of that yield differ markedly in evidence presented by witnesses, ranging from 62 or 70 - 80 lots as estimated in the AEE,⁴³ through 90 - 100

⁴⁰ s42A Report (30 July 2020), para 46, page 12

⁴¹ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

⁴² s42A Report (30 July 2020), para 40, page 11

⁴³ s32 Report (April 2019), paras 19 & 65, pages 53 & 61, and also Appendix 4, *Landscape & Visual Assessment*, page 15

lots,⁴⁴ to 210 or 230 lots (in the form of a comprehensive development) in evidence presented by Ms Magill and Mr Rose.⁴⁵

- 3.19 In his EiC, Mr Beban took issue with Mr Rose's yield values, as adopted by Ms Magill, on the basis that such calculations should be based on densities under a permitted activity framework rather than proposals involving additional development and requiring consent under the proposed zoning.⁴⁶
- 3.20 Ultimately, estimating yield is uncertain as it relies on the interpretation of Plan provisions as altered by PC43, and the application of hypothetical consenting scenarios. What we can conclude, with confidence, is that subdivision is not provided for as a permitted activity, and would assume restricted discretionary activity status on the basis of elements of non-compliance with controlled activity standards. We also note that comprehensive developments are classed as fully discretionary activities and that that two household units are permitted on lots of less than 400m² in area.⁴⁷
- 3.21 Ultimately, we find that:
- a. Estimates of yield are important, as the results can potentially offset the assessment of effects relating to reverse sensitivity, transport and servicing.
 - b. However, all the expert witnesses that we heard from agreed that whilst lot yield is a factor in their assessments, it does not raise a 'red flag', nor is it determinative in terms of those assessments, as the issues actual lot yield are capable of being addressed through subsequent resource consent processes.
- 3.22 Accordingly, we give consideration to the implications of yield in our examination of the specific topics referred to in paragraph 3.21a in the next part of our report (**Issues 4, 5 and 6** respectively).

Issue 1: Amenity and character effects

Issue identification and evidence

- 3.23 The Requestor addressed the effects on amenity and character (including, specifically, on natural character) in the plan change application,⁴⁸ which is accompanied by a landscape and visual assessment prepared by Drakeford Williams Ltd.⁴⁹ The landscape and visual assessment described the site within both a wider and local landscape context, assessed the proposal against regional landscape values and local zoning intents, and considered the plan change's alignment with the local and wider environment. The assessment concluded that:
- a. there will be negligible effects on the wider Belmont and Hutt environment, given the extent to which the site is backdropped by bush-covered hills;

⁴⁴ Letter titled *PC47 – Major Gardens – Request for further information and other matters*, James Beban, Urban Edge Planning Ltd, dated 10 July 2020

⁴⁵ s42A Report (30 July) 2020, paras 95, 287 & 317, pages 20, 51 & 56, and also Appendix 8, para 12, pages 3-4

⁴⁶ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 9.31–9.37, pages 18-19

⁴⁷ s42A Report (30 July) 2020, para 281, page 51

⁴⁸ s32 Report (April 2019), paras 252–268 and 275–279, pages 99-102 and 103-104

⁴⁹ *Landscape & Visual Assessment*, prepared for Kelson Heights Ltd by Drakeford Williams Ltd (March 2019)

- b. rural residents to the north, east and south will be buffered from the development by landforms and existing bush cover, with limited impact on rural amenity;
 - c. Plan rules limit potential effects on the visual amenity of adjoining residential properties;
 - d. the development will be perceived as an extension of the existing suburban housing area; and
 - e. while the change in land use will be to a more intense form of residential development, this is compatible with Kelson, and the proposed rezoning is appropriate from a landscape and visual perspective.
- 3.24 Mr Beban and Ms Tessendorf referred to the conclusions reached by the landscape and visual assessment in their combined EiC.⁵⁰
- 3.25 The proposal to which PC47 relates will alter the rural character and amenity of the subject site, as described in Ms Magill's s42A report.⁵¹ We note that, in doing so, Ms Magill concurred with the assessment of amenity and character effects in the s32 evaluation report.⁵² As an issue, effects on amenity and character were raised in submissions by Mr Izzett and Mr and Mrs Able,⁵³ and in an oral presentation at the hearing by Mr Izzett.

Discussion and findings

- 3.26 We agree that there will be change from the existing rural amenity and character of the subject site to the anticipated urban amenity and character, as a result of the plan change. This is inevitable, as the proposed part-rezoning to General Residential Activity Area provides for a shift in what is essentially a rural residential level of density to an urbanised environment, irrespective of the actual lot yield (and therefore development density) that may emerge from the resource consent process. The question that naturally follows is: what is the significance of this change or effect? To answer that question, we have considered the proposal against the current zoning in the Plan, and the extent to which the effects on amenity and character arising from the plan change is anticipated in that Plan and in other higher order documents.
- 3.27 The current zoning in the Plan provides for a level of development density along the following lines:
- a. The Hill Residential Activity Area comprises 2.2ha, or 17% of the total site. This zoning permits a dwelling on a site of no less than 1000m². This equates to approximately 20 dwellings.
 - b. The Rural Residential Activity Area comprises 10.4ha, or 83% of the total site. This zoning permits a dwelling on a site of no less than 2ha. This equates to five dwellings.
- 3.28 At a total of 25 dwellings, the development capacity under the current zoning compares to a range of 62 lots (at the lower end) to 230 lots / dwellings (at the higher end) estimated under the proposed zoning as set out in paragraph 3.18 above. In proportional terms, the

⁵⁰ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 6.2–6.3, page 6

⁵¹ s42A Report (30 July) 2020, paras 288-295, page 52

⁵² s32 Report (April 2019), paras 252–265, pages 99-101

⁵³ Submissions DPC47/5 & DPC47/4, respectively

development density under the proposed zoning is between three and eight times more intensive than under the current zoning.

3.29 This level of intensity, particularly where the area rezoned **General Residential Activity Area** is concerned, and irrespective of the actual lot / dwelling yield that eventuates, will be reflected in:

- a. a change from a mixture of open pasture and vegetation cover to a highly urbanised environment with associated infrastructure;
- b. a significant increase in the proportion of impervious surfaces;
- c. a significant increase in traffic;
- d. significant changes in noise and lighting environments (the latter as a result of light spill from street lights and dwellings); and
- e. changes in land contours through extensive earthworks, inclusive of cut and fill profiles.

3.30 While the changes in amenity and character where the area rezoned General Residential Activity Area will be substantial, this is to be anticipated for the following reasons:

- a. The landscape and visual assessment attached to the plan change application, noted that the broader site is not identified as an outstanding natural feature or landscape, or a special amenity landscape in a district-wide assessment undertaken by Boffa Miskell Ltd for the Council.⁵⁴
- b. The landscape and visual assessment attached to the plan change concluded that the site's values do not meet the relevant criteria for identifying such areas set out in the RPS.⁵⁵
- c. The current Rural Residential Activity Area zoning does anticipate some residential development and the associated change in character that this would bring (although not to the level that is proposed by way of the plan change).
- d. The UGS recognises the broader area as being appropriate for residential development, and thus anticipates the resulting change in character.
- e. Whilst the change in amenity and character is irreversible, whether this is good, bad or indifferent is yet to be realised. In as far as the plan change will lead to effects on the amenity or neighbours, we can say the following:
 - i. the plan change received only two submissions from the Liverton Road area, which could indicate that the surrounding land owners were at least neutral about it, or generally accept it, which, if so, would be a general reflection on the residential development currently occurring in the Waipounamu Road area;
 - ii. we have only heard from one of those two submitters, Mr Izzett, and it is evident that he will experience a change in his surroundings from a visual and natural character perspective (we deal with reverse sensitivity aspects under **Issue 4** below); and
 - iii. the extent to which effects on amenity will be experienced at the edge of the development where they abut the Rural Residential Activity Area will depend on the final layout and design of the subdivision, inclusive of lot sizes, building setbacks and buffer areas, for example. These are not

⁵⁴ *Landscape & Visual Assessment*, prepared for Kelson Heights Ltd by Drakeford Williams Ltd (March 2019), pages 9-10

⁵⁵ *Landscape & Visual Assessment*, prepared for Kelson Heights Ltd by Drakeford Williams Ltd (March 2019), page 10 and Appendix 1

aspects that we have any control over. While we accept Ms Magill's opinion that the provision of a structure plan was not necessary,⁵⁶ it would have assisted us in this respect, as it could have identified areas of lower and higher density.

- 3.31 Where the area to be rezoned **General Recreation Activity Area** is concerned, it could be argued that existing amenity and character will be maintained and enhanced, as a result of its development. We observe that:
- a. It would replace the current Rural Residential Activity Area zoning, thereby affording some protection to indigenous vegetation (we deal with this matter more fully under **Issue 2**).
 - b. It provides for a far less urbanised outcome than the current Rural Residential Activity Area zoning, in catering primarily for low level recreational activities. This is clear from our reading of the General Recreation Activity Area objectives and policies in the Plan, which include, for example, assurances that 'bush-clad areas are protected from inappropriate use and development' (Policy 7A1.1.2 (c)), 'recreation activities carried out in bush-clad areas do not compromise visual amenity values' (Policy 7A1.1.2 (d)), and 'the siting of buildings and structures in bush-clad areas [is discouraged]' (Policy 7A1.2.1 (e)).
 - c. Whilst the General Recreation Activity Area provisions do provide for buildings of up to 8m in height and 100m² in area, these do have to be associated with recreational activities.
- 3.32 The anticipated outcome of the rezoning to General Recreation and General Residential Activity Areas will be an open, rural character, interspersed with comprehensive urban development, respectively. Collectively, the rezoning does represent a change in the amenity and character of this landscape unit, from the baseline established by the current General Rural Residential and Hills Residential Activity Areas.
- 3.33 The effects of changes in amenity and character will be experienced to a greater degree by residents to the north and east of the subject site, and less so by residents to the south and west, due to the presence of existing residential development and the prospect (even under current zoning) of additional development (for example, in areas around Major Drive, Kaitangata Road and Waipounamu Drive).
- 3.34 Overall, although the urban component will predominate, we find that this is likely to be softened by the retention in vegetation cover, of the portions zoned General Recreation Activity Area. As Ms Magill observed in her s42A report, "*the portion of the site ... that [is] to be zoned General Recreational [sic] Activity Area will afford a lesser development scenario than that ... expected to occur on the site under its current zoning.*"⁵⁷
- 3.35 In essence the change in character is an unavoidable and anticipated change that can be reasonably well assimilated by the surrounding environs.

⁵⁶ s42A Report (30 July) 2020, para 194, page 38

⁵⁷ s42A Report (30 July) 2020, para 289, page 52

Issue 2: Effects on significant biodiversity

Issue identification and evidence

- 3.36 The Requestor addressed ecological effects in the plan change application,⁵⁸ which was accompanied by an ecological effects assessment prepared by Wildland Consultants.⁵⁹ The ecological effects assessment supported the application, but also addressed information relating to a potentially significant natural area (SNA) supplied by HCC as part of its wider SNA programme. The assessment, which was based on preliminary field survey and review of desktop information, outlined the ecological context, general site observations based on the survey, and provided a description of vegetation and habitat types, aquatic habitat, flora and fauna. On the basis of an assessment of the potential effects of the proposed plan change, the ecological report identified opportunities to address those effects, and recommended monitoring requirements. The assessment found that:
- a. areas proposed to be developed largely avoid indigenous vegetation and areas identified as ecological sites;
 - b. few opportunities to undertake mitigation for the loss of indigenous vegetation are apparent;
 - c. some intermittent and ephemeral stream reaches outside the ecological sites will be lost and there are no opportunities to offset this; and
 - d. options to avoid or reduce vegetation clearance, stream reclamation, adverse effects on indigenous fauna and weed invasion are available.
- 3.37 In response to this ecological assessment, HCC revised the original SNA boundary to accord with the field survey. The Requestor subsequently commissioned a further ecological assessment to address the matters raised in the original assessment.⁶⁰
- 3.38 This subsequent ecological assessment specifically focused on the potential effects associated with the reclamation of watercourses, the removal of buffer vegetation and disturbance of a gully wetland. It observed that further changes to the development layout have been made to avoid the loss of waterways and aquatic fauna. It otherwise broadly concurred with the original assessment and concluded that remaining impacts can be mitigated through development design.
- 3.39 The submissions on this matter were as follows:
- a. GWRC's submission⁶¹ sought the addition of a new matter of discretion addressing the potential effects of subdivision and anticipated development on significant indigenous biodiversity values, and any potential mitigation or offsetting.
 - b. Mr and Mrs Able also commented on what they consider to be the effects of the proposal in terms of the loss of natural habitats.⁶²

⁵⁸ s32 Report (April 2019), paras 269-274, pages 102-103

⁵⁹ *Assessment of Potential Ecological Effects of a Proposed Plan Change for the Major Gardens Property, Kelson, Lower Hutt*, prepared for HCC and Major Gardens Ltd by Wildland Consultants (January 2018)

⁶⁰ *Ecological Assessment for a Proposed Private Plan Change: 280 Major Drive and 51 Kaitangata Crescent, Kelson*, prepared for F.L.Y. Building Ltd by Morphem Environmental Ltd (April 2019).

⁶¹ DPC47/6

⁶² DPC47/4

- c. Royal Forest & Bird supported GWRC and the Ables' submissions in its own further submission.⁶³
 - d. In his oral submission at the hearing, Mr Izzett agreed that the areas identified in the Wildlands Consultants report are significant and expressed concern about the adequacy of the proposed General Recreation Activity Area zoning in protecting their values.
- 3.40 Dr van Meeuwen-Dijkgraaf's evidence on behalf of the Council was presented in the form of an ecological assessment.⁶⁴ She concluded that the plan change would largely avoid impacts on areas of high biodiversity values, and would seek to put in place protection over most of those areas and aspects. However, in her opinion:
- a. a "finger" of land associated with the eastern "arm" of the ecological area should be included within the boundary of the SNA (and therefore within the General Recreation Activity Area);
 - b. further work is required to determine whether the "inundation wetland" would meet GWRC criteria for identification as a natural wetland; and
 - c. the location of infrastructure relative to areas of high biodiversity values needs clarification.⁶⁵
- 3.41 In her s42A report, Ms Magill canvassed significant biodiversity matters in relation to s6(a) and s6(c) of the RMA. She observed that the plan change would result in areas of ecological significance and the majority of on-site water bodies being rezoned to General Recreation Activity Area which, in her view is "appropriate" in zoning terms as it allows said areas to eventually become part of the HCC reserves network. She also considered that the water bodies will be protected through the addition of new policies and rules proposed by PC47. Finally, she was of the view that the "inundation wetland", assuming its value is confirmed, would be appropriately protected through the provisions of the PRNP and similar GWRC documents.⁶⁶
- 3.42 Ms Magill also addressed the ecological effects of the proposed plan change in the s42A report. In doing so, she largely repeated the points she made earlier in her report, as summarised above, with the added comment that, in her view, any ecological effects associated with on-site earthworks can be addressed through the consenting process.⁶⁷
- 3.43 Mr Beban and Ms Tessendorf referred to the conclusions reached by the ecological assessments in their combined EiC.⁶⁸ They shared Ms Magill's view that as the General Recreation Activity Area zoning, as proposed to be applied to the areas identified as SNAs, generally discourages development, and (in the absence of a specific SNA-related policy and rule framework) is the most appropriate tool to ensure their retention.
- 3.44 Mr Beban and Ms Tessendorf also explained how, following consideration of the RPS criteria and discussions between the parties, it was decided to alter the zoning delineation to include the "finger" within the General Recreation Activity Area (refer **Figure 3**). Doing so obviated an earlier proposal to include a new matter of discretion to address ecological effects, where the General Residential Activity Area is concerned.⁶⁹

⁶³ DPC47F/1

⁶⁴ *Ecological Assessment*, prepared for Hutt City Council by Cardno NZ Ltd (July 2020)

⁶⁵ *Ecological Assessment*, prepared for Hutt City Council by Cardno NZ Ltd (July 2020), page 21

⁶⁶ s42A Report (30 July) 2020, paras 99-101, 103, 104, pages 21-22

⁶⁷ s42A Report (30 July) 2020, paras 239-337, pages 57-59

⁶⁸ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 6.4-6.8, pages 6-7

⁶⁹ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 8.7-8.8, pages 10-11

Discussion and findings

- 3.45 At the hearing, Dr van Meeuwen-Dijkgraaf confirmed that all the areas identified as “significant” to that point could be considered significant in terms of s6(c) of the RMA, inclusive of the portion of land represented by the “finger”. In her view, the areas meet the RPS Policy 23 criteria and also the criteria in the draft NPS for Indigenous Biodiversity.⁷⁰
- 3.46 Following the hearing, we also asked Mr Beban and Ms Magill to confirm whether the “inundation wetland” qualified as a s6(a) or s6(c) site of significance under the RMA, and if so:
- a. what protection it would derive from the General Residential Activity Area zoning,
 - b. what consents would be triggered by works within it under regional plans, and
 - c. what consideration if any had been given to excluding land associated with the inundation wetland from the General Residential Activity Area zoning.⁷¹
- 3.47 In their response, Mr Beban and Ms Magill noted that Dr van Meeuwen-Dijkgraaf had previously indicated that further work is required to determine whether the area constitutes a natural wetland, but that this could be determined at the consenting stage. They also confirmed that consent for works as either a discretionary or non-complying activity under the regional plans would be required. A further question that we posed at the hearing regarding the provision for vegetation management in the General Residential Activity Area zoning is now moot given the decision by the Requestor to include the wetland within the General Recreation Activity Area; a further modification to the proposal that we welcome. The final zoning delineation associated with the plan change, incorporating this amendment, and the version we are ultimately considering, is illustrated in **Figure 4**.

