

OFFICER'S REPORT FOR: **Robert Schofield, Independent Commissioner**

SUBJECT: **Proposed District Plan Change 31 –
33 Atiawa Crescent, Waiwhetu – Rezoning the
Site as General Residential Activity Area**

PREPARED BY: **Chloe Smith, Environmental Policy Division,
Hutt City Council**

REVIEWED BY: **Bronwyn Little, Manager Environmental Policy
Division, Hutt City Council**

REPORT DATE: **January 2014**

HEARING: **28 February 2014**

EXECUTIVE SUMMARY

The purpose of Proposed Plan Change 31 is to rezone the land at 33 Atiawa Crescent, Waiwhetu to General Residential Activity Area. The site is currently zoned General Recreation Activity Area. The proposed plan change would enable subdivision and development of the site for residential activity to the extent provided for by the General Residential Activity Area provisions of the District Plan.

In the middle of 2012, Hutt City Council (Council) was approached by representatives of Te Runanganui O Taranaki Whanui to discuss the acquisition of 33 Atiawa Crescent, Waiwhetu. An assessment of the recreational and open space values of the site was undertaken by PAOS Ltd. This review found that the site had low value as a reserve. At a Policy Committee meeting on 2 October 2012 the Council resolved to consult with the local community in accordance with the provisions of the Reserves Act 1977, in regards to the revocation of the reserve classification and associated disposal of the land. At the conclusion of the consultation period, no submissions were received and the Policy Committee resolved at its meeting on 20 November 2012 to recommend to full Council to revoke the reserve status of the site and to prepare a plan change to facilitate residential development on the site. Council resolved at its meeting on 11 December 2012 to revoke the reserve status and proceed with a plan change for the site.

Proposed Plan Change 31 was notified on 28 May 2013, with submissions closing on 28 June 2013. The summary of submissions was notified on 16 July 2013, with further submissions closing on 30 July 2013. An amended summary of submissions was re-notified on 10 December 2013, as it was discovered that an original submission had been processed incorrectly. This further submission phase closed on 14 January 2014.

A total of three original submissions and no further submissions were received. The submissions seek various forms of relief, including:

- Proceed with the rezoning; and
- Do not proceed with the rezoning and Council to work with iwi to create a community garden.

A hearing of submissions received to Proposed Plan Change 31 is scheduled to be held on 28 February 2014, heard by independent commissioner Robert Schofield.

The following report recommends that the independent commissioner accept or reject the submissions for the reasons as outlined under section 9 of this report.

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1. INTRODUCTION

1.1 Author

- 1 My full name is Chloe Jade Smith.
- 2 I am a Graduate Environmental Policy Analyst employed by the Hutt City Council and I hold a Bachelor of Planning Degree with Honours from the University of Auckland. I am a Gradplus member of the New Zealand Planning Institute.
- 3 I have worked in the Environmental Policy Division at Hutt City Council for 5 years and have been involved with the development, preparation and administration of various plan changes for Hutt City Council including temporary activities and filming, notification provisions, remnant nikau palm and vegetation protection and several land zoning changes.
- 4 I have visited the site at 33 Atiawa Crescent and am familiar with the surrounding area. I have been responsible for Proposed Plan Change 31 since it was publicly notified; co-ordinating the summary of submissions; the further notification phase and accepting the reporting officer role.
- 5 In preparing this report I have reviewed:
 - the Operative Wellington Regional Policy Statement;
 - relevant national environmental standards;
 - relevant Hutt City Council policy documents;
 - prior resolutions by Hutt City Council relevant to the plan change site;
 - the plan change document as notified, including the section 32 report and accompanying appendices;
 - all submission to Proposed Plan Change 31; and
 - the assessments of those experts that I rely upon in order to make my recommendation being:
 - Mr Jim McMenamin, Cuttriss Consultants Limited – Infrastructure; and
 - Ms Cheryl Robilliard, PAOS Limited – Recreation Values.

1.2 Content of the officer's report

- 6 This report is prepared under the provisions of section 42A of the Resource Management Act 1991 (The Act). It discusses and makes recommendations on the relief sought by submissions to Proposed Plan Change 31.
- 7 My evidence is structured as follows:
 - Introduction to the proposed plan change (paragraphs 8 - 11);
 - Background to the proposed plan change (paragraphs 12 – 19);
 - Description and history of the site (paragraphs 20 – 24);
 - The requirements for considering a plan change (paragraphs 25 – 32);
 - Analysis of relevant national, regional and council policy (paragraphs 34 – 57);
 - Consultation (paragraphs 58 – 61);
 - List of submitters (paragraph 62) and
 - Analysis of submissions and recommendations to the independent commissioner (paragraphs 63 – 80).

