Recommendation of Independent Hearing Panel

PRIVATE PLAN CHANGE 53

190, 236 AND 268 STRATTON STREET, NORMANDALE – REZONING TO RURAL RESIDENTIAL 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

13 October 2021

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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
"HCC"	Hutt City Council
"NES-FW"	National Environmental Standards for Freshwater 2020
"NZCPS"	New Zealand Coastal Policy Statement 2010
"NPS-FM"	National Policy Statement for Freshwater Management 2020
"NPS-IB"	Proposed National Policy Statement for Indigenous Biodiversity
"NPS-UD"	National Policy Statement on Urban Development 2020
"the District Plan"	Operative City of Lower Hutt District Plan 2004
"the plan change"	Proposed Change 53 to the Plan
"PNRP"	Proposed Natural Resources Plan for the Wellington Region
"the Regional Council"	Greater Wellington Regional Council
"the Requestor"	Judy and Neville Bannister
"the RPS"	The Regional Policy Statement for the Wellington Region
"the RMA"	Resource Management Act 1991
"TIR"	Transportation impact report
"s[#]"	Section Number of the RMA, for example s32 means section 32
"s42A report"	The report prepared by HCC pursuant to s42A, RMA
"SNA"	Significant Natural Area
"SNR"	Significant Natural Resource
"the site"	The land at 190, 236 and 268 Stratton Street, Normandale – subject to this plan change request
"UGS"	Hutt City Urban Growth Strategy 2012 - 2032

Hutt City Council
Private Plan Change 53
190, 236 and 268 Stratton Street, Normandale – Rezoning to Rural Residential Activity Area

Recommendation of the Independent Hearing Panel

Proposal Description:
Proposed Private Plan Change 53 to the City of Lower Hutt District Plan:
190, 236 and 268 Stratton Street, Normandale – Rezoning to Rural Residential Activity Area

Hearing Panel:
DJ McMahon – Independent RMA Hearing Commissioner, Chair
EA Burge – Independent RMA Hearing Commissioner
Councillor Simon Edwards – Sitting as an Independent Commissioner

Date of Hearing:
10 September 2021

Hearing Officially closed:
11 October 2021

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1. INTRODUCTION

Report purpose

1.1 This report sets out our recommendation as to a decision on Proposed Private Plan Change 53 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 PC53 should be declined, approved or approved with amendments.

1.3 The plan change (as notified) seeks to:

a. rezone three properties in Normandale from General Rural Activity Area to Rural Residential Activity Area.

1.4 No new provisions or amendments to existing zone provisions in the District Plan are proposed.

1.5 We will canvass the plan change's background in due course. It has been the subject of a section 32 report[1], consultation with stakeholders, and, of course, the public notification and hearing process, culminating in our recommendation as to a decision.

1.6 Before setting out the details of PC53, 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

1.7 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.

1.8 The purpose of this report is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.

1.9 Having familiarised ourselves with PC53 and its associated background material, read all submissions, conducted the site/locality visits and hearing, we hereby record our recommendations.

1.10 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 PC53 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

1.11 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.

1.12 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.

1.13 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 in the Western Hutt hills, in Normandale, Lower Hutt. Totalling approximately 49.8 hectares in area, it comprises three separate properties as follows:

a. 190 Stratton Street (Sec 43 Normandale Sett Blk VII D3/922);

b. 236 Stratton Street (Lot 1 DRP 50184 20B/82); and

c. 268 Stratton Street (Lot 2 DRP 50184 20B/83).

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 blue. Portions zoned General Rural Activity Area are shown in brown and those portions shown in green and light blue are zoned General Recreation Activity Area and Rural Residential Activity Area, respectively. Significant Natural Resource (SNR 38 – Normandale Road Bush) affects two of the three properties (190 and 236 Stratton Street).

Figure 1: Plan change site (as notified) and existing zoning pattern in locality. Not to scale. (*image source: Private Plan Change Request, Part B: Section 32 Evaluation*, page 11)

2.3 The properties are bounded by Stratton Street to the west and Normandale Road to east. All three properties contain an existing dwelling and several detached accessory

buildings. All three properties have their main vehicle access from Stratton Street. Nos. 236 and 268 Stratton Street also have vehicle access to the unsealed part of Old Coach Road and have the right to use the road beyond the gate to access their sites.

2.4 The sites are characterised by low density, rural use and development and have no connections to Council's 'three waters' infrastructure.