⁷⁰ *Ecological Assessment*, prepared for Hutt City Council by Cardno NZ Ltd (July 2020), pages 11-12

⁷¹ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

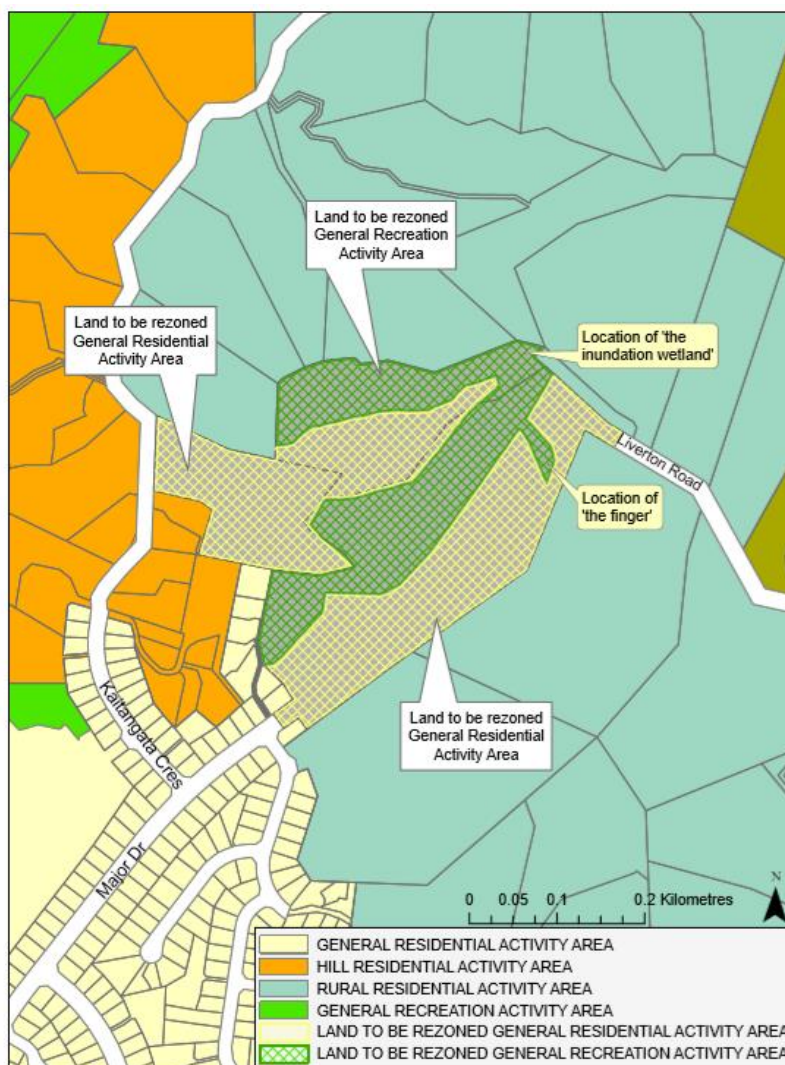


Figure 4: Plan change site (checked areas) and locality (final version). Not to scale. (*image source:* Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020, Appendix 1)

- 3.48 We acknowledge Ms Magill's assessment of the relevance of the NPS for Indigenous Biodiversity,⁷² but note that we cannot put any weight on the NPS given its draft status. Dr van Meeuwen-Dijkgraaf also acknowledged that at the hearing.
- 3.49 We note that the position that expert witnesses took on the location and significance of ecological areas and the *potential* significance of the inundation wetland was not contested by other parties, including Royal Forest & Bird. We therefore accept and adopt their combined opinion for the purposes of our recommendation.
- 3.50 Ms Magill acknowledged in the s42A report⁷³ that the plan change's primary response to the agreed need to maintain the ecological functioning of areas of significant ecological value is a zoning one (i.e. the application of the General Recreation Activity Area zoning) along with the imposition of new site-specific policies and rules. We agree with that synopsis and would go as far as to say this is a determinative issue for the outcome of the plan change. Moreover, the key question for us as a Panel is: will there be an adverse effect

⁷² s42A Report (30 July) 2020, paras 154-158, pages 31-32

⁷³ s42A Report (30 July) 2020, para 94, page 20

on significant ecological resources as a result of the development permitted by the plan change? Potentially, the answer is “yes”, but ultimately, this will be determined by the nature and extent of the intended zone provisions over those resources. In other words, and in a section 32 sense, the question is whether the General Recreation Activity Area, as modified by the plan change, is the appropriate zone. This is a matter we address under **Issue 8**.

Issue 3: Stormwater runoff effects on waterways

Issue identification and evidence

- 3.51 The effects that stormwater runoff from the proposed development enabled by the plan change may have on waterways was addressed in the plan change application in the context of broader matters relating to ecological and infrastructure effects (**Issues 2 and 6**).⁷⁴ However, we consider that the issue is worthy of its own, distinct consideration, given the extent of change anticipated by the proposal.
- 3.52 The application was accompanied by an initial ecological assessment which suggested that stormwater run-off effects from the proposed development could be addressed, through the adoption of a water-sensitive urban design approach.⁷⁵ The application was also accompanied by a subsequent combined stormwater and ecological assessment focusing, in part, on impacts associated with increased stormwater run-off from impervious surfaces on the receiving environment.⁷⁶ That assessment found that:
- a. unless appropriately managed, increased stormwater volumes inclusive of development related contaminants have the potential to cause significant adverse effects on downstream aquatic life;
 - b. while the “inundation wetland”, given its likely ecological values, is not suitable for the purposes of supporting on-line stormwater management, the typography of the broader site nonetheless lends itself to the provision of stormwater detention and water quality treatment devices; and
 - c. options to deliver site-wide stormwater management (including rainwater tanks and raingardens) can be explored and confirmed during the consenting stage, in accordance with the modified rules framework proposed by the plan change.⁷⁷
- 3.53 The infrastructure assessment that accompanied the plan change application confirmed the practicality of such options, where the site is concerned.⁷⁸
- 3.54 The submissions on this matter were as follows:
- a. GWRC’s submission⁷⁹ sought the amendment of the new Policy 11.1.2(c) proposed by the Requestor to explicitly require that adopted engineering practices achieve

⁷⁴ s32 Report (April 2019), paras 273 & 282, pages 103 & 104

⁷⁵ *Assessment of Potential Ecological Effects of a Proposed Plan Change for the Major Gardens Property, Kelson, Lower Hutt*, prepared for HCC and Major Gardens Ltd by Wildland Consultants (January 2018), pages 26-27, 29

⁷⁶ *Ecological Assessment for a Proposed Private Plan Change: 280 Major Drive and 51 Kaitangata Crescent, Kelson*, prepared for F.L.Y. Building Ltd by Morphem Environmental Ltd (April 2019).

⁷⁷ *Ecological Assessment for a Proposed Private Plan Change: 280 Major Drive and 51 Kaitangata Crescent, Kelson*, prepared for F.L.Y. Building Ltd by Morphem Environmental Ltd (April 2019), pages 9-10

⁷⁸ *Infrastructure Assessment*, prepared for Major Gardens Ltd by Cuttriss Consultants Ltd (April 2019), page 4

⁷⁹ DPC47/6

hydraulic neutrality with respect to stormwater runoff, and the addition of a matter of discretion relating to the impact of the subdivision on on-site waterways.

- b. Mr and Mrs Able also expressed concern about the development's potential effects on waterways.⁸⁰ Royal Forest and Bird supported GWRC's request, and the Ables' submission, in its own further submission.⁸¹

3.55 Ms Magill addressed these issues in her s42A report. In her opinion, the addition of a specific policy and rules to the Subdivision chapter of the Plan, as proposed by the plan change, will ensure that stormwater from any future development of the site and any associated effects on both on-site and off-site water bodies will be managed, and the existing aquatic conditions of these bodies "will be maintained and enhanced".⁸² We accept and adopt the aligned opinions of expert witnesses in this regard.

3.56 Discussion in the evidence presented to us then turned on the use of the word 'enhance' as an alternative to 'improve' in the relevant policies and rules, in the context of effects of stormwater discharges on waterways. This discussion was returned during the course of, and subsequent to, the hearing. To set the scene, we note that while Dr van Meeuwen-Dijkgraaf presented the view that 'improve' aligned better with the relevant PNRP objective, it was Ms Magill's opinion that 'enhance' was to be favoured over 'improve' as it is consistent with higher order documents including the PNRP, national guidance on biodiversity off-setting and the draft NPS for Indigenous Biodiversity.⁸³

3.57 After some consideration of the matter, including the supplementary evidence from Mr Farrant,⁸⁴ both Mr Beban and Ms Tessendorf concluded, in their EiC, that they were not opposed to Ms Magill's recommendation to amend the relevant policy and matter of discretion to refer to 'maintain or enhance'.⁸⁵

Discussion and findings

3.58 The first question arising for us as a Panel is: is the proposed policy and rule framework appropriate to deal with the issue of stormwater runoff effects on waterways? Our finding is that it is, particularly when we consider the practical effect, at the consenting stage, of the proposed new matter of discretion (xv) containing specific details of engineering measures to manage stormwater runoff, and new Policy 11.1.2(c) which references the subdivision of the land identified in Appendix 8, to which the plan change relates.

3.59 Turning to the matter of phrasing, we agree with the expert planners that both the Policy and the matter of discretion would be made more effective by changing the language to include the word 'enhance' in association with 'maintain', as recommended in the s42A report. All parties agreed with the general direction of the Policy, and acknowledged that 'maintenance' is insufficient as and of itself. While Ms Magill, Ms Tessendorf and Mr Beban considered the word 'enhance' is most appropriate, we note, as Mr Beban and Ms Tessendorf acknowledged in their combined EiC, that Mr Farrant did favour 'improve' over 'enhance'.⁸⁶

⁸⁰ DPC47/4

⁸¹ DPC47F/1

⁸² s42A Report (30 July) 2020, paras 330 & 332, page 58

⁸³ s42A Report (30 July) 2020, paras 341-349, pages 59-60

⁸⁴ Supplementary statement of evidence of Stuart Farrant (5 August 2020)

⁸⁵ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 9.18-9.22, pages 16-17

⁸⁶ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 9.21, page 17, referencing Supplementary statement of evidence of Stuart Farrant (5 August 2020), paras 10-20

- 3.60 Having settled the question as to whether the proposed policy and rule framework appropriate to deal with the issue of stormwater runoff effects on waterways, the second question we pose is: which is the more appropriate phrase in the context of this issue, 'improve' or 'enhance'? Following the hearing, we asked Ms Magill and Mr Beban to provide us with a summary of the direction provided in higher order documents for either term. Having reviewed the NPS for Freshwater Management, RPS, Regional Freshwater Plan and PRNP, their conclusion was that while there is some differentiation between these documents, the NPS for Freshwater Management's use of the word 'improve' should be given precedence given its national status relative to the regional-level documents. They recommended the amendment of the relevant policy and rule framework accordingly, and, in doing so, confirmed that there is scope provided in submissions by GWRC and Royal Forest & Bird⁸⁷ to make these amendments.⁸⁸
- 3.61 We adopt the rationale presented by Ms Magill and Mr Beban, for this ultimate change to the policy and rule framework introduced by the plan change, in accordance with our considerations under s32AA.

Issue 4: Reverse sensitivity effects

Issue identification and evidence

- 3.62 Potential reverse sensitivity effects were not identified or addressed in the s32 evaluation report accompanying the plan change application. However, in their submissions, Mr and Mrs Able, and Mr Izzett,⁸⁹ raised concerns regarding the potential for reverse sensitivity effects to arise from a new residential development being directly adjacent to their rural properties, particularly where noise and odour are concerned. Both parties sought the outright rejection of the plan change on that and other bases, albeit that the Ables' indicated that they would prefer the provision of a "buffer zone" comprising a General Recreation Activity Area, inserted between the General Residential Activity Area and the Rural Residential Activity Area (the latter zoning already applying to their property).
- 3.63 In addressing the matter in her s42A report, Ms Magill considered that the resource consent stage is the appropriate time to identify, consider and address reverse sensitivity effects and forms of mitigation (which may include acoustic insulation, fencing and building setbacks). Noting that the Requestor had proposed a new matter of discretion relating to measures to control reverse sensitivity effects in relation to noise on adjoining properties, her opinion was that such effects can be adequately considered within the proposed consenting framework.⁹⁰ In their combined EiC, Mr Beban and Ms Tessendorf both indicated that they agreed with Ms Magill's assessment.⁹¹

⁸⁷ DPC47/6 and DPC47F/1 respectively

⁸⁸ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

⁸⁹ DPC47/4 and DPC47/5 respectively

⁹⁰ s42A Report (30 July) 2020, paras 298-307, pages 53-54

⁹¹ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 9.14, page 16

Discussion and findings

- 3.64 We have previously noted, in paragraph 3.21a, that estimates of yield associated with the proposed development are important, as the results can potentially offset the assessment of effects relating to reverse sensitivity, among other matters. We observe that at a higher level of development density, more sensitive receptors (i.e. residences) will be exposed to rural activities on adjoining properties. We did not hear any specific evidence from Ms Magill, Mr Beban, or other parties on this matter.
- 3.65 However, we do acknowledge that the inclusion of a new matter of discretion relating to reverse sensitivity, as proposed, will enable consideration of that effect and mitigation measures, at least in terms of noise, at the resource consenting stage, irrespective of yield. We also note that the relief Mr and Mrs Able sought in their submission has effectively been met, through the Requestor's decision to remove a portion of land that adjoins the Ables' property from the area subject to the plan change (as illustrated in **Figures 3 and 4**). This portion of land will retain a Rural Residential Activity Area zoning.
- 3.66 Overall, and notwithstanding the change in the zoning delineation referred to above, we endorse Ms Magill's observation that the potential for reverse sensitivity issues to arise will depend largely on the detailed design and layout of the future subdivision; a matter that can only be practically addressed at the resource consenting stage.⁹²
- 3.67 Despite being raised by the Ables' in their submission, the issue of odour (as opposed to noise) was not addressed by Ms Magill, Mr Beban or Ms Tessendorf. We note that neither the Ables' or Mr Izzett sought to address this particular aspect in oral submissions at the hearing. It is therefore difficult for us to consider the matter further. We do note, however, that odour as an issue is dealt with within the PNRP and under s17 of the RMA, in any case.