2. INTRODUCTION TO THE PROPOSED PLAN CHANGE

- 8 The intention of Proposed Plan Change 31 is to rezone the land at 33 Atiawa Crescent, Waiwhetu to General Residential Activity Area. The site is currently zoned General Recreation Activity Area. The proposed plan change would enable subdivision and development of the site for residential activity to the extent provided for by the General Residential Activity Area provisions of the District Plan.
- 9 The site is a flat 1795m² property situated at 33 Atiawa Crescent, Waiwhetu (Appendix 1 identifies the locality of the subject property). The site contains no buildings, structures or playground equipment and is grassed. Located along the western boundary of the property are several trees.
- 10 The property had its reserve status revoked on 1 February 2013, following community consultation in accordance with the Reserves Act 1977.
- 11 Although this report is intended as a stand-alone document, a more in-depth understanding of the proposed plan change, the process undertaken, and related issues may be gained by reading the Section 32 Evaluation and associated Plan Change documents as publicly notified on the 28th of May 2013.

3. BACKGROUND TO PROPOSED PLAN CHANGE 31

- 12 Between 2007 and 2012 Council undertook a detailed review of all of the land it held in fee simple ownership and managed as reserve. While the emphasis of this review was for land not vested under the Reserves Act 1977, some properties that were vested as reserve were included in this process. The purpose of the review was to ensure that all Council owned land that is managed as reserve was being used for its best purpose. This land review process resulted in several areas of land being disposed of, as following assessment, their recreational values were considered to be low. As part of the process, several plan changes were required to be undertaken. This process has now been largely completed.
- 13 This site, 33 Atiawa Crescent (Appendix 1 identifies the locality) was not originally assessed as part of the land review as it was vested as a recreation reserve under the Reserves Act 1977. However, in the middle of 2012, representatives from Te Runanganui O Taranaki Whanui approached the Council and identified an interest in purchasing the site. Following these discussions, an assessment of the recreational and open space values of the site was undertaken by PAOS Ltd. This review found that the site had a low value as a reserve. At a Policy Committee meeting in October 2012, it was resolved to consult with the local community in accordance with the provisions of the Reserves Act 1977, in regards to the revocation of the reserve classification under the Reserves Act 1977 and the associated disposal of the land. At the conclusion of the consultation period, no submissions were received. The Policy Committee therefore resolved on 20 November 2012 to recommend that Council revoke the reserve status of the site and to prepare a plan change to facilitate residential development on the site. This resolution was carried in the 11 December 2012 full Council meeting.

- 14 If the site were to be zoned General Residential Activity Area, and development was undertaken in accordance with the relevant density provisions of the District Plan, it is anticipated that a 3 lot subdivision could be undertaken on the site (as identified on the indicative plan within Appendix 2). This subdivision would comply with the minimum allotment design and standards of the Subdivision Chapter of the District Plan, and would also be consistent with the wider character of the local environment.
- 15 I note that the subdivision plan shown in Appendix 2 is only an indicative development demonstrating what could be undertaken on the property, if this site is zoned General Residential Activity Area. The indicative subdivision shown on this plan is not being applied for as part of this plan change process. Any subdivision of the site would be subject to a more detailed design and would require a separate resource consent application.
- 16 Council sought expert advice on the plan change and the indicative subdivision option as follows:
- Recreational Value Assessment (assessment by PAOS Limited September 2012)
 - Infrastructure Assessment (Analysis of services by Cuttriss Consultants Limited March 2013)
- 17 These reports were attached as appendices to the Section 32 Report of the Plan Change as notified.
- 18 Plan Change 31 was notified on 28 May 2013, with submissions closing on 28 June 2013. The summary of submissions was notified on 16 July 2013, with further submissions closing on 29 July 2013. An amended summary of submissions was re-notified on 10 December 2013, as it was discovered that an original submission had been processed incorrectly. This further submission phase closed on 14 January 2014.
- 19 A total of three original submissions and no further submissions were received.

4. DESCRIPTION AND HISTORY OF THE SITE

- 20 The site is a flat 1795m² property situated at 33 Atiawa Crescent. The site contains no buildings or playground equipment and is grassed. Located along the western boundary of the property are several trees.
- 21 The character of the area immediately surrounding the site is residential in nature. These residential properties contain dwellings of a mix of architectural styles, ages and designs, some of which are two storied, although most are single storied. The properties in the local environment are a variety of sizes. The majority of sites are over 500m² in area. However, there are several properties that are smaller than 400m², including a multi-unit development situated to the immediate north west of Atiawa Crescent.
- 22 The site is legally described as Lot 25 DP 15344 and is held in Computer Freehold Register WNB4/4. The site was registered as a recreation reserve under the Reserves Act 1977. This reserve status has since been revoked and a copy of the gazette notice confirming this is

contained in Appendix 3. There are no restrictions or interests registered on the Computer Freehold Register of the site that would affect this plan change.