2.5 The s32 evaluation report for the plan change provides the following description for the site:

All three properties are accessed from Stratton Street and are generally sloping upwards from Stratton Street (west to east), with the high point lying to the east of the properties. Overall the sites are characterised by a mostly rolling modulation with some steeper parts, particularly around gullies and small waterbodies on the sites.[2]

Currently vegetation on the sites has partially been cleared and while other parts of the sites are covered in forest and regenerating vegetation. Based on site visits and analysis of aerials of the sites there appear to be two small streams on the site. Both appear to be intermittent or ephemeral streams.[3]

2.6 Adjoining properties to the west and north of the site form part of Belmont Regional Park. The park is accessible from the end of Stratton Street.

Operative District Plan

2.7 The current zoning of the site and broader area is illustrated in **Figure 1**. The properties that form the site have a General Rural Activity Area zoning. The adjacent property immediately to the east at 301 Normandale Road also has a General Rural Activity Area zoning. Collectively, from a zoning perspective, these properties somewhat in isolation from other areas zoned General Rural Activity Area to the northeast.

2.8 The properties that make up the Belmont Regional Park have a General Recreational Activity Area zoning. The properties to the south of the site are known as Cottle Park and also have a General Recreational Activity Area zoning. Two properties to the west of Stratton Street, and all properties to the west, across Normandale Road, have a Rural Residential Activity Area zoning. We note that the 301 Normandale Road property was originally part of the zoning proposal (i.e., before the lodgement of the plan change). However, and for reasons that are not material to our evaluation, the property owner elected not to proceed. We return to this issue of the rural 'island' in our evaluation in **Section 3** of this report.

2.9 The following sections in the District Plan contain Zone and District-wide objectives, policies and rules that 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 Values;

c. Chapter 1.10.7 – Rural Activity;

[2] *Private Plan Change Request, Part B: Section 32 Evaluation,* para 20, page 17
[3] *Private Plan Change Request, Part B: Section 32 Evaluation,* para 22, page 18

d. Chapter 1.10.9 – Significant Natural, Cultural and Archaeological Resources
e. Chapter 8A – Rural Residential Activity Area;
f. Chapter 11 – Subdivision;
g. Chapter 14A – Transport;
h. Chapter 14E – Significant Natural, Cultural and Archaeological Resources; and
i. Chapter 14I – Earthworks.

Plan Change Request: Reasons, Purpose, Evaluations and Provisions

2.10 Part 2 of the RMA's First Schedule sets out various requirements for private plan changes such as PC53. 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.

2.11 Each of these are discussed further below, followed by a summary of the proposed plan change provisions.

Reasons and Purpose for the plan change

2.12 As notified, the plan change proposes to rezone the area to which it relates from General Rural Activity Area to General Rural Residential Activity Area, as illustrated in **Figure 2**.