Issue 5: Transport effects*Issue identification and evidence*

- 3.68 The Requestor addressed transport effects in the plan change application,⁹³ which was accompanied by a transportation assessment prepared by Harriet Fraser Engineering & Transportation Planning.⁹⁴ Ms Fraser assessed the existing traffic environment, Plan transportation requirements and traffic effects associated with the site's proposed residential development. She concluded that the forecast additional traffic activity arising from the development can be readily accommodated at each of the Major Drive intersections with Kaitangata Crescent, Waipounamu Drive and SH2, and also recommended that the existing Plan provisions requiring subdivisions to use alternatives to Liverton Road, given its physical constraints, should be applied to the rezoned land.⁹⁵
- 3.69 Moving on to our consideration of the issues before us, essentially, as Ms Magill suggested,⁹⁶ transport effects associated with the proposed development can be broken into two categories, namely:

⁹² s42A Report (30 July) 2020, para 302, page 53

⁹³ s32 Report (April 2019), paras 293-297, page 105

⁹⁴ *Proposed Plan Change, 280 Major Drive, Kelson, Lower Hutt Transportation Assessment*, prepared for SG Planning by Harriet Fraser Traffic Engineering & Transportation Assessment (March 2019)

⁹⁵ *Proposed Plan Change, 280 Major Drive, Kelson, Lower Hutt Transportation Assessment*, prepared for SG Planning by Harriet Fraser Traffic Engineering & Transportation Assessment (March 2019), page 11

⁹⁶ s42A Report (30 July) 2020, para 308, page 54

- a. general effects; and
- b. effects in relation to Liverton Road.

3.70 Accordingly, beyond this point, we deal with these matters in turn below.

3.71 The only submission received relating to **general transport matters** was from Waka Kotahi.⁹⁷ The agency's submission adopted a neutral stance, albeit identifying the Major Drive / SH2 intersection as operating at capacity during some peak periods, with that situation likely to worsen as a result of additional traffic generated by the proposed development, and in the absence of any proposed improvements to the intersection over the short to medium term.

3.72 In response to a request for further information from the Council, Ms Fraser tendered a revised transportation assessment, to account for a higher density of development and higher trip rates, than initially assessed.⁹⁸ In that revised assessment, she concluded that, even taking into account a potentially higher density contemplated under some development scenarios, this would not lead to discernible adverse traffic effects on the Major Drive / SH2 intersection.⁹⁹

3.73 General transport effects were dealt with in the s42A report,¹⁰⁰ as well as in Mr Wanty's EiC and supplementary evidence appended to the s42A report.¹⁰¹ Mr Beban and Ms Tessororf briefly dealt with general transport effects in their EiC¹⁰² and, in doing so, have had regard to the supplementary advice provided by Ms Fraser.¹⁰³

3.74 Mr Wanty disagreed with Ms Fraser's conclusions and, based on his own calculations with reference to different yield values, concluded that additional traffic will worsen traffic delays, particularly during the afternoon peak.¹⁰⁴ However, Ms Magill considered that, overall, these effects will not be significant, and that both the existing and proposed Plan provisions relating to 'high trip generators' and triggering consent as a restricted discretionary activity and therefore matters of discretion relating to 'network capacity' inclusive of 'land transport' would enable any traffic effects to be addressed.¹⁰⁵ Both officers also acknowledged that Waka Kotahi, the agency responsible for the operation of SH2, has taken a neutral stance with respect to the plan change.

3.75 Ms Fraser reiterated her view that the intersections of Major Dive with Kaitangata Crescent and Waipounamu Drive can be expected to continue to perform satisfactorily, and that additional traffic activity is not expected to be discernible at the Major Drive / SH2 intersection, irrespective of the lot yield resulting from the site's subdivision.¹⁰⁶

3.76 With respect to **effects in relation to Liverton Road**, the submissions of Mr and Mrs Able and Mr Izzett both expressed concern about people taking the opportunity to park at the

⁹⁷ DPC47/7

⁹⁸ *Proposed Plan Change 47, 280 Major Drive, Kelson, Lower Hutt, Response to Further Information Request – Transportation*, prepared for Urban Edge Planning by Harriet Fraser Engineering & Transportation Planning, 8 July 2020

⁹⁹ *Proposed Plan Change 47, 280 Major Drive, Kelson, Lower Hutt, Response to Further Information Request – Transportation*, prepared for Urban Edge Planning by Harriet Fraser Engineering & Transportation Planning, 8 July 2020, page 4

¹⁰⁰ s42A Report (30 July) 2020, paras 309-320, pages 54-56

¹⁰¹ Brief of Evidence of David Keith Wanty, 29 June 2020 and Supplementary Evidence of David Keith Wanty, 29 July 2020, respectively

¹⁰² Statement of Evidence of James Beban and Corinna Tessororf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 6.13 & 8.16, pages 8 & 12

¹⁰³ *Proposed Private Plan Change 47, 280 Major Drive, Kelson, Lower Hutt, Summary of Transportation Assessment & Response to Further Information Request*, prepared by Harriet Fraser Engineering & Transportation Planning, 25 August 2020

¹⁰⁴ Brief of Evidence of David Keith Wanty, 29 June 2020, paras 35-40, pages 8-9

¹⁰⁵ s42A Report (30 July) 2020, paras 319-320, page 56

¹⁰⁶ *Proposed Private Plan Change 47, 280 Major Drive, Kelson, Lower Hutt, Summary of Transportation Assessment & Response to Further Information Request*, prepared by Harriet Fraser Engineering & Transportation Planning, 25 August 2020, pages 1-2

end of Liverton Road and then walk or cycle through the reserves created as a result of the rezoning of part of the site to General Recreation Activity Area.¹⁰⁷ As relief, the Ables' sought that pedestrian and cycle access to Liverton Road be prevented. Waka Kotahi lodged further submissions in opposition to these submissions, citing support for development catering for all transport modes, and expressing concern that any such prevention would force reliance by road users onto vehicles only.¹⁰⁸

Discussion and findings

- 3.77 As noted in paragraph 3.21a, estimates of yield associated with the proposed development are important, as the results can potentially offset the assessment of effects relating to **general transport effects**, among other matters. However, we note that Mr Wanty ultimately concluded that while a proposed development realising 100 lots would have less impact on traffic volumes than one realising 210 lots, the local network could still accommodate either scenario, and that 'high risk' safety and efficiency concerns associated with the Major Drive / SH2 intersection exist now,¹⁰⁹ independent of (albeit exacerbated by) any further development in the roading catchment.
- 3.78 We note that with respect to general transport effects, and particularly the effect of increased traffic volumes on the Major Drive / SH2 intersection, neither Mr Wanty or Waka Kotahi appeared to be overly concerned. As Ms Magill noted, there are provisions in the operative Plan to deal with any such effects at the time of subdivision or resource consent. We have heard nothing from expert witnesses to suggest that the site is not suitable, in transport terms, for development of the type envisaged by the plan change.
- 3.79 However, we do retain some doubt regarding the effectiveness of the 'high trip generator' provisions Ms Magill identified in her evidence,¹¹⁰ and that Mr Magill and Mr Beban returned to in response to a question we posed at the hearing,¹¹¹ as those provisions may or may not be triggered, depending on the manner in which the subdivision of the site is staged. However, we do acknowledge that Waka Kotahi did not oppose the plan change, and accept that Major Drive has sufficient capacity, and that only its intersection with SH2 presents a potential problem. Further, we acknowledge and accept that there is a process in place, within the operative Plan, for addressing such effects at the time of development, whether it is effective or not.
- 3.80 With respect to **Liverton Road** potentially acting as a parking area for recreational users, in our view, there seemed to something of a misunderstanding among submitters about the proposed General Recreation Activity Area zoning; effectively this zone provides for passive not active recreation. As Ms Magill noted in her s42A report there are no plans for future reserves to become a 'destination' recreational area.¹¹² Our own visit and observations regarding the typography of the area and the sensitive ecological values associated with it tend to support this.
- 3.81 We note and agree with Mr Beban and Ms Tessendorf's observation in their EiC that the current physical and proposed access constraints on Liverton Road, will have the effect of

¹⁰⁷ DPC47/4 and DPC47/5 respectively

¹⁰⁸ DPC47F/2

¹⁰⁹ Brief of Evidence of David Keith Wanty, 29 June 2020 and Supplementary Evidence of David Keith Wanty, 29 July 2020, respectively

¹¹⁰ s42A Report (30 July) 2020, para 319, page 56

¹¹¹ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

¹¹² s42A Report (30 July) 2020, para 325, page 57

lowering vehicle volumes and speeds and confirm the appropriateness of the route for use by cyclists and pedestrians.¹¹³

- 3.82 Waka Kotahi, in opposing submitters themselves opposed to the plan change, indicated that it supported development that improves connectivity for pedestrians and cyclists.¹¹⁴ However, from our perspective, there is nothing immediately obvious about the plan change that shows how such connectivity would be enabled; something Ms Magill also observed in her evidence.¹¹⁵ This is something that we remain doubtful about, notwithstanding the response Ms Magill and Mr Beban provided¹¹⁶ following a question we posed at the hearing. No changes were proposed to resolve this, and accordingly we are not in a position to recommend a change ourselves. In our view, this underlines the point we have made elsewhere about the value of a structure plan to guide the development (absent from the proposal). Notwithstanding our reservations about the absence of a structure plan and the ability to ensure connectivity linkages there is nothing fatal in these 'omissions' to cause us to question the suitability of the proposed provisions.
- 3.83 In our view, the real issue associated with Liverton Road is its limited capacity. Current provisions in the operative Plan already recognise this issue, notably Rural Residential Activity Area Objective 8A 1.1.3, and associated Policy (a), which effectively strongly discourages development. Despite this, as we were reminded by Ms Magill and Mr Beban, in response to a question we posed at the hearing, there is no supporting rule for the Rural Residential Activity Area, meaning up to 4 – 5 dwellings under that zoning could be established with direct access onto Liverton Road, with no consideration of the resulting traffic effects.¹¹⁷ Accordingly, the operative district plan appears to be weak on delivering on a policy to discourage access onto Liverton Road.
- 3.84 However, the zoning pattern would be newly delineated as a result of the plan change, which recognises this 'gap' and deals with it in two ways:
- a. by inserting a new Policy under 11.1.2 (d) as notified, seeking to restrict access and avoid increased traffic volumes on Liverton Road; and
 - b. by according development accessing Liverton Road a non-complying activity status by virtue of Rule 11.2.5(b).
- 3.85 In combination, in our view, these proposed provisions provide an equally strong degree of policy discouragement to the operative Plan provisions applying in rural zoned areas but enhanced by a strong method to implement that policy. We consider this to be appropriate.
- 3.86 We did however question Ms Magill and Mr Beban after adjourning the hearing, as to whether non-complying activity status was the optimal solution to the Liverton Road situation, and asked them to consider whether access onto Liverton Road should be accorded prohibited activity status instead. In response, Ms Magill and Mr Beban rejected prohibited activity status and reiterated their view that a non-complying activity is appropriate in that it enables the tests of s104D(1) to be applied and that the status aligns with comparable provisions relating to the Rural Residential Activity Area.¹¹⁸ In the absence of evidence to contrary we have to accept this. In our view, given the use of

¹¹³ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 8.21-8.22 pages 12-13

¹¹⁴ DPC47/7

¹¹⁵ s42A Report (30 July) 2020, para 324, page 57

¹¹⁶ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

¹¹⁷ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

¹¹⁸ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

‘restrict’ and ‘avoid’ in the Policy, it creates a consenting pathway in theory but not in practice. We take comfort, however, that non-complying activity status does create a high bar in consenting terms.

Issue 6: Effects on infrastructure

Issue identification and evidence

- 3.87 Here we deal with the effects the proposed development may have on infrastructure, in terms of demand and supply (capacity). The effects that stormwater runoff from the proposed development enabled by the plan change may have on waterways has been addressed under **Issue 3**.
- 3.88 The Requestor addressed infrastructure effects in the plan change application,¹¹⁹ which was accompanied by an infrastructure assessment prepared by Cuttriss Consultants Ltd.¹²⁰ The assessment considered the capacity of water, wastewater, stormwater (“the 3 waters”), power and telecommunications capacity in the area and found that it is either sufficient to accommodate additional demand or, where constraints exist, new infrastructure can be provided, with those requirements addressed through the resource consent process. The assessment (and application) concluded that adequate provisions already exist in the Plan to prompt that consideration at the consenting stage.
- 3.89 Mr Rose, an environmental engineer with Envelope Engineering Ltd, was engaged by HCC to review and provide evidence with regards to 3 waters and utilities servicing aspects of the plan change.¹²¹ Mr Rose also considered servicing issues as raised in submissions to the plan change.
- 3.90 As noted in paragraph 3.21a, estimates of yield associated with the proposed development are important, as the results can potentially offset the assessment of effects relating to **infrastructure effects**, among other matters. Importantly, therefore, Mr Rose assessed the proposal’s infrastructure demands based on potential yield scenarios involving unit yields of 100 and 230 respectively, the latter taking into account the additional development density promulgated by PC43, and having discussed infrastructure capacity with Wellington Water and HCC asset staff.¹²²
- 3.91 On this basis, Mr Rose identified some servicing issues relating to water pressure, downstream wastewater network constraints, and flooding / attenuation and sensitive receiving environment considerations relating to the 3 waters, but concluded that all these matters can be addressed via a design led approach, sizing infrastructure upgrades to cope, and resolving and conditioning solutions in a phased manner at the consenting stage.¹²³ Overall, he presented a view that there are no obvious servicing issues that would preclude the plan change progressing.¹²⁴ His conclusion was relied on by Ms Magill and Mr Beban and Ms Tessendorf in their own evidence.¹²⁵

¹¹⁹ s32 Report (April 2019), paras 280-282, page 104

¹²⁰ *Proposed Plan Change, 280 Major Drive & 50 Kaitangata Crescent Kelson, Infrastructure Assessment*, prepared for Major Gardens Ltd by Cuttriss Consultants Ltd (April 2019)

¹²¹ Statement of Evidence of Ryan Henare Rose on Behalf of Hutt City Council (28 July 2020)

¹²² Statement of Evidence of Ryan Henare Rose on Behalf of Hutt City Council (28 July 2020), paras 11-12, page 3-4

¹²³ Statement of Evidence of Ryan Henare Rose on Behalf of Hutt City Council (28 July 2020), in relation to water (para 20, page 5), wastewater (para 26, page 6) and stormwater (para 35, page 7)

¹²⁴ Statement of Evidence of Ryan Henare Rose on Behalf of Hutt City Council (28 July 2020), paras 8 & 53, pages 3 & 9

¹²⁵ s42A Report (30 July) 2020, para 297, page 53 and Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 6.9, page 7

- 3.92 We also note that, with respect to stormwater matters, Mr Farrant considered that the design and sizing of stormwater management devices (e.g. bioretention, rainwater tanks) will be based on post-development hydrology and extent of impervious surfacing, and are therefore scalable in response to development density.¹²⁶ At the hearing Mr Rose indicated that he concurred with Mr Farrant's conclusion in this respect.

Discussion and findings

- 3.93 We note that operative provisions in the Plan would come into play at the consenting stage where the development of the site is concerned. For example:
- a. Standards set out in Rule 11.2.2.2 that apply with respect to subdivision applications as a controlled activity include those relating to engineering design (b), inclusive of stormwater (iv), wastewater (v), water supply (vi) and telecommunications and electricity (vii) matters.
 - b. Subdivision applications unable to comply with the above standards would be assessed as restricted discretionary activities (the actual starting point for development of the subject site) by virtue of Rule 11.2.3(a).
 - c. A relevant matter of discretion with respect to subdivisions assessed as restricted discretionary activities is the extent of compliance with Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).
- 3.94 Based on the evidence and information made available to us, we find that there is nothing unique about the site, in terms of effects of its development on infrastructure capacity, that requires a bespoke approach. The operative provisions of the Plan provide a suitable basis for addressing identified constraints at the consenting stage, and can be relied upon for the purposes of the plan change.