23 The site is currently zoned General Recreation Activity Area in the City of Lower Hutt District Plan. There are no special notations or restrictions registered within the District Plan that would affect the proposed plan change.

24 A review has been undertaken of the previous Hutt County District Schemes, Transitional District Plan, Proposed District Plan and the Operative District Plan, the zoning history is shown below, it has consistently been recreation:

- Lower Hutt District Scheme (Operative 1964) – Public Recreation Reserve
- Lower Hutt District Scheme Review No. 1 (Operative 1978) – Existing Public Reserve
- Lower Hutt District Scheme Review No. 2 (Operative 1991) – Recreation
- Proposed District Plan – General Recreation Activity Area
- Operative District Plan – General Recreation Activity Area

5. REQUIREMENTS FOR CONSIDERING A PROPOSED PLAN CHANGE

5.1 Purpose and Principles of the Resource Management Act 1991

25 The purpose and principles of the Resource Management Act 1991 are detailed in Sections 5-8 of Part 2 of the Act. An assessment of the Proposed Plan Change against Part 2 is provided below.

26 Section 5

Section 5 promotes the sustainable management of natural and physical resources. Section 5 states:

“Sustainable Management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while

-
- (a) *Sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

27 I consider the proposed plan change to be consistent with Section 5 of the Resource Management Act 1991. The site has low recreational value (as outlined in the PAOS report which was part of the publicly notified proposed plan change documentation) and there are a number of other recreation grounds located in the local environment that will meet the recreational needs of the local community. While the proposed plan change would reduce the total amount of recreational land available, the remaining parks and open space would meet the 4 hectares of land per 1000 people population benchmark for the local area. Furthermore, the desirability of having neighbourhood parks within 10 minutes' walk from any residence will also be maintained.

28 The proposed General Residential Activity Area zone would be consistent with the zoning of the immediately adjoining residential properties and would allow for both a density of housing, and a housing form, which is in keeping with the immediate and wider environments. Any adverse effects resulting from the residential development of the site are considered to be able to be appropriately mitigated through the existing provisions in Chapters 4A and 11 of the District Plan. It is therefore considered that the proposed General Residential Activity Area zone will maintain the amenity values and character of the local environment.

29 I consider that the Proposed Plan Change provides for the social and economic wellbeing of the local community. The rezoning of the site to the General Residential Activity Area encourages the development of residential housing. Any housing development on the site would provide increased employment during construction in addition to the benefits derived from modern construction (i.e.: insulated homes which are warm and dry). The additional housing would also increase the ratings base, thereby providing increase revenue to the Council to assist with improving services for the wider community.

30 Section 6 – Matters of National Importance

Section 6 of the Act sets out the matters of national importance which are required to be recognized and provided for when managing the use, development and protection of natural and physical resources. I consider that the proposed plan change is consistent with Section 6 of the Resource Management Act 1991 for the following reasons:

- The site is not located within a Significant Cultural Resource as identified within the City of Lower Hutt District Plan;
- The site subject to this proposed plan change does not contain a wetland, lake or river, and it is not on the margin of any of these;
- The site is not situated within the coastal environment; and
- The area subject to this proposed plan change is not within a Significant Natural Resource as identified in the City of Lower Hutt District Plan.

31 Section 7 – Other Matters

Section 7 of the Act details the other matters which are required to be given particular regard to when managing the use, development and protection of natural and physical resources. I consider that the proposed plan change is consistent with Section 7 of the Act for the following reasons:

- The density of residential development that could result from the proposed plan change would be at a level which is consistent with the established character and visual amenity values of the wider environment;
- The site is considered to have a low recreational value and there are a large number of recreational opportunities available in the local area. As such, it is considered that the proposed plan change does not detract from the ability for local residents to access recreational facilities within walking distance of their residence;
- Any potential adverse effects resulting from future residential development of the site can be mitigated through the existing District Plan objectives, policies and rules relating to the General Residential Activity Area;

- The potential traffic generated from development enabled by the proposed plan change would be able to be accommodated on the local roading network without compromising its efficiency or safety; and
- The existing services within the local environment have sufficient capacity to service future residential development on the site.

32 **Section 8 - Treaty of Waitangi**

Section 8 of the Resource Management Act requires that the principles of the Treaty of Waitangi be taken into account. The principles of the Treaty of Waitangi have been taken into account in the analysis of this proposed plan change. The site does not contain any significant Cultural Resources which are identified in the District Plan. Consultation has been carried out with local iwi authorities as part of the statutory consultation during the formation of, and the formal process for, this proposed plan change. The parties that responded to consultation supported the proposal. I therefore consider that the principles have been sufficiently addressed in the assessment of this proposal.