Issue 7: The appropriateness of rezoning the land to General Residential Activity Area

Issue identification and evidence

- 3.95 Ms Magill's position on this matter was that the proposed rezoning of the site, and in particular the zoning of portions to General Residential Activity Area, is consistent with, and the best way to achieve, s5 of the RMA, as the site:
- a. is situated within the urban boundaries of Lower Hutt;
 - b. is adjoined by General Residential Activity Area zoned properties to the southwest and its rezoning would enable its development in a consistent manner;
 - c. is accessible from the existing road network and can be adequately serviced;
 - d. is capable of accommodating up to 210 dwellings, subject to the granting of consent as a restricted discretionary activity;
 - e. would be more efficiently used as a result of the rezoning; and

¹²⁶ Supplementary statement of evidence of Stuart Farrant (5 August 2020), para 23

- f. being subject to site-specific subdivision provisions will ensure that any potential stormwater effects can be managed.¹²⁷

Discussion and findings

- 3.96 Our own consideration of the appropriateness of the General Residential Activity Area rezoning is guided having regard to:
- a. any environmental effects and/or resource management issues arising from the rezoning; and
 - b. the higher order direction provided in national and regional level resource management plans and strategies.
- 3.97 With respect to environmental effects and / or resource management issues, we find that there are none that would render a residential zoning inappropriate (refer also to the discussion and our findings with respect to **Issues 1 to 6** above).
- 3.98 With respect to higher order documents, we drawn on, and concur with, the conclusions Ms Magill, and Mr Beban and Ms Tessendorf, reached in their evidence:
- a. Mr Beban and Ms Tessendorf observed that the UGS 2012 – 2032 identifies the land at the end of Major Drive in Kelson as suitable for moderate to large scale residential development.¹²⁸
 - b. Ms Magill outlined how that identification in the UGS led to discussions regarding a Council-initiated plan change, which in any case did not proceed at the time.¹²⁹ In any event, Ms Magill considered that the current private plan change supports the intended outcomes of the UGS.¹³⁰
- 3.99 With respect to national-level direction, we note that the NPS on Urban Development Capacity 2016 and the NPS on Urban Development 2020 are of particular relevance, as both Ms Magill, and Mr Beban and Ms Tessendorf, attested.¹³¹ The 2020 NPS took effect on 20 August this year, superseding the 2016 NPS, but both were considered by planning witnesses, given the timing of the plan change. The 2016 NPS obliged the Council to prepare a Housing and Business Development Capacity Assessment (HBA) and this assessment remains relevant where the recently operative 2020 NPS is concerned.
- 3.100 In her s42A report,¹³² Ms Magill concurred with the conclusions that the s32 evaluation report accompanying the application reached; namely that the further development enabled by the plan change would contribute to providing for sufficient housing capacity and, as such, is consistent with the 2016 NPS, at least.¹³³ In their EiC, Mr Beban and Ms Tessendorf noted that the HBA found that Hutt City has insufficient development capacity to meet demand over the next 30 years, with a significant projected shortfall of between 1632 and 6783 dwellings (based on medium and high growth scenarios). On that basis,

¹²⁷ s42A Report (30 July) 2020, paras 95-96, pages 20-21

¹²⁸ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 12.3, page 30

¹²⁹ s42A Report (30 July) 2020, paras 56-59, page 14

¹³⁰ s42A Report (30 July) 2020, para 244, page 45

¹³¹ s42A Report (30 July) 2020, paras 118-121, pages 24-25 and Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 12.5 & 12.12, pages 30 & 31

¹³² s42A Report (30 July) 2020, para 129, page 26

¹³³ s32 Report (April 2019), paras 89-92, page 66

they concluded that the additional housing development enabled by the plan change will assist the Council in addressing that identified shortfall.¹³⁴

3.101 Mr Beban returned to the matter in his opening statement at the hearing, given the incipient replacement of the 2016 NPS by the 2020 NPS. He noted that the change in NPS does not substantially alter the consideration of the plan change as both NPSs seek to ensure that there is sufficient land to accommodate future housing supply. Mr Beban clarified that the expected yield realised by the plan change is actually built into and therefore accounted for in the HBA, but that nonetheless:

- a. under a medium growth scenario, there remains insufficient capacity in the district over the long term;
- b. under a high growth scenario, there exists insufficient capacity in the district over the medium to long term; and
- c. those shortfalls would be exacerbated were the plan change not to proceed.¹³⁵

3.102 Overall, then, we observe that it is obvious that increased supply of developable land is needed to meet demand in Hutt City for residential growth, and that the objectives of higher order documents will be met, in part, through the plan change.

Issue 8: The appropriateness of rezoning the land to General Recreation Activity Area

Issue identification and evidence

3.103 Ms Magill considered that the proposing rezoning of those areas of the site containing vegetation identified as holding ecological significance, and the majority of on-site water bodies, to General Recreation Activity Area, is appropriate as it would help preserve the natural character of the vegetation and waterbodies and ensure that areas of ecological value would be maintained and protected over time.¹³⁶ In their combined EiC, Mr Beban and Ms Tessendorf concurred, citing in their view the “rather restrictive” nature of the zoning, where “future development” is concerned.¹³⁷

Discussion and findings

3.104 Under **Issue 2**, in considering the potential effects of the proposed plan change on biodiversity values, we first find that the values themselves are significant. It is also clear to us that these values are located within the areas subject to a proposed rezoning to General Recreation Activity Area. We also note that the answer to the subsequent question, relating to whether there would or could be an adverse effect on significant ecological resources as a result of the development permitted by the plan change, is dependent on the appropriateness of the proposed zone in that regard. This, in our view, is the determinative matter associated with the hearing and not, as Mr Beban suggested in his right of reply, “biodiversity matters” *per se*.¹³⁸

¹³⁴ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 12.9-12.11, page 31

¹³⁵ Opening Statement of James Gary Beban, 26 August 2020, paras 5.1-5.5, pages 5-6

¹³⁶ s42A Report (30 July) 2020, paras 99 & 105, pages 21 & 22

¹³⁷ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 8.6, page 10

¹³⁸ Right of Reply, James Gary Beban, 4 September 2020, para 1.2, page 1

- 3.105 The Requestor's essential position since the notification of the plan change has been that the proposed General Recreation Activity Area zoning is appropriate, as it provides for a passive form of recreation, is reasonably limited in provision for development which, it requires, must be associated with recreational activity.¹³⁹
- 3.106 As expressed at hearing, we had some residual doubts about the appropriateness and adequacy of the zoning, as our observation is that the General Recreation Activity Area zone does in fact permit a certain development intensity (e.g. buildings up to 100m² in area and 8m in height). In an endeavour to settle this, we asked Ms Magill and Mr Beban to respond to some questions that we posed at the end of the hearing, which can be summarised as follows:
- a. What are the operative rule provisions relating to vegetation management in the four relevant zones (General Recreation, General Residential, Hill Residential, Rural Residential)?
 - b. What are provided for as permitted activities, and what controls are there on buildings and earthworks, in the General Recreation Activity Area?
 - c. What zoning options were considered, and to what extent was a 'bespoke' zone contemplated (inclusive of operative zone, draft SNA and second-generation RMA plan provisions)?
 - d. How did PC48 relating to the rezoning of Waipounamu Drive deal with significant vegetation?
 - e. What is the activity status for utilities traversing areas of indigenous vegetation associated with PC47?
 - f. With respect to the reference to "legal mechanisms" proposed to be introduced via new Rule 11.2.3.1(c)(xvii), what are they, how would they be enacted, where have they been used previously and to what success, and how effective would they be under a staging scenario?
- 3.107 The answers Ms Magill and Mr Beban provided us with¹⁴⁰ have given us a better understanding of the limitations and deficiencies of the General Recreation Activity Area zoning and how they could be compensated for by additions, introduced by the plan change. In summary, and in response to the questions as summarised above:
- a. Vegetation removal would be a discretionary activity in the General Recreation Activity Area (with the potential exception of "ancillary" clearance associated with permitted recreational activities), and a permitted activity (subject to certain thresholds) in the other zones.
 - b. Recreation and ancillary activities, "landscape furniture" and river / stream works are permitted activities, buildings are subject to yard, height, recession plane and coverage and size limits, and earthworks are subject to level altering and volume limits, in the General Recreation Activity Area.
 - c. Most operative Plan urban and rural zoning options were considered and rejected on the basis that would not provide for intended residential development nor protect biodiversity values. The development of a bespoke zone was seen as unreasonable, given the small area involved, and a desire to align with the prescriptive zoning palette available under the National Planning

¹³⁹ s32 Report (April 2019), para 270, page 102

¹⁴⁰ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

Standards 2019. The option of applying operative Plan provisions relating to significant natural, cultural and archaeological resources was considered and rejected as, primarily, these provisions are not applied to private land. The draft SNA provisions are judged not to be suitable as they rely on voluntary protection by private land owners. The General Recreation Activity Area zoning, when combined with the introduction of site-specific matters by way of PC47, was seen as most suitable given the intentions to both vest as reserves the areas concerned and to protect biodiversity values (given the “rather restrictive” approach to development in the zone provisions). The consent status of vegetation removal under the zone was also seen as consistent with second-generation plans elsewhere in the Wellington Region and the approach taken with PC48.

- d. Under PC48, a similar consent status for subdivision applies, but no specific matters relating to the protection of indigenous vegetation are imposed (c.f. the effect of PC47).
- e. Underground utilities, while permitted in all zones, are nonetheless subject to compliance with standards relating to earthworks and vegetation. Unfortunately, it is not clear from the response provided whether activities unable to comply with these standards would default to restricted discretionary or discretionary activity status.
- f. “Legal mechanisms” may include vesting as a reserve, consent notices attached to titles at the time of subdivision, or covenants attached to titles at the time of land consent. All have been employed previously by HCC to protect ecological, biological and/or amenity values associated with vegetation. Irrespective of the method chosen, it would likely be imposed on all relevant parts of the site at the time of the first consent application.

3.108 Certainly, in our view, the appropriateness of a General Recreation Activity Area zoning, on its own, as a method in protecting biodiversity and ecological values is questionable. The zone’s purpose is not squarely aimed at protecting biodiversity values and objectives and policies are focused only on avoiding or discouraging development in “bush clad” areas (other forms of potentially significant vegetation coverage or ecotypes such as wetlands are not referenced). Its consenting framework is too permissive in that respect, in that it permits recreation and ancillary activities, places no restrictions on vegetation clearance *per se*, and as such could countenance a considerable degree of disturbance to vegetation e.g. through the construction of biking tracks.

3.109 However, when considered in conjunction with the amendments that PC47 proposes (inclusive of matters of discretion and references to legal mechanisms) this option, whilst still not optimal, is in our finding adequate and preferable to any other of the canvassed options or the status quo under the current site zoning, and particularly in the absence of available, purpose-built content relating to significant natural areas.

Issue 9: Other matters

Issue identification and evidence

3.110 Collectively, Ms Magill, and Mr Beban and Ms Tessendorf, identified and addressed a number of other matters that have been raised in submissions. These matters, and the planning witnesses' views on them, can be summarised as follows:

- a. **Energy efficiency:** in relation to Mr Izzett's concern¹⁴¹ that the identified need to pump wastewater and stormwater uphill from the site is not an efficient end use of energy under s7(ba) of the RMA, Mr Beban and Ms Tessendorf noted that the use of gravity mains to convey wastewater would require the traversing of areas of significant vegetation, and all witnesses' note that pumping is common in hill suburbs.¹⁴²
- b. **Gas distribution network and National Grid:** Mr Beban and Ms Tessendorf noted¹⁴³ that, in their submissions, Powerco¹⁴⁴ indicated that gas demand arising from the subdivision can be met, and that Transpower¹⁴⁵ was supportive of the proposed plan change. Mr Magill observed that the existing development controls afforded by the National Grid overlay and notation will continue to apply to relevant portions of the site.¹⁴⁶
- c. **Regional form:** Mr Beban and Ms Tessendorf noted¹⁴⁷ that GWRC was supportive of the proposed plan change in its submission,¹⁴⁸ given its consistency with the UGS.
- d. **Practicality and viability of the development:** Ms Magill considered¹⁴⁹ that Mr and Mrs Able's concerns¹⁵⁰ regarding the financial ability of the developer to implement design solutions were not a resource management consideration.
- e. **Property values:** Ms Magill considered¹⁵¹ that Mr and Mrs Able's concerns,¹⁵² extending beyond potential amenity effects, to impacts on property values, were not a resource management consideration.
- f. **Improving language of proposed provisions:** Ms Magill noted¹⁵³ that amendments to improve the wording of provisions introduced by the plan change were requested by Mr Kinnoch and GWRC in their submissions,¹⁵⁴ accepted by the Requestor and incorporated into the plan change, and were accepted by her.

¹⁴¹ DPC47/5

¹⁴² s42A Report (30 July) 2020, paras 373-377, page 63 and Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 8.28-8.29, pages 13-14

¹⁴³ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, paras 8.25-8.26, page 13

¹⁴⁴ DPC47/2

¹⁴⁵ DPC47/3

¹⁴⁶ s42A Report (30 July) 2020, paras 366-367, page 62

¹⁴⁷ Statement of Evidence of James Beban and Corinna Tessendorf on Behalf of F.L.Y. Building Ltd, 7 August 2020, para 8.27, page 13

¹⁴⁸ DPC47/6

¹⁴⁹ s42A Report (30 July) 2020, paras 378-379, page 63

¹⁵⁰ DPC47/4

¹⁵¹ s42A Report (30 July) 2020, paras 380-381, page 63

¹⁵² DPC47/4

¹⁵³ s42A Report (30 July) 2020, paras 382-383, page 64

¹⁵⁴ DPC47/1 & DPC47/6 respectively

Discussion and findings

- 3.111 We concur with and endorse the advice of planning witnesses in relation to the “other matters” as outlined above.
- 3.112 We also posed a question to Ms Magill and Mr Beban during the hearing relating to an apparent inconsistency between the terms “land identified” and “sites identified” in Policy 11.1.2(d), and Rules 11.2.3(d) and 11.2.3.1(c)(xvii), for example. In response, the witnesses recommended that the relevant provisions are amended so that they reference “land”,¹⁵⁵ and we accept those amendments (as set out in **Appendix 2**).
- 3.113 We also asked Mr Beban at the hearing why the policy wording for Liverton Road was different in the subdivision chapter from that in the chapter relating to the Rural Residential Activity Area. In Mr Beban’s right of reply,¹⁵⁶ he advised that, in his view, the proposed wording of Policy 11.1.2(d) accords with the subsequent non-complying status of lots accessing Liverton Road. We accept Mr Beban’s advice in this respect.
- 3.114 On a final note, we would like to make the point that, had the plan change been accompanied by a structure plan, it may well have allayed some of the concerns of submitters, as well as making our consideration of the proposal somewhat simpler, particularly where ‘edge’ or reverse sensitivity effects and provision for connectivity were concerned.

¹⁵⁵ Response to further information requested at the Hearing, James Beban and Kate Magill, 4 September 2020

¹⁵⁶ Right of Reply, James Gary Beban, 4 September 2020, para 1.5, page 2

4. STATUTORY CONSIDERATIONS

- 4.1 Drawing on consideration of the plan change material, the submissions and further submissions, and the evidence presented, this part of our report addresses the statutory requirements outlined at the start of **Section 3** above.
- 4.2 We have adopted a thematic approach to presenting our findings in this respect, using relevant *Colonial Vineyards* criteria as a ‘road map.’ In particular, we rely on the detailed reasoning in **Section 3** and added to it where appropriate in the context of each thematic question we outline in turn below.

Is the plan change designed to accord with, and assist the Council to carry out its functions so as to achieve the purpose of the Act?

- 4.3 PC47 involves the inclusion of provisions into the operative Plan to achieve integrated management of the effects of the use, development, and protection of land and associated natural and physical resources of Hutt City. Further, the plan change aims to control the actual or potential effects of the use, development and protection of land to which it relates.
- 4.4 Accordingly, we find that the plan change is designed to accord with and assist the Council in carrying out its s31 functions.