6. NATIONAL, REGIONAL AND LOCAL POLICY ANALYSIS

6.1 NES for Assessing and Managing Contaminants in Soil to Protect Human Health

- 33 This National Environmental Standard (NES) is relevant to the site as the proposed plan change intends to provide for subdivision and a different land use from what is currently there. The NES must be taken into account by any land owner who plans to subdivide or alter their land's use.
- 34 The NES applies to land that has been used or is used, or has more than likely than not to have been used for any of the hazardous activities or industries listed on the Hazardous Activities or Industries List (HAIL), as developed by the Ministry for the Environment.
- 35 I have taken the NES into account and confirm that the land at 33 Atiawa Crescent is currently not being used and has no history of being used for any of the hazardous activities or industries listed on HAIL.

6.2 Policy Statement for the Wellington Region

- 36 The Regional Policy Statement (Proposed RPS) was notified in early 2009 with a decision on submissions being made in May 2010. The RPS was appealed to the Environment Court and in 2012 these appeals were resolved. The amended RPS has been approved by Council and is awaiting printing. Advice from Greater Wellington Regional Council is that this RPS can be considered as operative and replaces the first generation RPS that was operative between 1995 and 2012.
- 37 The objective and policies of the RPS most relevant to the proposed plan change are considered to be the following:

38 *Regional Form, Design and Function*

Objective 21

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

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

Policy 32

Supporting a compact, well designed and sustainable regional form.

Policy 54

Maintaining a compact, well designed and sustainable regional form.

Policy 57

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

39 I consider that the proposed plan change is consistent with the objectives and policies of the RPS.

40 Objective 21 and the associated policies seek to ensure that urban development is undertaken within existing urban centres in a manner which is an efficient use of the existing infrastructure. The proposed plan change site is located within an urban environment and is well serviced by existing infrastructure. The rezoning of the site would promote residential development in an area which is well serviced by recreational facilities, and is situated close to public transport. Given these factors, I consider that the Plan Change is consistent with Objective 21 and the supporting policies as the development of the site for residential purposes would be an efficient use of the land resource.

41 Although not part of the proposed plan change, an indicative development layout has been designed for the site. This plan was included with the plan change documentation when notified as well as in this report at Appendix 2. The layout closely follows the design parameters laid out in the Operative District Plan and as a result the layout is similar in form to the existing character of the wider area. The final design may be altered at the time resource consent is applied for; however, the final design is anticipated to achieve similar outcomes as the indicative development.

42 Overall, I consider the proposed plan change to be consistent with the objectives and policies of the RPS.

6.3 The Wellington Regional Strategy

43 The Wellington Regional Strategy (WRS) is a sustainable growth strategy that has been developed by the nine local authorities within the Greater Wellington Area. The strategy has been developed in conjunction with central government, and the region's business, education, research and voluntary sector interests. The community outcomes of the WRS relevant to the proposed plan change are healthy environment, quality lifestyle and sense of place.

44 I consider that the proposed plan change is consistent with the community outcomes sought through the WRS.

6.4 Consistency with surrounding District Plans

45 Section 74(2)(c) of the Act requires Council to consider the extent to which this proposed plan change needs to be consistent with the plans or proposed plans of adjacent territorial authorities. The proposed plan change covers a very small pocket on land well within the boundaries of the City of Lower Hutt. In my opinion it will have no effect on the plans or proposed plans of adjacent territorial authorities and will not be inconsistent with them. Feedback was not received from any neighbouring territorial authorities during initial consultation with statutory authorities under Schedule 1 of the Act.

6.5 Relationship with Council Strategies and Plans

6.5.1 City of Lower Hutt District Plan

6.5.1.1 Area Wide Objectives of the District Plan

46 Chapter 1 of the City of Lower Hutt District Plan identifies the area wide objectives and policies which the District Plan seeks to achieve. The area wide objectives and policies which are considered to be relevant to the proposal are as follows:

1.10.1 Resource Management and the Tangata Whenua of Lower Hutt Objective

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

Policies

- (a) *To have particular regard to tangata whenua's desire to carry out kaitiakitanga.*
- (b) *To protect waahi tapu and sites of cultural or historical significance to tangata whenua from desecration or disturbance.*
- (c) *To recognise and protect the tangata whenua desire to maintain and enhance their traditional relationship with the environment.*
- (d) *To consult with the tangata whenua when discharging functions and duties under the Act.*

1.10.2 Amenity Value

Objective

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

Policy

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

1.10.3 Residential Activity

Objective

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

Policy

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

1.10.6 Open Space and Recreation

Objective

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

Policies

- (a) To ensure the adequate provision of open space for the passive recreational needs of the community.
- (b) To ensure adequate provision of larger open space areas for active and passive recreation.
- (c) To ensure the protection and enhancement of areas of special recreation amenity.
- (d) To ensure the conservation of natural and heritage features and landscapes.