Does the plan change give effect to any NPS or the NZCPS?

- 4.5 We find that the plan change gives effect to the NPS on Urban Development 2020. The NZCPS is not relevant to the plan change.

Does the plan change give effect to the Regional Policy Statement?

- 4.6 We find that PC47 provisions give effect to, or at least are consistent with, the following RPS provisions:
- a. Objective 10 and Policy 39 relating to regionally significant infrastructure;
 - b. Objectives 8, 12 – 14 and Policies 15, 40 – 43, 45 and 53 relating to freshwater quantity, quality, ecosystems and public access;
 - c. Objective 16 and Policies 23, 24 and 47 relating to indigenous ecosystems and habitats;
 - d. Objectives 17 and 18 and Policies 27 and 50 relating to outstanding natural features and landscapes and special amenity landscapes;
 - e. Objectives 19 and 21 and Policy 51 relating to natural hazards;
 - f. Objective 22 and Policies 30, 31 and 54 – 58 relating to regional form, design and function;
 - g. Objective 23 and Policies 48 and 49 relating to the principles of the Treaty of Waitangi and matters of significance to tangata whenua; and
 - h. Objective 29 and Policy 41 relating to land management practices.

Is the plan change consistent with any regional plans or proposed regional plans?

- 4.7 We were not presented with any evidence to suggest that the proposal is inconsistent with any operative regional plan or the PNRP.

What (if any) regard should be given to relevant management plans and strategies under other Acts, including any relevant entry in the Historic Places Register?

- 4.8 The site to which the plan change relates is not identified in any RMA policy statement or plan as having any special historical or cultural significance, and we have not been presented with any evidence to the contrary.

To what extent does the District Plan need to be consistent with the plans or proposed plans of adjacent territorial authorities?

- 4.9 We were not advised of any cross-boundary issues that require any particular measures to be adopted by the plan change. We are satisfied that the proposal has had sufficient regard to the extent to which it needs to be consistent with other plans of other territorial authorities.

Are the provisions the most appropriate way to implement the "objectives," having regard to their efficiency and effectiveness, actual and potential environmental effects and reasonable alternatives?

- 4.10 As set out under our preamble in **Section 3** of this report, there are two suites of 'objectives' that we have considered, being:

- a. the goals set out in the plan change's purpose; and
- b. the settled, relevant objectives of the operative Plan

- 4.11 Assessing the former first, the **proposed provisions** have been explicitly designed to be effective and efficient at implementing the plan change's stated purpose (as it is set out in paragraph 2.15). Moreover, the amendments to the proposed plan provisions arising since notification as set out in **Appendix 2** have been made for the purposes of improving clarity and / or effective implementation. The appropriate analysis under s32AA has also been completed in that regard.

- 4.12 Although the exact yield arising from the development of the site remains to be determined, the rezoning of a portion of the site to General Residential Activity Area will enable the site to be developed for residential purposes. With suitable, additional amendments, as proposed (as set out in **Appendix 2**), the rezoning of the remainder of the site to General Recreation Activity Area does provide for the protection of significant natural areas. And, finally, the inclusion of site-specific provisions into the operative Plan will ensure that the ecological integrity of on-site streams and downstream receiving environments are not adversely affected, and undue traffic safety effects on Liverton Road do not arise.

- 4.13 Turning to the settled, relevant objectives of the **operative Plan**, we agree with Ms Magill¹⁵⁷ that these are to be found in the chapters relating to the four zonings (General Residential, General Recreation, Hill Residential and Rural Residential Activity Areas), and also Subdivision, Transport and Earthworks topics. There are also a number of Area Wide Objectives set out in Chapter 1 of the operative Plan that are relevant in broad terms. A summary of the relevant Plan objectives and our commentary against them follows.
- 4.14 We consider that the change in land uses and development catered for by the plan change will effectively implement **Area Wide Objectives 1.10.3 and 1.10.4**, which respectively seek “to accommodate residential growth and development through consolidation of the existing urban area but to allow some peripheral development” and “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.”
- 4.15 We have not been presented with any information or evidence to suggest that the proposal is inconsistent with **Area Wide Objective 1.10.1**, which seeks to “respond to the principles of the Treaty of Waitangi and other matters of significance to tangata whenua as specified in the Act.”
- 4.16 While we find that the proposal will not in itself “protect and enhance the rural character, landscape and amenity values of the rural activity area” (**Area Wide Objective 1.10.5**), we do accept that the site’s rezoning for residential purposes is anticipated by other objectives in the Plan and in higher order documents, and the opportunity to “identify, maintain and enhance the character and amenity values of the different activity areas” (**Area Wide Objective 1.10.2**) as a result of that rezoning remains.
- 4.17 Where the proposed General Residential Activity Area is concerned, relevant objectives, together with supporting policies, seek to increase housing capacity and variety (**Objective 4A 2.2**), ensure that built development is adequately serviced by network infrastructure or addresses any network infrastructure constraints on the site (**Objective 4A 2.5**) and is located and designed to manage significant risk from natural hazards (**Objective 4A 2.6**). We find that PC47 gives effect to these objectives, and is not inconsistent with the remainder relating to the General Residential Activity Area.
- 4.18 Where the proposed General Recreation Activity Area is concerned, we find that the resulting zoning pattern will not be inconsistent with relevant objectives, together with supporting policies, which seek to ensure that recreation activities “have adverse effects, which are no more than minor on adjoining residential activity areas” (**Objective 7A 1.1.1**) and that such activities when “carried out are compatible with the physical characteristics of the land” (**Objective 7A 1.1.2**). In relation to the second objective, we note in particular **Policies (b), (c) and (d)**, which seek to protect the values of “bush-clad areas.” Our comments on the attributes and limitations of the plan change in that respect can be found in paragraphs 3.31 and 3.108.
- 4.19 With respect to the current zones that apply to the site, we note (as in paragraph 4.16 above), that the effect of PC47 will not be to ‘maintain and enhance’ character and amenity values of Hill Residential and Rural Residential Activity Areas (**Objectives 4D 1.1.1, 8A 1.1.1, 8A 1.2.1**), given the distinctly denser development envisaged by the site’s rezoning. However, that rezoning is anticipated in higher order documents, and the partial zoning of the site as Rural Residential Activity Area to this point, has effectively served its purpose, in terms of **Objective 8A 1.1.2**, which seeks “to retain land as rural residential,

¹⁵⁷ s42A Report (30 July) 2020, para 252, page 46

- recognising that it may be appropriate to utilise the land for urban expansion in the future if demand justifies this.” The safeguards built into the plan change will also ensure that **Objective 8A 1.1.3**, which recognises ‘that it is not appropriate for there to be further growth in the number of vehicles using Liverton Road”, is reinforced by the plan change.
- 4.20 With respect to the Plan’s policy direction in relation to subdivision, we find that PC47 is not inconsistent with **Objectives 11.1.1 and 11.1.2** which provide the rationale for allotment and engineering standards. The rezoning of significant natural areas on the site to General Recreation Activity Area would effectively meet the intention of **Objective 11.1.4**, which seeks to ensure, in part, that areas adjoining rivers and other environmentally sensitive areas are protected from inappropriate development. While **Objective 11.1.5**, which, in part, seeks to restrict subdivision in order to maintain the amenity values of rural and rural residential areas will not be achieved, the site’s partial rezoning for residential purposes is anticipated (as above) and will provide for the more efficient use of land, which is the other arm of the objective.
- 4.21 We have not been presented with any information or evidence to suggest that any of the operative Plan’s objectives and associated policies relating to transport matters would be undermined by the proposed plan change (**Objectives 14A 3.1 to 3.5** refer).
- 4.22 Finally, we find that the proposed plan change will not be inconsistent with the Plan’s policy direction with respect to earthworks. We note that the more ‘difficult’ on-site topography will attract a General Recreation Activity Area zoning, which will reduce the scale and extent of earthworks otherwise required, and any adverse effects on the natural features and visual amenity values identified in **Objectives 14I 1.1 and 14I 1.2**.
- 4.23 With respect to the relevant objectives introduced by PC43 we note Ms Magill’s advice,¹⁵⁸ that as these were not appealed, they have been made operative, and are therefore ‘settled’ for the purposes of our consideration. The new objectives introduced by PC43 with respect to the General Residential Activity Area are incorporated into our consideration of the relevant objectives for that zone in paragraph 4.17 above.
- 4.24 On the other hand, we understand that the Environment Court, in terms of its consideration of appeals against PC36, is considering the introduction of new provisions to the Plan.¹⁵⁹ Accordingly, as they are not ‘settled’, we have not considered them in depth here.

¹⁵⁸ s42A Report (30 July) 2020, para 44, page 12

¹⁵⁹ s42A Report (30 July) 2020, para 50, page 13

5. OVERALL RECOMMENDATION

- 5.1 Based on our consideration of all the material before us, including the section 42A report from the Council's advisors, submissions, further submissions, evidence presented at the hearing and following consideration of the requirements of section 32AA and other relevant statutory matters, and for the reasons we have set out above in **Sections 3 and 4**, we recommend to the Council that:
- a. the plan change be **accepted** as notified, and as further amended prior to, during and subsequent to the hearing, as set out in **Appendix 2**;
 - b. that all submissions on the plan change be accepted or rejected to the extent that they correspond with that conclusion and the matters we have set out in the preceding report sections (and as summarised in **Appendix 1**); and
 - c. pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, Council give notice of its decision on submissions to Plan Change 47.

DATED AT WELLINGTON THIS 2nd DAY OF OCTOBER 2020



DJ McMahon
Chair



EA Burge
Independent Commissioner

APPENDIX 1

Panel recommendations on relief sought by **submissions** and **further submissions**

DPC47/1 Daniel Kinnoch - Initial submission				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
1.1	Amendment 1: Policy 11.1.2(c)	Neutral	Amend Policy 11.1.2(c) as follows: (c) The engineering practices maintain the ecological values of the onsite streams and the downstream receiving environments from stormwater runoff resulting from the subdivision of the land identified in Appendix 8.	Accept Correction / clarification.
1.2	Amendment 3: Rule 11.2.3(d)		Amend Rule 11.2.3(d) as follows: (d) Any subdivision of the sites identified in Appendix Subdivision 7 or Appendix Subdivision 8.	Accept Correction / clarification.
1.3	Amendment 4: Matter of Discretion 11.2.3.1(c)		Amend Matter of Discretion 11.2.3.1(c) as follows: (c) Any subdivision of the sites identified in Appendix Subdivision 7 or Appendix Subdivision 8.	Accept Correction / clarification.
1.4	Amendment 5: Rule 11.2.4(l)		Amend Rule 11.2.4(l) as follows: (l) Any subdivision of the sites identified in Appendix Subdivision 7 or Appendix Subdivision 8 that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (a) Allotment Design.	Accept Correction / clarification.

1.5	Amendment 7: Rule 11.2.5(b)		Amend Rule 11.2.5(b) as follows: (b) Any subdivision of the sites identified in Appendix Subdivision X8 which results in any <u>new</u> lots with residential dwellings having vehicular access to Liverton Road.	Accept Minor change - correction / clarification.
DPC47/2 Powerco Limited - Initial Submission				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
2.1	General	Neutral	No decision requested.	Accept
DPC47/3 Transpower New Zealand Limited - Initial Submission				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
3.1	Amendment 9: Planning Map E1	Support	No decision requested.	Accept
DPC47/4 Richard and Sarah Able				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
4.1	General	Oppose	Reject the proposed plan change.	Reject

				Approve plan change including amendments in response to submissions
4.2	Buffer Zones		The submitter would prefer a buffer zone of General Recreation Activity Area between the General Residential Activity Area and Rural Residential Activity Area.	Reject in part Rather than introducing a buffer zone add a new Matters of Discretion to address potential reverse sensitivity effects as follows: <i>(xvi) In regard to Appendix Subdivision 8, any measures to control reverse sensitivity effects in relation to noise on the adjoining properties within the Rural Residential Activity Area</i>
4.3	Access to Liverton Road	Oppose	The submitter requests that pedestrian and cycle access to Liverton Road be prevented.	Reject
DPC47F/1 Forest & Bird (Further submission to Richard and Sarah Able)				
Sub. Ref.	Initial Submission	Support / Oppose	Decision Requested	Recommended Decision
F1.2	DPC47/4	Support in full	That the submission be allowed	Reject in part

DPC47F/2 NZ Transport Agency (Further Submission to Richard and Sarah Able)				
Sub. Ref.	Initial Submission	Support / Oppose	Decision Requested	Recommended Decision
F2.1	DPC47/4.3	Oppose	Should the Hutt City Council approve the proposed plan changed the Transport Agency seeks the following relief: a) To retain a pedestrian and cyclist connection to Liverton Road	Accept
DPC47/5 Trevor Izzett				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
5.1	General	Oppose	Reject the proposed plan change due to reverse sensitivity issues including noise and odour effects of plan change area from existing rural-residential activities	Reject. Add a new Matters of Discretion to address potential reverse sensitivity effects as follows: <i>(xvi) In regard to Appendix Subdivision 8, any measures to control reverse sensitivity effects in relation to noise on the adjoining properties within the Rural Residential Activity Area</i>

DPC47F/2 NZ Transport Agency (Further Submission to Trevor Izzett)				
Sub. Ref.	Initial Submission	Support / Oppose	Decision Requested	Recommended Decision
F2.2	DPC47/5.1	Oppose	Should the Hutt City Council approve the proposed plan changed the Transport Agency seeks the following relief: a) To retain a pedestrian and cyclist connection to Liverton Road	Accept
DPC47/6 Greater Wellington Regional Council				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
6.1	References to Appendix Subdivision 8	Support with amendments	Amend the proposed plan change to always refer to Appendix Subdivision 8, rather than Appendix 8.	Accept. Correction / clarification
6.2	Amendment 1: Policy 11.1.2(c)	Support with amendments	Amend Policy 11.1.2(c) as follows: <i>(c) The engineering practices for stormwater management seek to achieve the hydraulic neutrality of stormwater runoff resulting from the subdivision and anticipated development of the land identified in Appendix Subdivision 8 in order to maintain the ecological values of the onsite streams and the downstream receiving</i>	Accept in part. Accept correction / clarification Reject content changes (in agreement with GRWC)

			<i>environments from stormwater runoff resulting from the subdivision of the land identified in Appendix 8.</i>	
6.3	Amendment 4: Matters of Discretion 11.2.3.1	Support with amendments	Add the following matter of discretion to Matters of Discretion 11.2.3.1(a): <i><u>(xii) The potential effects of subdivision and anticipated development on the significant indigenous biodiversity values identified within Appendix Subdivision 8 and any potential mitigation or offsetting.</u></i>	Accept in part Add a new Matter of Discretion as follows: <i><u>(xvii) In regard to Appendix Subdivision 8, the potential effects of subdivision and anticipated development on the significant indigenous biodiversity values identified within the General Recreation Activity Area and any potential mitigation or offsetting.</u></i>
6.4	Amendment 4: Matters of Discretion 11.2.3.1	Support with amendments	Add the following matter of discretion to Matters of Discretion 11.2.3.1(a): <i><u>(xiii) The design of the subdivision layout and its impact on waterways on the site.</u></i>	Reject
DPC47F/1 Forest & Bird (Further Submission to Greater Wellington Regional Council)				
Sub. Ref.	Initial Submission	Support / Oppose	Decision Requested	Recommended Decision
F1.1	DPC47/6	Support in full	That the submission be allowed	Accept in part

DPC47/7 New Zealand Transport Agency – Initial Submission				
Sub. Ref.	Amendment & Provision	Support / Oppose	Decision Requested	Recommended Decision
7.1	General	Neutral	No decision requested.	Accept.
DPC47F/3 Richard and Sarah Able (Further Submission to New Zealand Transport Agency)				
Sub. Ref.	Initial Submission	Support / Oppose	Decision Requested	Recommended Decision
F3.1	DPC47/7.1	Oppose	<p>We oppose paragraph 5 (iii) (e):</p> <p><i>The Transport Agency does support the layout of the subdivision insofar as this provides pedestrian and cyclist connections to Liverton Road. This improves connectivity within the area as in line with the objectives of the Regional Land Transport Plan 2015-2021 and Regional Cycling Plan 2008.</i></p>	Reject

APPENDIX 2

Annotated version of Plan Change provisions

The various changes to the subdivision chapter (Chapter 11) of the ODP are annotated as follows:

<u>Example</u>	The changes to the subdivision chapter that were notified are shown as black underline text.
<u>Example 1</u> and Example 2	The amendments made to this chapter post the notification of the plan change are shown in red text. Where text is deleted this accommodates a single strike through line.

11 Subdivision

Introduction

Subdivision is a process which enables title to be transferred. Nevertheless, it does impose constraints on the future use and development of land. In addition the engineering work often required to make land suitable for development must be managed as there can be adverse effects on the environment. It is therefore important these effects are addressed and managed in the Plan.

Except for boundary adjustments and the leasing of retail space within existing buildings in appropriate activity areas, all subdivisions require a resource consent as it may be necessary to impose engineering conditions, design allotment standards and financial contributions to ensure that adverse effects are managed and mitigated.

The provisions of this Chapter apply to all activity areas. Activities must also be assessed in terms of the requirements of each activity area, and the requirements of Chapters 12, 13 and 15, to determine whether or not a resource consent is required.

11.1 Issues, Objectives and Policies

11.1.1 Allotment Standards

Issue

Subdivision of land can impose a constraint on the future use or development of land. It is necessary to ensure land which is subdivided can be used for the proposed use or purpose.

Objective

To ensure that land which is subdivided can be used for the proposed use or development.

Policy

- (a) To ensure that allotments in lower density residential areas and rural zones have minimum design standards such as, minimum size, shape and frontage, which are suitable for the proposed use or development.
- (b) To provide flexibility in lot size, shape and frontage within Commercial, Mixed Use, General Residential and Medium Density Residential Activity Areas to enable diversity of commercial and residential development size and density.

Explanation and Reasons

While it is recognised that subdivision of land is essentially a process for enabling title of land to be transferred, it nevertheless imposes constraints on the future use and development of land by establishing boundaries of particular allotments. There is a need to ensure that land which is subdivided is suitable for the proposed use and development. Failure to do so can result in the future use or development being unable to comply with the required performance standards for the activity area.

Such non-compliance with specified performance standards can have adverse effects on the environment. In considering whether land which is subdivided is suitable for the

proposed use or development such matters as design, size, building platform and shape of allotments are important matters that need to be considered by Council. The objectives, policies and rules of the activity areas need to be taken into account.

11.1.2 Engineering Standards

Issue

Subdivisions need to be serviced in a manner that adverse effects are avoided, remedied or mitigated and that adverse effects on the health, safety and wellbeing of residents are no more than minor.

Objective

To ensure that utilities provided to service the subdivision protect the environment and that there are no adverse effects on the health and safety of residents and occupiers.

Policy

- (a) To ensure that utilities provided comply with specified performance standards relating to such matters as access, street lighting, stormwater, water supply, wastewater, gas, telephone, electricity and earthworks.
- (b) Use engineering practices to maintain the ecological values of Speedy's Stream and the onsite wetland from stormwater runoff resulting from the subdivision of the land identified in Appendix Subdivision 7.
- (c) The engineering practices maintain or improve the ecological values of the onsite streams and the downstream receiving environments from stormwater runoff resulting from the subdivision of the land identified in Appendix Subdivision 8.
- (d) To restrict access and avoid increased traffic volumes from land identified in Appendix 8 to Liverton Road, to maintain traffic safety and efficiency.

Explanation and Reasons

Utility services provided by the subdivider must be in accordance with specified engineering performance standards to ensure that the environment is protected and there are no adverse effects on the health, safety and wellbeing of residents and occupiers. Incompatible and inappropriate services can have adverse effects on the proper functioning of existing services and also lead to additional maintenance costs.

11.1.3 Natural Hazards

Issue

Subdivision of land subject to natural hazards can lead to allotments which are inappropriate if the adverse effects cannot be avoided, remedied or mitigated. There is a need to ensure that subdivision of land subject to natural hazards is managed and controlled.

Objective

To ensure that land subject to natural hazards is subdivided in a manner that the adverse effects are avoided, remedied or mitigated.

Policies

- (a) Subdivision of land within the Wellington Fault Special Study Area should be managed to ensure that the allotments are of sufficient size and shape so that buildings and structures are not sited within twenty metres of a faultline.
- (b) Subdivision of land subject to flooding is discouraged as this can lead to greater intensity of use and development and have adverse effects on the environment.
- (c) Subdivision of land should be managed to ensure that within each allotment there is a suitable building platform so that buildings and associated structures will not be adversely affected by slope instability, including the deposition of debris.

Explanation and Reasons

Subdivision of land subject to natural hazards may lead to allotments which are inappropriate as the adverse effects cannot be controlled or mitigated. It is important that the subdivision is designed in a manner that the natural hazard can be avoided or mitigated. In this respect, it is important that allotments are of sufficient size and are of an appropriate shape so that the proposed use or development can be sited to avoid the natural hazard, or the necessary mitigation measures can be implemented, without affecting detrimentally the viability of the use or development.

11.1.4 Special Areas

Issue

Subdivision of land in the coastal environment and in areas of ecological value can have adverse effects that need to be controlled.

Objective

To ensure that land in the coastal environment, areas adjoining lakes and rivers and other environmentally sensitive areas are protected from inappropriate subdivision.

Policy

- (a) To ensure that land in the coastal environment, areas adjoining rivers and lakes and other environmentally sensitive areas are not subdivided to an extent or manner where amenity values, ecological, social, cultural and recreational conditions are adversely affected.

Explanation and Reasons

The Act, the New Zealand Coastal Policy Statement and the Regional Policy Statement require the Plan to ensure that inappropriate subdivision of land does not occur in the coastal environment.

The Regional Policy Statement recognises that wetlands, lakes and rivers are important as they provide a habitat for a rich flora and fauna. These areas also have high social, cultural and recreational values. It is therefore important that lands adjoining such areas are managed and controlled to avoid and mitigate adverse effects.

11.1.5 General Rural and Rural Residential Activity Areas

Issue

Inappropriate subdivision of lands in the General Rural and Rural Residential Activity Area which leads to the use of lands for more intense urban purposes such as residential development, can have adverse effects on amenity values and to an inefficient land use pattern.

Objective

To ensure that the amenity values and the efficient use of land in General Rural and Rural Residential Activity Areas are maintained by restricting subdivision of lands which could lead to greater intensity of use and development for urban related purposes, such as more intense residential development.

Policy

- (a) The minimum size of allotments should be large so as to ensure that rural amenity values and an efficient land use pattern are maintained.

Explanation and Reasons

Large sized allotments are required in General Rural and Rural Residential areas to maintain amenity values. It is therefore necessary to prevent the close subdivision of land in the General Rural and Rural Residential Activity Areas.

As there is adequate supply of urban land in the City it is an inefficient use of a valuable resource to allow rural and rural residential land to be subdivided into urban sized allotments.

11.1.6 Retail Leasing

Issue

The leasing of retail space within existing buildings, such as shopping centres, can give rise to a technical subdivision under the Resource Management Act 1991. Such subdivisions do not have effects warranting subdivision control under the provisions of the Plan. The imposition of unnecessary controls will result in inappropriate costs and barriers to the tailoring of retail spaces to the requirements of tenants. Unnecessary controls can therefore contribute to the number of vacant retail spaces which detract from the vitality and viability of commercial centres.

Objective

Ensure that the leasing of retail space within existing buildings and appropriate activity areas can proceed without the need for subdivision consent.

Policy

- (a) Resource consent will not be required for subdivisions resulting from the leasing of retail space within existing buildings and in appropriate activity areas.

Explanation and Reasons

Under the Act the leasing of retail space within existing buildings can technically be considered to be a subdivision. Such subdivisions do not have any adverse effects

which warrant control under the provisions of the Plan. It is therefore appropriate that the leasing of retail spaces within existing buildings is a Permitted Activity.

11.2 Rules

11.2.1 Permitted Activity

- (a) In all activity areas, minor boundary adjustments.
- (b) In all Commercial Activity Areas, subdivision of existing retail premises by way of leasing.

11.2.1.1 Permitted Activity - Conditions

Minor boundary adjustments must comply with the following conditions:

- (a) Do not create additional building sites.
- (b) Following subdivision does not increase any non-compliance with the rules specified for the activity area.

11.2.2 Controlled Activities

All subdivisions in the following activity areas are Controlled Activities except where provided for as Permitted or Discretionary Activities:

- (a) General Residential Activity Area.
- (b) Hill Residential Activity Area.
- (c) Landscape Protection Residential Activity Area.
- (d) Special Residential Activity Area.
- (e) Medium Density Residential Activity Area.
- (f) General Business Activity Area.
- (g) Special Business Activity Area.
- (h) Rural Residential Activity Area.
- (i) General Rural Activity Area.
- (j) Suburban Commercial Activity Area.
- (k) Suburban Mixed Use Activity Area
- (l) Central Commercial Activity Area.
- (m) Petone Commercial Activity Area 1.
- (n) Petone Commercial Activity Area 2.
- (o) Community Iwi Activity Area 1 - Marae.
- (p) Community Iwi Activity Area 3 - Kokiri Centres.
- (q) In all activity areas, where a certificate of title has been issued for a site prior to 5 December 1995 or where a site has been created by a staged development whether under a staged unit plan or cross lease plan lodged with the District Land

Registrar and where part of the development (or a building on one site on such plan exists) has been completed prior to 5 December 1995, then in such circumstances the allotment design standards and terms shall not apply.

Compliance with other standards and terms is necessary.

- (r) In all Commercial, Business, Recreation, Community Health and Community Iwi Activity Areas the allotment design standards and terms shall not apply:
- (i) where there are existing buildings on an allotment prior to December 1995; and
 - (ii) where the subdivision of that allotment does not create a vacant allotment (i.e. with no buildings).

Compliance with all other standards and terms is necessary.

- (s) In all Residential and Rural Activity Areas the allotment design standards and terms shall not apply:
- (i) where there are existing dwelling houses on an allotment prior to December 1995; and
 - (ii) where the subdivision of that allotment does not create an allotment with no dwelling house.

Compliance with all other standards and terms is necessary.

- (t) Any subdivision located wholly within Avalon Business Activity Area (Sub-Area 2)

11.2.2.1 Standards and Terms

All Controlled Activity subdivisions shall comply with the following Standards and Terms:

(a) Allotment Design

The minimum size of an allotment shall exclude rights of way and access legs to a rear site.

General Residential Activity Area

Minimum size of allotment: 400m²

No minimum size is required if:

- (i) For every allotment where there is an existing dwelling:

There is no increase in the degree of non-compliance with the relevant General Residential Development Standards specified in 4A 4.2 and 4A. Where subdivision is proposed between dwellings that share a common wall, recession plane and yard requirements shall not apply along the length of the common wall.

- (ii) For every allotment where there is no existing dwelling, or for which no existing land use consent for a dwelling has been granted, or is being concurrently granted (in the case of

joint land use and subdivision applications):

It can be demonstrated that it is practicable to construct on all allotments, as a permitted activity, a dwelling which complies with all relevant General Residential Development Standards specified in 4A 4.2 and 4A 5.

Minimum frontage:

3m to ensure that there is drive-on access to the allotment. For rear allotments the 3m frontage may be satisfied through a registered Right of Way outside the title (outside legal boundaries of the allotment).

Shape factor:

All allotments must be able to contain a rectangle measuring 10m by 15m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

No shape factor is required if:

- (i) For every allotment where there is no existing dwelling, or for which no existing land use consent for a dwelling has been granted, or is being concurrently granted (in the case of joint land use and subdivision applications)

It can be demonstrated that it is practicable to construct on all allotments, as a permitted activity, a dwelling which complies with all relevant General Residential Development Standards specified in 4A 4.2 and 4A 5.

Medium Density Residential Activity Area

Minimum size of allotment:

No minimum size required.

- (i) For every allotment where there is an existing dwelling:

There shall be no increase in the degree of non-compliance with the relevant Medium Density Residential Development Standards specified in 4F 4.2. Where subdivision is proposed between dwellings that share a common wall, recession plane and yard requirements shall not apply along the length of the common wall.

(ii) For every allotment where there is no existing dwelling, or for which no existing land use consent for a dwelling has been granted, or is being concurrently granted (in the case of joint land use and subdivision applications):

It can be demonstrated that it is practicable to construct on all allotments, as a permitted activity, a dwelling which complies with all relevant Medium Density Residential Development Standards specified in 4F 4.2.

Minimum frontage: 3m to ensure that there is drive-on access to the allotment. For rear allotments the 3m frontage may be satisfied through a registered Right of Way outside the title (outside legal boundaries of the allotment).

Special Residential Activity Area

Minimum size of allotment: 700m²

Minimum frontage: 15m, except for rear allotments which must have a minimum 3m frontage. For rear allotments the 3m frontage may be satisfied through a registered Right of Way outside the title (outside legal boundaries of the allotment).

Shape factor: All allotments must be able to contain a rectangle measuring 10m by 15m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

Other: Compliance with the permitted activity conditions of the activity area.

Hill Residential Activity Area

Minimum size of allotment: 1000m²

Minimum frontage: 20m, except for rear allotments which must have a minimum 3m frontage. For rear allotments the 3m frontage may be satisfied through a registered Right of Way outside the title (outside legal boundaries of the allotment).

Shape factor: All allotments must be able to contain a rectangle measuring 10m by 15m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

Other: Compliance with the permitted activity conditions of the activity area.

Except

in Maungaraki Road, Pt Sec 30 and former Secs 31,32 and Pt Sec 33 Maungaraki Village, where a proposed allotment is in the area identified on Appendix Subdivision 1, the minimum subdivision requirements shall be -

Minimum size of allotment: 2000m²

Minimum frontage: 30m

and

in Maungaraki Road, Lots 1 and 2 DP 90829 (formerly Lot 1 DP 71986 and Pt Sec 35 Maungaraki Village contained in C.T. 550/178), identified on Appendix Subdivision 1, the minimum subdivision requirements shall be -

Minimum size of allotment: 600m²

Minimum frontage: 20m

Landscape Protection Residential Activity Area

Minimum size of allotment: 2000m²

Minimum frontage: 20m, except for rear allotments, 3m frontage. For rear allotments the 3m frontage may be satisfied through a registered Right of Way outside the title (outside legal boundaries of the allotment).

Shape factor: All allotments must be able to contain a rectangle measuring 10m by 15m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

Other: Compliance with the permitted activity conditions of the activity area

Central Commercial Activity Area, Suburban Commercial Activity Area, Suburban Mixed Use Activity Area and Petone Commercial Activity Area 1

Minimum size of allotment: 200m²

Minimum frontage: 6m

Other: Compliance with the permitted activity conditions of the activity area

Petone Commercial Activity Area 2

Minimum size of allotment: 1000m²

Minimum frontage: 20m

Other: Compliance with the permitted activity conditions of the activity area

General and Special Business Activity Area

Minimum size of allotment: 200m²

Minimum frontage: 6m to enable drive on vehicular access to each allotment.

Other: Compliance with the permitted activity conditions of the activity area

Avalon Business Activity Area (Sub-Area 2)

Minimum size of allotment: 400m²

Minimum frontage: 3m to enable drive on access to the allotment.

Other: Compliance with the permitted activity conditions of the activity area

Rural Residential Activity Area - Titiro Moana Road, Part Section 34 Maungaraki Village and Lots 6, 7, & 8 DP 81789 (formerly Pt Sec 35 Maungaraki Village) as shown in Appendix Subdivision 2.

- There shall be no allotment of lesser area than 8,000m².
- The average area of all allotments shall not be less than 1.5 ha.
- That the boundaries of allotments are chosen in relation to optimum house sites.
- The location of any proposed works for water storage purposes including any weir, piping and storage tanks, be shown.
- Areas of regenerating bush be identified and preserved.