- 47 I consider the proposed plan change to be consistent with the above Area Wide Objectives and Policies of the District Plan. The site is located in an established residential area which is serviced by existing infrastructure. The site is located in close proximity to main transport links and the local roading network will have capacity to accommodate the likely traffic generation which could result from future residential development of the site. Given these factors, I consider that the proposed General Residential Activity Area zoning is appropriate for the site and would allow for the maximum development potential to be realised while allowing for further consolidation of an existing established residential area.
- 48 I recognise that the proposed plan change would result in the loss of an area of recreational land from the local environment. The PAOS assessment for the site identifies that the property has low recreational values. This assessment recognises that there are a number of public and private areas available within the local environment that will meet the recreational needs of the local community. This report identifies that if the site was to be no longer used for recreational purposes, the residential properties in the local area would still have access to a recreational facility within ten minutes' walk of their property and the desirable level of recreational space of 4 hectares of land per 1000 people would be maintained. I have considered these factors, and concur with the PAOS assessment. I consider that the proposed plan change is not detrimental to the provision of open spaces and recreational values within the local environment.
- 49 The site is a modified, grassed field that contains no significant vegetation. As such, I consider any potential ecological effects resulting from the proposal to be minimal.
- 50 Overall, I consider that the proposed plan change will contribute to achieving the area wide objectives and policies of the District Plan. In my opinion, rezoning the site to General

Residential Activity Area will achieve a balance between maintaining the amenity values and character of the local environment, while allowing for the development potential of the site to be realised. I consider that maintaining the status quo will not be as effective or efficient in achieving these area wide objectives and policies, as it will result in the retention of a underutilised park which currently has little potential for meeting the recreational needs of the local community.

6.5.1.2 Specific District Plan Objectives and Policies

51 I consider the proposed plan change to be consistent with the relevant objectives and policies pertaining to the General Residential Activity Area of the City of Lower Hutt District Plan. The objectives and policies of the General Residential Activity Area which are considered to be relevant to this proposal are as follows:

General Residential Activity Area Objectives and Policies

4A 1.1.1 Residential Character and Amenity Value

Objective

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

Policies

- (a) *That opportunity be provided for a diversity of residential activities.*
- (c) *To ensure residential amenity values are retained, protected and enhanced through the establishment of a net site area per dwelling house.*
- (d) *That adverse effects arising from noise, dust, glare, light spill and odour be managed.*
- (e) *That vegetation and trees which add to the particular amenity values of the area be retained where practicable.*

4A 1.2.1 Building Height, Scale, Intensity and Location

Objective

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

Policies

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

- 52 I consider that the provisions of the General Residential Activity Area are appropriate for the site in terms of achieving the purpose of the Act, in that the provisions of the General Residential Activity Area will provide for the sustainable management of the natural and physical resources of the site.
- 53 No changes are proposed to the objectives, polices and rules of the General Residential Activity Area as part of this proposed plan change. With regard to their efficiency and effectiveness, I consider that the existing policies and rules for the General Residential Activity Area are the most appropriate for achieving the objectives and it is appropriate that they be applied to the site.
- 54 I consider that the existing rules within the General Residential Activity Area, along with the general rules of the District Plan, are sufficient to ensure that the amenity values and character of the site and the surrounding area are maintained and that any adverse effects on the environment are avoided, remedied or mitigated.

6.5.2 Other Strategies and Plans

- 55 The Hutt City Council has a number of relevant strategies and plans that detail the priorities for the City, namely:
- Economic Development Strategy 2009;
 - Environmental Sustainability Strategy 2009;
 - Reserves Policy 2004;
 - Reserves Key Directions Strategy;
 - Reserve Land Acquisition and Disposal: Policy and Guidelines;
 - Annual Plan 2013; and
 - Long Term Council Plan (LTCP) 2012.
- 56 I consider the proposed plan change to be consistent with the outcomes sought under the above strategies and plans.

7. CONSULTATION

- 57 Between September and October 2012, consultation was undertaken with the relevant parties in relation to the disposal of land managed as reserve in accordance with the requirements of the Reserves Act 1977. The actions which were undertaken as part of this process included:
- Formal advertisement in the Hutt News regarding the revocation of the recreation reserve status of the land and the possible disposal of the site;
 - Letter sent to adjoining land owners/tenants of land identified for possible disposal; and
 - Information posted on the Council's website.
- 58 No submissions were received by Council in regards to the consultation that was undertaken under the Reserves Act 1977. Subsequently, the Council resolved to revoke the recreation reserve status from the site and seek a plan change to rezone the property to allow for residential development. If the plan change is successful, the Council will dispose of the site.

59 Prior to the proposed plan change being notified publicly, consultation was carried out with the following statutory authorities in accordance with the Schedule 1 of the Resource Management Act, 1991:

- Greater Wellington Regional Council
- Porirua City Council
- Wellington City Council
- The Wellington Tenth Trust
- Te Runanganui O Taranaki Whanui ki te Upoko o te Ika a Maui
- The Port Nicholson Block Settlement Trust
- The Palmerston North Maori Reserve Trust

60 We received feedback from the following parties, who indicated their support:

- Te Runanganui O Taranaki Whanui ki te Upoko o te Ika a Maui; and
- The Port Nicholson Block Settlement Trust.

61 The above statutory authorities were contacted directly again when the proposed plan change was publicly notified. Te Runanganui O Taranaki Whanui ki te Upoko o te Ika a Maui made a formal submission and I discuss it and make recommendations on it in paragraphs 68-71.

8. LIST OF SUBMITTERS

62 The following submitters have lodged submissions on Plan Change 31:

Submission Number	Name of Original Submitters	Submission Reference
DPC31/001	Te Rira Puketapu	1.1
DPC31/002	Robert Ashe	2.1
DPC31/003	Jacqui Smith	3.1, 3.2

9. ANALYSIS OF SUBMISSIONS AND RECOMMENDATIONS

63 The following sections of my report provide a brief summary of each submission and a recommendation in response to each of the decisions sought.

64 The submissions are addressed by submitter. In the heading the submission number, the name of the submitter and the submission reference are printed in bold. Then the decision sought by the submitter is outlined and specific comments made by the submitter are summarised. This is followed by a discussion of the issues raised and my recommendation to the independent commissioner.

65 With respect to determining the scope of a submission, reference is made to clause 6 of the First Schedule to the Resource Management Act 1991 (referred to as the Act) which states:

“6. Making submissions

Any person, including the local authority in its own area, may, in the prescribed form, make a submission to the relevant local authority on a proposed policy statement or plan that is publicly notified under clause 5.”

- 66 A submission on a plan change is therefore limited in that it must be “on” the plan change. In the case of Plan Change 31 the purpose was to address the intention to zone a Council owned parcel of land as General Residential Activity Area. Accordingly, for a submission to be deemed to be within the scope of Plan Change 31 the submission must relate to any one of the issues addressed in the Plan Change.
- 67 While there were no further submissions, I note for the sake of clarity of process, a further submission is limited to a matter in support of, or opposition to, an original submission. It cannot raise new issues that haven’t been addressed in one of the original submissions.

Submission:

DPC31/001- Te Rira Puketapu - 1.1

68 **Request of Submitter**

The submitter supports Proposed Plan Change 31.

69 **Specific Comments**

The submitter has included supporting documentation to their submission which records Te Atiawa historical occupation and matters surrounding the loss of ownership of the 106 Acre Block of Maori Reserve Land at Waiwhetu (known as Section 19) taken by the Crown in 1942-43 under the Public Works Act of which 33 Atiawa Crescent was a part of the WAI.105 claim. The submitter states that the offer back provisions of the Public Works Act 1993, associated provisions of the Te Ture Whenua Act 1993 and the provisions of the Resource Management Amendment Act 2009 all have sections that need to be considered in the rezoning process.

70 **Discussion**

The submitter supports the proposed plan change but draws the Council’s attention to take into account the provisions of various Acts. I consider that the Acts the submitter refers to have had due regard given to them prior to Proposed Plan Change 31 being notified and I consider the outcome of any sale or transfer of the land to be outside the scope of the plan change as property ownership is not a valid resource management issue under the Resource Management Act 1991.

71 **Recommendation**

It is recommended that the further submission lodged by **Te Rira Puketapu [1.1]** be accepted to the extent that the provisions of Proposed Plan Change 31 remain unchanged.

Submission:

DPC31/002- Robert Ashe - 2.1

72 **Request of Submitter**

The submitter opposes Proposed Plan Change 31. The submitter would like Council to work with iwi and propose a community garden for the land.