Other Rural Residential Activity Areas

Minimum size of allotment: 2 ha

Minimum Frontage: 100m for front allotments. 6m for rear allotments.

Shape Factor: All allotments must be able to contain a rectangle measuring 30m by 20m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

Other: Compliance with the permitted activity conditions of the activity area

General Rural Activity Area

Minimum size of allotment: 15ha.

Minimum frontage: 150m for front allotments. 6m for rear allotments.

Shape Factor: All allotments must be able to contain a rectangle measuring 30m by 20m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

Other: Compliance with the permitted activity conditions of the activity area

Subdivision in Hebden Cres/Liverton Road, Pt Lot 2 DP 578 in accordance with

Drawing No. 469SCH4^c by Lucas Surveys shown in Appendix Subdivision 3 and subject to an encumbrance being lodged against each new title as shown in Appendix Subdivision 4 regarding the neighbouring quarrying activities.

Community Iwi Activity Area 1 - Marae

Waiwhetu (Puketapu Grove), Te Mangungu (Rata Street), Koranui (Stokes Valley), Te Kakano O Te Aroha (Moera) and Pukeatua (Wainuiomata) - Minimum size of allotment and frontage the same as the General Residential Activity Area.

Te Tahau O Te Po (Puke Ariki, Hutt Road) - Minimum size of allotment and frontage the same as the General Business Activity Area.

Community Iwi Activity Area 3 - Kokiri Centres

Pukeatua (Wainuiomata) - Minimum size of allotment and frontage the same as the General Business Activity Area.

Ngau-matau (Seaview) - Minimum size of allotment and frontage same as the Special Business Activity Area.

All Activity Areas

Notwithstanding the subdivision standards for each respective activity area there shall be no specific allotment size in any activity area for allotments created solely for utilities. Where those allotments created for such purposes have a net site area of less than 200m² there shall be no minimum frontage or shape factor requirements.

(b) Engineering Design

(i) Access

Compliance with Chapter 14A – Transport.

(ii) Service Lanes, Private Ways, Pedestrian Accessways and Walkways

Compliance with Chapter 14A – Transport.

(iii) Street Lighting

Compliance with AS/NZS 1158:2005 Code of Practice for Road Lighting.

(iv) Stormwater

Compliance with the following standards:

Levels of Stormwater Protection to be provided by Services in New Areas

Minimum Standard				Subsidiary Standards			
	Primary System ARI	Total System ARI	Freeboard (mm)	1.	Max.Depth and speed on roads and footpaths	Max Depth	Max. Speed
Parks & Reserves	2	5	-		Arterial Roads	0.1m	2.0m/s
Recreational Buildings	10	50	200		Local Roads	0.2m	2.0m/s
Non-Habitable Buildings	5	10	200		Hill Roads	0.1m	3.0m/s
Residential Houses	10	100	500		Walkways only	0.4m	1.0m/s
Commercial	20	100	100	2.	Depth Speed Product	< 0.4mm/s	
Industrial	10	50	100	3.	Channel/Pond Side Slopes	Maximum 1:5 Vertical : Horizontal	
Public Utilities	10	100	500	4.	Channel/Pond Free board	> 0.5 metre	
Culverts	20	100	-	5.	Detention Pond	< 1.2 metres depth of water unless access restricted	
Bridges	50	100	-	6.	Kerb Opening	< 150mm high unless screened	
Car Parks	5	10	-	7.	Pipe Diameter	> = 300mm for mains > = 225mm for sump leads	
Arterial Roads	20	50	-	8.	Watercourses	No scour or deposition in events < 5yrs ARI	
Local Roads	10	20	-				
Hill Roads (gradient >3%)	10	20	-				

Levels of Stormwater Protection to be Provided by New Drains in Existing Areas

Recommended Standard				Minimum Standard				Subsidiary Standards		
	Primary System ARI	Total System ARI	Freeboard (mm)		Primary System ARI	Total System ARI	Freeboard (mm)	1. Max. Depth & speed on roads and footpaths:	Max. Depth	Max. Speed
Parks & Reserves	2	5	-	Parks & Reserves	2	5	-	Arterial Roads	0.1m	2.0m/s
Recreational Buildings	10	50	200	Recreational Buildings	10	50	200	Local Roads	0.2m	2.0m/s
Non Habitable Buildings	5	10	200	Non Habitable Buildings	5	10	200	Hill Roads	0.1m	2.0m/s
Residential Houses	10	100	500	Residential Houses	10	50	200	Walkways only	0.4m	1.0m/s
Commercial	20	100	100	Commercial	10	50	50	2. Depth Speed	<0.4mm/s	
Industrial	10	50	100	Industrial	10	50	50	3. Channel/Pond Freeboard Side Slopes	Maximum 1:5 Vertical : Horizontal	
Public Utilities	10	100	500	Public Utilities	10	50	200	4. Channel/Pond Freeboard	>0.5 metres	
Culverts	20	100	-	Culverts	20	100	-	5. Detention Pond	< 1.2 metres depth of water unless access restricted	
Bridges	50	100	-	Bridges	50	100	-	6. Kerb Opening	< 150mm high unless screened	
Car parks	5	10	-	Car parks	5	10	-	7. Pipe Diameter	>=300mm for mains >=225mm for sump leads	
Arterial Roads	20	50	-	Arterial Roads	10	20	-	8. Watercourses	No scour or deposition in events <5yrs ARI	
Local Roads	10	20	-	Local Roads	10	20	-			
Hill Roads (gradient >3%)	10	20	-	Hill Roads (gradient >3%)	10	20	-			

(v) Wastewater

Compliance with the following standards:

Residential Areas

ADWF	(Average Dry Weather Flow)	270 l/h/d
PDWF	(Peak Dry Weather Flow)	540 l/h/d
MWWF	(Maximum Wet Weather Flow)	1080 l/h/d

where l/h/d = litres/head/day

Business Areas

Where the industrial domestic waste and trade waste flows are known, these shall be used as the basis for sewer design. When the above information is not available the following may be used as the design basis.

ADWF	(Average Dry Weather Flow)	0.52 l/ha/sec
PDWF	(Peak Dry Weather Flow)	1.56 l/ha/sec
MWWF	(Maximum Wet Weather Flow)	1.56 l/ha/sec

where l/ha/sec = litres/hectare/second

The design of sewage disposal systems for industries with very heavy water usage is to be based on the specific requirements for that industry.

Retail and Suburban Commercial Areas, Suburban Mixed Use Areas

ADWF	(Average Dry Weather Flow)	0.25 l/ha/sec
PDWF	(Peak Dry Weather Flow)	0.44 l/ha/sec
MWWF	(Maximum Wet Weather Flow)	0.44 l/ha/sec

where l/ha/sec = litres/hectare/second

Associated Compliance Standards

pipe diameter	>150mm for mains
pipe velocity	>0.6 metres/sec
minimum standby pump capacity installation	100% for 2 pump 50% for 3 pump installation
minimum storage in pumped system Dry	4 hours ADWF (Average Weather Flow)

(vi) Water Supply

Compliance with the following standards:

- NZS PAS 4509:2008 NZ Fire Service Code of Practice for Fire Fighting Water Supplies
- Hutt City Council Bylaw 1997 Part 17 Water Supply.
- Part 6 NZS 4404:2004 (Land Development and Subdivision Engineering).

subject to the following criteria and guideline values:

Criteria	Guideline Values
Minimum available flow at Point of Supply	15 litres per minute
Pressure at Point of Supply (static)	
Minimum (for highest level sites - nearing the supply reservoir elevation)	10 metres head
Minimum (for the majority of a supply zone)	30 metres head
Maximum	90 metres head
Minimum system flow capability	The system shall provide flows equivalent to the Fire Service Code of Practice flow requirements plus two thirds of the peak daily consumption flow; whichever is greater. Peak daily

consumption flows shall be as follows:

- (i) Over 2,000 population - 1,400 litres per person per day
- (ii) Under 2,000 population - as in table below.

Minimum pumping capacity without using a standby unit

15 hours

Minimum pumping standby capacity

100% 2 pump installation

Peak Flow on Maximum Days

No. of Dwellings	Litres per second	No. of Dwellings	Litres per second	No. of Dwellings	Litres per second
1	0.6	16	3.2	90	8.8
2	0.9	18	3.4	100	9.3
3	1.2	20	3.6	120	10.4
4	1.4	25	4.1	140	11.4
5	1.6	30	4.6	160	12.4
6	1.8	35	5.1	180	13.4
7	1.9	40	5.5	200	14.1
8	2.1	45	5.9	250	16.1
9	2.2	50	6.2	300	18.0
10	2.4	60	6.9	350	19.8
11	2.7	70	7.6	400	21.3
12	2.9	80	8.2	500	24.2

(vii) Telecommunications and Electricity

Compliance with the requirements of the relevant network utility operator.

(viii) Earthworks

Compliance with the following:

- NZS 4431 1989 (Code of Practice for Earth Fill for Residential Development) and Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering)
- Erosion and Sediment Control Guidelines for the Wellington Region and Small Earthworks Erosion and Sediment Control for small sites, 2003, Greater Wellington Regional Council.

(c) Contamination

Compliance with the following:

- Ministry for the Environment, Contaminated Land Management Guidelines 1 - 5

(d) Esplanade Reserves, Strips and Access Strips

Compliance with the following:

- (i) In all activity areas esplanade reserves or strips are not required for the following subdivision activities:
- Boundary adjustments in all activity areas.
 - A minor adjustment to an existing cross lease or unit title due to the increase in the size of allotment by alterations to the building outline or the addition of an accessory building.
 - A subdivision where the allotment is created solely for utilities and that allotment has a net site area of less than 200m² and is not within 20m of any river or lake.
- (ii) In all activity areas, in respect of lots less than 4 hectares, an esplanade reserve of 20m shall be set aside for such lots along the bank of any river whose bed has an average width of 3m or more where the river flows through or adjoins the lot concerned, except that properties with access to Moores Valley Road or Crowther Road that this standard applies to shall have an esplanade reserve of 5m.
- (iii) In respect of lots with areas of 4 hectares or greater, an esplanade reserve or strip of 20m width shall be set aside for such lots along the banks of the following rivers and lakes:
- Hutt River,
 - Wainuiomata River,
 - Orongorongo River,
 - Waiwhetu Stream,
 - Lake Kohangatera,
 - Lake Kohangapiripiri.
- (iv) In respect of lots with areas 4 hectares or greater, an esplanade reserve or strip of 20m width shall be set aside for lots adjoining the mean high water springs of the sea.

For the avoidance of doubt, non-compliance with the provisions (ii) to (iv) shall be considered as a Discretionary Activity and assessed in terms of sections 104 and 105, and Part II of the Act.

(e) Earthworks

Compliance with permitted activity conditions 14I 2.1.1.

Compliance with NZS 4431 1989 (Code of Practice for Earth Fill for Residential Development) and Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).

Erosion and Sediment Control Guidelines for the Wellington Regional 2003 and Small Earthworks Erosion and Sediment Control for small sites, Greater Wellington Regional Council.

Exception: The standards in Rules 14I 2.1.1 (a) and (b) shall not apply to trenching carried out as part of the subdivision.

(f) Other Provisions

Compliance with the following:

- (i) Financial Contributions in Chapter 12 of this Plan.
- (ii) General Rules in Chapter 14 of this Plan.

11.2.2.2 Matters in which Council Seeks to Control

The matters over which control is reserved are:

- (a) The design and layout of the subdivision, including the size, shape and position of any lot, any roads or the diversion or alteration to any existing roads, access, passing bays, parking and manoeuvring standards, and any necessary easements;
- (b) The provision of servicing, including water supply, waste water systems, stormwater control and disposal, roads, access, street lighting, telephone and electricity;
- (c) Management of construction effects, including traffic movements, hours of operation and sediment control;
- (d) Provision of esplanade reserves, esplanade strips and access strips;
- (e) Site contamination remediation measures and works;
- (f) Protection of significant sites, including natural, cultural and archaeological sites;
- (g) Avoidance or mitigation of natural hazards; and
- (h) The design and layout of the subdivision where any lot may affect the safe and effective operation and maintenance of and access to regionally significant network utilities (excluding the National Grid) located on or in proximity to the site;
- (i) The outcome of consultation with the owner and operator of regionally significant network utilities (excluding the National Grid) located on or in proximity to the site; and
- (j) Those matters described in Section 108 and 220 of the Resource Management Act 1991.

Note: Rule 11.2.3 (b) covers subdivision within the National Grid Corridor.

11.2.2.3 Assessment Criteria

The following assessment criteria will be used:

- (a) **Allotment Design:**
 - Allotments to have the appropriate net site area and dimensions to enable activities, buildings or structures to be sited to comply with the specified activity area requirements.
 - Subdivisions should be designed so as to give areas a strong and positive identity by taking into account characteristics of the area and ensuring that roading patterns, public open space/reserves and community facilities are well integrated.

- Account must be taken of the future development potential of adjoining or adjacent land and any potential reverse sensitivity effects on regionally significant network utilities (excluding the National Grid).
- The roading pattern must take into account the future development pattern of adjacent land.
- Subdivisions should be designed in a manner which recognises and gives due regard to the natural and physical characteristics of the land and adverse effects are avoided, remedied or mitigated.

(b) Engineering Design

(i) Access

- The legal road must be of sufficient width to cater for all functions the road is expected to fulfil, including the safe and efficient movement of all users, provision for parked vehicles, the provision of public utilities, landscaping and public transport facilities.
- The carriageway width should allow vehicles to proceed safely at the operating speed intended for that type of road in the network, with acceptable minor delays in the peak period.
- The carriageway should be designed to discourage motorists from travelling above the intended speed by reflecting the functions of the road in the network. In particular, the width, the horizontal and vertical alignments and superelevation should not be conducive to excessive speed.
- Intersections or junctions should be designed to allow all desired movements to occur safely without undue delay. Projected traffic volumes should be used in designing all intersections or junctions on traffic routes.
- Footpaths shall be provided on both sides of roads and shall be designed and located taking into account pedestrian amenity and likely use patterns. Footpaths may be reduced to only one side where:
 - there is no development fronting that part or side of the road,
 - topography or vegetation precludes provision, or
 - vehicle volumes and speeds are low and use of the carriageway is considered to be safe and comfortable for pedestrian use, and
 - pedestrian use will not be deterred by the lack of a footpath.
- Materials used in the construction of roads must be durable, maintainable, cost effective and compatible with Council's engineering standards.
- Allotments must have drive on access, except those in the Suburban Mixed Use and Medium Density Residential Activity Areas, and those Comprehensive Residential Developments in the General Residential Activity Area provided with access to communal parking areas. In cases where it can be shown that it is physically not possible to provide drive on access, alternative arrangement for off-street parking must be provided.
- Where appropriate, when designing the roading network, account must be given to the provision of public transport facilities and the provision for safe, convenient and efficient access for cyclists and pedestrians.

(ii) Service Lanes, Private Ways, Pedestrian Accessways and Walkways

- Service lanes must be of sufficient width and of appropriate design to cater for vehicular traffic which services the allotments.
- All private ways and pedestrian accessways must be of sufficient width and of appropriate design for the use of land they serve.
- Walkways must be taken into account the existing topography, link open space network with community facilities and public services.

(iii) Street Lighting

Public lighting to be provided to roads, footpaths, pedestrian accessways and to major pedestrian and bicycle links likely to be used at night to provide safe passage for pedestrians, cyclists and vehicles.

(iv) Stormwater

- The stormwater system to provide a level of protection defined in terms of Average Recurrence Interval (ARI) based on the type and intensity of development.
- The environment downstream of the proposed subdivision is not degraded by drainage flows or floodwaters.
- The roading system retains access to allotments and minimises the occurrence of traffic accidents during and after storm events.
- The stormwater system is designed to ensure that the land form of watercourses is stabilised and that erosion is minimised.
- Floodways and ponding areas to be restricted to areas where there is no damage to property, and to discharge or contain all gap flow (gap flow being the difference between the pipe flow and the total flow, i.e. the amount flowing on the surface for any given ARI).
- Materials used in stormwater systems to be durable, maintainable, cost-effective and compatible with Council's engineering performance standards.