73 Discussion

The submitter generally opposes the rezoning of the land at 33 Atiawa Crescent. Overall, I consider that the actual and potential effects of Proposed Plan Change 31 (as assessed in the Section 32 Analysis for this plan change and discussed in this report, paragraphs 25 to 57) can be adequately controlled by the rules, objectives and policies contained in the General Residential Chapter 4A and the Subdivision Chapter 11 of the Operative District Plan. As such, any effects associated with the potential residential development of the site can be appropriately avoided, remedied or mitigated at the time of the residential development of the site.

In addition, I consider that the specific relief sought by the submitter is outside the scope of the plan change as the potential use of the site as a community garden and property ownership are not valid resource management issues under the Resource Management Act 1991.

74 Recommendation

It is recommended that the submission lodged by Robert Ashe [2.1] be rejected to the extent that the provisions of Proposed Plan Change 31 remain unchanged.

Submission:

DPC31/003- Jacqui Smith - 3.1

75 Request of submitter

The submitter requests that they and neighbours be consulted with before any new dwelling is granted consent, if the proposed new dwelling/s will affect the submitter's access to sunlight.

76 Discussion

The submitter refers to the objective and policies of the General Residential Chapter 4A 1.2.1 'Building Height, Scale, Intensity and Location' and is concerned that any proposed new dwellings on the site may breach the permitted activity conditions resulting in a loss of sunlight to their property and surrounding properties.

If the proposed plan change becomes operative and the land is rezoned, any new dwellings on the site must conform to the permitted activity conditions in Chapter 4A (i.e.: building height, length, maximum site coverage). If they do not conform, a resource consent will be required. I have discussed possible scenarios with the senior resource consents planner at Hutt City Council and they have advised that any consultation with neighbours would depend on the severity of the condition breach. This means it cannot be guaranteed at this stage that the submitter or neighbours would be directly consulted with.

In my opinion the existing objective, policies and rules in Chapter 4A 1.2.1 'Building Height, Scale, Intensity and Location' are appropriate and capable of addressing any potential loss of sunlight to neighbouring dwellings if a breach is proposed as a result of any new dwellings.

It is important to note that the indicative subdivision plan is just one potential layout and is ultimately used to determine the parameters of the plan change site. It is presented as no more than an example of how the land might be developed and there are likely to be other feasible means of subdividing the land. This plan change does not determine the actual pattern or shape of any future subdivision; it just determines the parameters and framework for future residential development.

77 **Recommendation**

It is recommended that submission 3.1 lodged by Jacqui Smith [3.1] be rejected to the extent that the provisions of Proposed Plan Change 31 remain unchanged.

Submission:

DPC31/003- Jacqui Smith - 3.2

78 **Request of submitter**

The submitter requests that the rateable values of adjoining properties, including their own, are not adversely affected by the plan change.

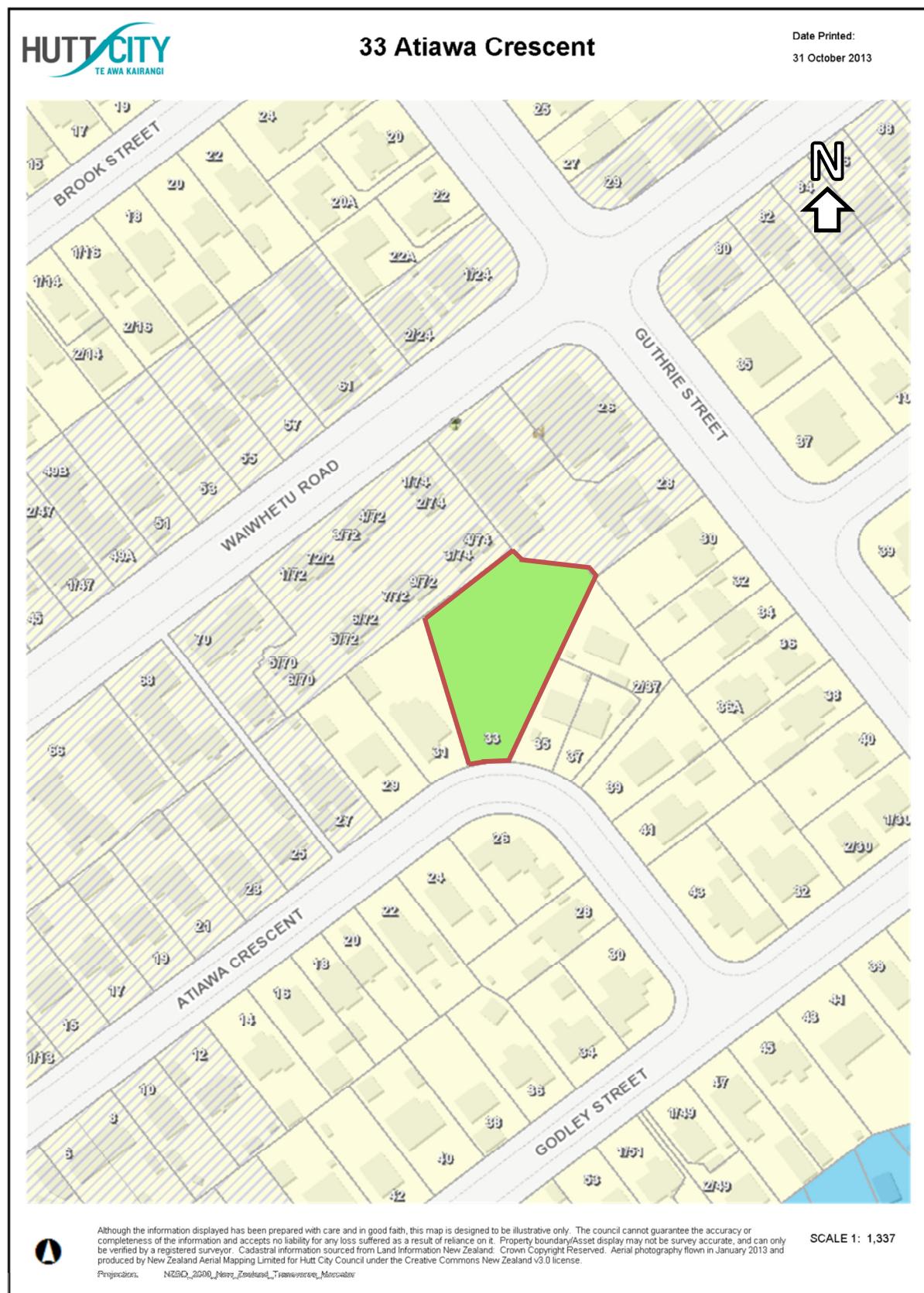
79 **Discussion**

While I acknowledge the concerns of the submitters regarding potential loss of value of their property, I consider the submission to be outside the scope of the plan change as rating value is not a valid resource management issue under the Resource Management Act 1991.

80 **Recommendation**

It is recommended that the submission lodged by Jacqui Smith [3.2] be rejected to the extent that the provisions of Proposed Plan Change 31 remain unchanged.

Appendix 1: Location Plan – 33 Atiawa Crescent, Waiwhetu



Appendix 2: Indicative 3 lot subdivision plan



Cuttress Conyers Limited Hutt Valley, Wellington, New Zealand			POSSIBLE SUBDIVISION OF 33 ATIAWA CRESCENT, WAIWHETU			Scale 1:200			Size A3		
REFDNR	NAME	DATE				DRAWING NUMBER					
RECDNR	VAL	03/13				28075SCH					
DRWNH	VAL	03/13				SHEET 1 OF 1 SHEETS					
CHKDNR	CRM	03/13				REVISION					

CUTTRESS CONYERS LTD. Surveyors, Engineers & Resource Managers
Level 1, 100 Lambton Quay, Wellington, New Zealand
Postal Address: P.O. Box 20-200, Lower Hutt 5010
Telephone: (04) 803 2300 Facsimile: (04) 803 23000 Email: info@cuttress.co.nz

RECEIVED BY: RECDNR: VAL: DATE: 03/13
DRAWN BY: DRWNH: VAL: 03/13 SHEET 1 OF 1 SHEETS
CHECKED BY: CHKNR: CRM: 03/13 REVISION:

CLIENT: HUTT CITY COUNCIL

Appendix 3: Gazette Notice

Extract from *New Zealand Gazette*, 14/2/2013, No. 15, p. 510

Revocation of the Reservation Over a Reserve and Specifying the Manner of Disposal and How to Utilise the Proceeds of Sale

Under the Reserves Act 1977, the Conservator for the Wellington Hawke's Bay Conservancy of the Department of Conservation hereby revokes the reservation over the recreation reserve described in the Schedule and declares the land may be disposed of by the Hutt City Council in such manner, at such price and on such terms and conditions as the council shall determine, the proceeds from any sale to be paid into its reserves development and purchases fund for the purposes of acquiring new reserves or developing its reserves network.

Wellington Land District—Hutt City
Schedule

Area m ²	Description
1795	Lot 25 DP 15344 (Computer Freehold Register WNB4/4).

Dated at Wellington this 1st day of February 2013.

ALAN MCKENZIE, Conservator.
(DOC PAD-09-03-02)

In744

Appendix 4: Proposed Plan Change 31 as recommended



Proposed Plan Change 31

33 Atiawa Crescent, Waiwhetu, Lot 25 DP 15344

Land to be zoned General Residential Activity Area

Planning Map D5



District Plan - City of Lower Hutt



Scale 1:2000