(v) Wastewater

- The wastewater system is adequate for the maintenance of public health and the disposal of effluent in an environmentally appropriate manner.
- All wastewater systems shall be designed so that they have sufficient capacity for the ultimate design flow.
- All wastewater systems shall be designed so that they are self cleansing with the current or expected peak dry weather flow.
- Materials used in the wastewater system must be durable, maintainable, cost efficient and compatible with Council's engineering performance standards.
- Connection to a community sewerage system where one is available, and has the capacity to accept the additional sewerage load that the occupancy of the subdivision will create; or the installation of a sewerage system and community treatment plant when there is no community sewerage system available and the number of residential allotments and the soil/groundwater conditions indicate that the

cumulative effects of the sewerage effluents have the potential to adversely affect public health.

(vi) Water Supply

- In urban areas reticulated water supply must be provided to each allotment for domestic, commercial or industrial consumption and provision for fire fighting purposes.
- Materials used in the water supply system must be durable, maintainable, cost-effective and compatible with Council's engineering performance standards.
- Reservoir storage, pumping and pipe flow capacity shall meet required volume, flow and pressure criteria according to Council's engineering performance standards.
- The provision and protection of access for maintenance of components of water supply system.
- All water supply mains shall be designed so they have sufficient capacity for the ultimate design flow.
- Adequate and suitable water supply shall be provided in the General Rural and Rural Residential Activity Areas.
- In all areas, the provision of a reticulated drinking water supply to all residential allotments if it is practicable to do so.

(vii) Telecommunication and Electricity

- Electricity supply must be provided to each allotment. The Council may exempt subdivisions or particular allotments from this requirement in appropriate circumstances but may require that provision, such as the registration of easements, be made for the provision of electricity supply in the future. In urban areas where practicable this should be by means of an underground system.
- Provision should be made to ensure that telephone connections can be made to each allotment. In urban areas where practicable, such provision should be made by means of an underground system.

(viii) Earthworks

- Before any earthworks are carried out a thorough investigation be undertaken to determine the suitability of the land. Particular attention must be given to drainage, slope and foundation stability matters, topography, significant existing natural, cultural and archaeological resources, post construction settlement, shrinkage and expansion of material plus compaction.
- Appropriate design and construction methods must be used to control and manage soil erosion, surface runoff and siltation.

(c) Contamination

Where a site for subdivision has been identified as a potential or confirmed contaminated site the applicant shall undertake an assessment of the site, which shall include:

- The nature of contamination and the extent to which the occupants of the site, the immediate neighbours, the wider community and the surrounding environment will be exposed to the contaminants.

- Any potential long-term or cumulative effects of discharges from the site.
- Any remedial action planned or required in relation to the site, and the potential adverse effects of any remedial action on the matters listed in the two matters above, whether at the site or at another location.
- Proposed validation to demonstrate that remediation has been carried out to an acceptable standard.
- The management of the decontamination risk and any risk due to residual contamination remaining on the site (eg. risks involved are maintenance of underground services, risks associated with earth working and soil disturbance, and compliance with management regimes).

The site assessment, proposed remediation, validation and future site management shall be to the satisfaction of the Hutt City Council, Wellington Regional Council, and the Medical Officer of Health.

(d) Esplanade Reserves, Strips and Access Strips

Whether provision has been made for esplanade reserves and/or strips along the margins of any water body.

If a reduction in the width or waiver of an esplanade reserve is sought, Council would have regard to the following:

- The purpose for the creation of the esplanade reserve set out in Section 229 of the Resource Management Act 1991;
- Whether the reduction in size or width of an esplanade reserve would adversely effect:
 - Natural character, amenity values, and ecological values of the adjacent waterbody;
 - Access to an existing or potential future reserve or feature of public significance;
 - The public's ability to gain access to and along the edge of the water body; and
 - The protection of significant sites, including natural, cultural and archaeological sites.
- Whether a waiver or reduction of the width of an esplanade reserve would ensure the security of private property or the safety of people; and
- Whether the land is within a natural hazard area or in an identified risk from one or more natural hazards.

11.2.3 Restricted Discretionary Activities

- (a)** Any subdivision that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (b) Engineering Design, (c) Contamination and (e) Earthworks.
- (b)** Any subdivision located within a National Grid Corridor that complies with the standards and terms under Rule 11.2.3.2.
 - (i)** Non-notification

In respect of Rule 11.2.3 (b), public notification of applications for resource consent is precluded. Limited notification will be served on the National Grid Operator as the only affected party under section 95B of the Act.

Note: Rule 11.2.3 (b) (i) prevails over Rule 17.2.2.

- (c) Any subdivision located within close proximity to consented and existing renewable energy generation activities.

- (i) Non-notification

In respect of Rule 11.2.3 (c), public notification of applications for resource consent is precluded. Limited notification will be served on the renewable energy generation activities' operator as the only affected party under section 95B of the Act.

Note: Rule 11.2.3 (c) (i) prevails over Rule 17.2.2.

- (d) Any subdivision of the [land site](#) identified in Appendix Subdivision 7 or [Appendix Subdivision 8](#)

11.2.3.1 Matters in which Council has restricted its discretion

- (a) **Any subdivision that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (b) Engineering Design, (c) Contamination and (e) Earthworks.**

- (i) Any actual or potential adverse effects arising from the proposed non-compliance, and measures to avoid, remedy or mitigate such effects.

- (ii) Amenity Values:

The extent to which any earthworks proposal will affect adversely the visual amenity values of the area, and the extent to which the earthworks will result in unnecessary scarring and be visually prominent.

The effects on the amenity values of neighbouring properties including dust and noise.

The extent to which replanting, rehabilitation works or retaining structures are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas or visually dominant retaining structures when viewed from adjoining properties or public areas, including roads.

- (iii) Existing Natural Features and Topography:

The extent to which the proposed earthworks reflect natural landforms, and are sympathetic to the natural topography.

- (iv) Historical or Cultural Significance:

The extent to which the proposed earthworks will affect adversely land and features which have historical and cultural significance.

- (v) Natural Hazards:

Consideration should be given to those areas prone to erosion, landslip and flooding. Earthworks should not increase the vulnerability of people or their property to such natural hazards. In the Primary and Secondary River Corridors of the Hutt River, consideration should be given to the effects on the flood protection structures.

- (vi) Construction Effects:

The extent to which the proposed earthworks have adverse short term and temporary effects on the local environment.
- (vii) Engineering Requirements:

The extent of compliance with NZS 4431 1989 (Code of Practice for Earth Fill for Residential Development).

The extent of compliance with Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).
- (viii) Erosion and Sediment Management:

The extent of compliance with the “Erosion and Sediment Control Guidelines for the Wellington Regional 2003” and “Small Earthworks – Erosion and Sediment Control for small sites” by Greater Wellington Regional Council.
- (ix) Contaminated Land:

The extent to which works are consistent with the Ministry for the Environment, Contaminated Land Management Guidelines 1 - 5.
- (x) Vegetation protection and presence:

The extent to which protection is given and how the safe, continuous presence of vegetation is provided for in the area as shown in Appendix Subdivision 5 by using an appropriate legal mechanism.
- (xi) Visual effects of built development on the wider area (Appendix Subdivision 6):

Consideration shall be given to any actual and potential adverse effects of built development in the area identified on Appendix Subdivision 6 on visual amenity of the wider area (ie the valley floor and upper Holborn Drive). To assist, an expert assessment shall be undertaken, and the extent to which development controls are placed on identified individual lots as a result of the assessment’s findings shall be taken into account.

For the purposes of this rule, built development includes but is not limited to structures of any height such as dwellings and ancillary buildings, decks, fences, walls and retaining walls.

(b) Any subdivision located within a National Grid Corridor that complies with the standards and terms under Rule 11.2.3.1.

- (i) the extent to which the design, construction and layout of the subdivision demonstrates that a suitable building platform(s) can be located outside of the National Grid Yard for each new lot to ensure adverse effects on and from the National Grid and on public health and safety are appropriately avoided, remedied or mitigated;
- (ii) The provision for the on-going operation, maintenance (including access) and planned upgrade of Transmission Lines;
- (iii) The risk to the structural integrity of the National Grid;
- (iv) The extent to which the subdivision design and consequential development will minimise the risk of injury and/or property damage from such lines;

- (v) The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the transmission asset; and
- (vi) The extent to which landscaping will impact on the operation, maintenance, upgrade and development (including access) of the National Grid.

Advice Note: Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation. Activities should be checked for compliance even if they are permitted by the District Plan.

Vegetation to be planted within proximity to Transmission Lines as shown on the planning maps should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003 or prevent access to support structures. To discuss works, including tree planting **near** any Transmission Line especially works within the transmission corridor; contact the National Grid operator.

(c) Any subdivision of the land site identified in Appendix Subdivision 7 or Appendix Subdivision 8.

(i) Amenity Values:

The extent to which any earthworks proposal will affect adversely the visual amenity values of the area, and the extent to which the earthworks will result in unnecessary scarring and be visually prominent.

The effects on the amenity values of neighbouring properties including dust and noise.

The extent to which replanting, rehabilitation works or retaining structures are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas or visually dominant retaining structures when viewed from adjoining properties or public areas, including roads.

(ii) Existing Natural Features and Topography:

The extent to which the proposed earthworks reflect natural landforms, and are sympathetic to the natural topography.

(iii) Historical or Cultural Significance:

The extent to which the proposed earthworks will affect adversely land and features which have historical and cultural significance.

(iv) Construction Effects:

The extent to which the proposed earthworks have adverse short term and temporary effects on the local environment.

(v) Engineering Requirements:

The extent of compliance with NZS 4431:1989 (Code of Practice for Earth Fill for Residential Development).

The extent of compliance with Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).

(vi) Erosion and Sediment Management:

The extent of compliance with the “Erosion and Sediment Control Guidelines for the Wellington Region 2002” and “Small Earthworks – Erosion and Sediment Control for small sites” by Greater Wellington Regional Council.

- (vii) The design and layout of the subdivision, including the size, shape and position of any lot, any roads or the diversion or alteration to any existing roads, access, passing bays, parking and manoeuvring standards, and any necessary easements;
- (viii) The provision of servicing, including water supply, waste water systems, stormwater control and disposal, roads, access, street lighting, telephone and electricity;
- (ix) Management of construction effects, including traffic movements, hours of operation and sediment control;
- (x) Avoidance or mitigation of natural hazards;
- (xi) The design and layout of the subdivision where any lot may affect the safe and effective operation and maintenance of and access to regionally significant network utilities (excluding the National Grid) located on or in proximity to the site;
- (xii) The outcome of consultation with the owner and operator of regionally significant network utilities (excluding the National Grid) located on or in proximity to the site;
- (xiii) Those matters described in Section 108 and 220 of the Resource Management Act 1991;
- (xiv) In regard to Appendix Subdivision 7 the engineering measures proposed to manage stormwater runoff to ensure the ecological health of Speedy’s Stream and the onsite wetland. To assist, expert assessment shall be undertaken, and provided with any subdivision application. This report shall identify the following:
 - i. The existing ecological values of Speedy’s Stream and the onsite wetland;
 - ii. The stormwater runoff rates for both the onsite wetland and Speedy’s Stream to maintain these ecological values (including for smaller frequent events like the 1 in 1 year and 1 in 2 year rainfall events);
 - iii. The acceptable level of contaminants in the stormwater to maintain the ecological values of both the onsite wetland and Speedy’s Stream;
 - iv. The engineering practices (for example, bio-retention devices and detention tanks) required to treat and control all stormwater runoff to ensure that the identified ecological values are at least maintained and the stormwater runoff rates and treatment identified in the points above are achieved. These engineering practices shall control all runoff generated by the 85-90th percentile rainfall depth. This is defined as treating the stormwater volume generated by the 27mm rainfall depth; and
 - v. Any potential conditions that may need to be imposed on the subdivision consent to ensure that these engineering measures are undertaken and appropriately maintained.

- (xv) In regard to Appendix Subdivision 8, the engineering measures proposed to manage stormwater runoff to ensure the ecological health of any onsite streams and downstream receiving environments. To assist, expert assessment shall be undertaken, and provided with any subdivision application. This report shall identify the following:
- i. The existing ecological values of the onsite streams (and their downstream receiving environments);
 - ii. The stormwater runoff rates for the onsite streams (and their downstream receiving environments) to maintain **or improve** ecological values (including for smaller frequent events like the 1 in 1 year and 1 in 2 year rainfall events);
 - iii. The acceptable level of contaminants in the stormwater to maintain **or improve** the ecological values of the onsite streams (and their downstream receiving environments);
 - iv. The engineering practices (for example, bio-retention devices and detention tanks) required to treat and control all stormwater runoff to ensure that the identified ecological values are appropriately protected, and the stormwater runoff rates and treatment identified in the points above are achieved; and
 - v. Any potential conditions that may need to be imposed on the subdivision consent to ensure that these engineering measures are undertaken and appropriately maintained.
- (xvi) In regard to Appendix Subdivision 8, any measures to control reverse sensitivity effects in relation to noise on the adjoining properties within the Rural Residential Activity Area.*
- (xvii) For the land in Appendix Subdivision 8, the measures to maintain the ecological values of the indigenous vegetation contained within the General Recreation Activity Area portion of the land. This includes the protection of indigenous vegetation within the General Recreation Activity Area portion of the land through appropriate legal mechanism and on-site measures to manage edge effects during any adjacent development activities.*

11.2.3.2 Standards and Terms

- (a) Any Subdivision located within a National Grid Corridor shall:**
- (i) comply with the Standards and Terms for a Controlled Activity in Rule 11.2.2.1 and
 - (ii) demonstrate that each new residential allotment can provide a complying Shape Factor as required under Rule 11.2.2.1(a) or in the case of industrial and commercial activities, a suitable building platform which is fully located outside of the National Grid Yard.

11.2.4 Discretionary Activities

- (a)** Avalon Business Activity Area.
- (b)** Special Commercial Activity Areas 1 and 2.
- (c)** Rural Residential Activity Area - all subdivisions with direct access off Liverton Road.

- (d) Historic Residential Activity Area.
- (e) General, Special, River and Passive Recreation Activity Areas.
- (f) Extraction Activity Area.
- (g) Community Health Activity Area.
- (h) Any subdivision within the identified coastal environment as shown in Map Appendices 2A, 2B, and 2C.
- (i) Any subdivision which is not a Permitted, Controlled or Restricted Discretionary Activity.
- (j) Any subdivision located wholly or partially within Avalon Business Activity Area (Sub-Area 1).
- (k) On 2/76 Normandale Road, Pt Lot 1 DP 7984, any earthworks undertaken as part of a subdivision, in that part of the site identified to the north and east of the stream, as shown on Appendix Earthworks 3.
- (l) Any subdivision of the land site identified in Appendix Subdivision 7 or Appendix Subdivision 8 that ~~does~~ not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (a) Allotment Design.

11.2.4.1 Assessment Criteria for Discretionary Activities

- (a) The matters contained in sections 104 and 105, and in Part II of the Act shall apply.
- (b) Compliance with the engineering design standards.
- (c) The degree of compliance or non-compliance with any relevant Permitted and Controlled Activity Standards and Terms.
- (d) Those matters listed in the Assessment Criteria for Controlled Activities.
- (e) For the sites identified in Appendix Subdivision 7 and Appendix Subdivision 8, those matters to which Council has restricted its discretion under Rule 11.2.3.1 (c).

11.2.5 Non-Complying Activities

- (a) Any subdivision of land within the National Grid Corridor that does not comply with the standards and terms under Rule 11.2.3.2.
- (b) ~~Any subdivision of the land site identified in Appendix Subdivision 8 which results in any new lots with residential dwellings having vehicular access to Liverton Road~~

11.3 Anticipated Environmental Results

- (a) That allotments created are suitable for the proposed use.
- (b) That adverse effects arising from the subdivision of land will be managed and mitigated.

- (c) That where appropriate and necessary there be improved public access to public areas

Appendix Subdivision 8