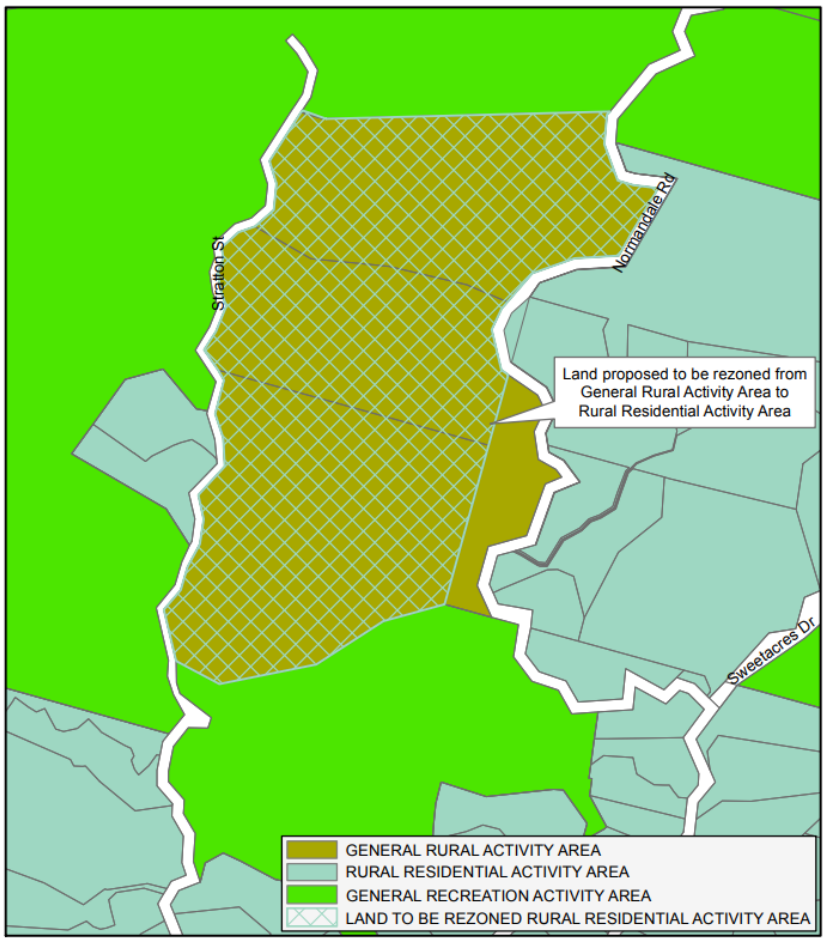


Figure 2: Plan change site (checked areas) and locality (as notified). Not to scale. (*image source: Private Plan Change Request, Part 3: Proposed Amendments to District Plan Maps*, page 9)

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

> *The purpose of the plan change is to rezone the properties at 190, 236 and 268 Stratton Street in Normandale from their existing zoning as General Rural Activity Area to one that is considered to better meet the purpose of the RMA through the objectives of the District Plan* ***and provide for additional development potential*** *that aligns with the rural character of the surrounding area. As outlined later in this report the Rural Residential Activity Area has been identified as being the most appropriate zoning for the sites.*
>
> *The proposed rezoning to Rural Residential Activity Area would allow for the future subdivision and development of the properties at a rural scale. It would thereby assist in providing for the increasing demand for housing. The proposed Rural Residential Activity Area allows for the development of rural residential activities, which is an appropriate activity for the sites given the character of the wider environment. The main differences between the General Rural Activity Area and the Rural Residential Activity Area are the development standards relating to the minimum Net Site Area per Dwelling (15ha in General Rural compared to 2ha in Rural Residential) and the maximum Site Coverage (1000m² in General Rural compared to 450m² in Rural Residential). The range of activities that is provided for in both areas is very similar with a slightly more*

> *permissive framework around farming and rural service industries in the General Rural Activity Area …*
>
> *The proposed Plan Change does not seek the introduction of any new objectives, policies or rules to the District Plan. Any potential future effects arising from the development of the sites resulting from the proposed Plan Change can be addressed through the existing objective, policies and rules pertaining to the Rural Residential Activity Area.*[4]

2.14 The purpose of the plan change was further clarified in the Requestor's right of reply at the conclusion of the hearing, as follows:

> *The objective of the plan change is to enable limited additional development at a rural lifestyle density level on the site while maintaining the rural character and amenity of the site and the wider area.*
>
> *The plan change also addresses and resolves an existing zoning anomaly of the [District Plan].*[5]

2.15 As an aside, we note that because neither the notified nor the subsequently modified version the plan change proposes any changes to the objectives of the District Plan (including to the Rural Residential Activity Area), then for the purpose of determining whether the objective of the (plan change) proposal is the most appropriate way to meet the purpose of the Act we must, under subsection (6) of s32, treat the purpose of the plan change as the relevant objective of the proposal. This was a matter canvassed at the hearing and the Panel opined that as the plan change did not contain an explicit objective we therefore required the Requestor to address this in their right of reply.

2.16 We return to this matter in **Sections 3 and 4** of this report. In the meantime, we simply note that the stated purpose set out in the first sentence of the above extract is more akin to a method for achieving the 'objective' in **bold** (our emphasis), as was confirmed by the Requestor in their right of reply.

Section 32 Report

2.17 The Requestor's s32 evaluation report is labelled as 'Part B: Section 32 Evaluation' in the plan change request bundle. The s32 reports on an evaluation of three options[6] for the properties concerned:

a. Option A: Do nothing i.e., retain the existing General Rural Activity Area zoning;

b. Option B: Rezone to Rural Residential Activity Area; or

c. Option C: Rezone to Hill Residential Activity Area.

2.18 The s32 report finds that Option B is the recommended approach for the plan change as it:

a. is the most appropriate way to achieve the objectives of the District Plan;

[4] *Private Plan Change Request, Part B: Section 32 Evaluation,* paras 15 - 17, page 17
[5] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, page 2
[6] *Private Plan Change Request, Part B: Section 32 Evaluation,* paras 138 – 142, pages 39 - 44

b. provides for the most appropriate zoning of the sites subject to the plan change; and

c. is the most efficient option because the benefits outweigh the associated costs.[7]

2.19 The s32 report does not include a discussion of the risk of acting or not acting, as it considers that there is sufficient information about the zoning options. 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.

Environmental effects assessment

2.20 The plan change request includes an assessment of environmental effects titled 'Effects of the Proposed Plan Change'.[8] In part, it draws on the transport impact report also attached to the plan change request bundle and outlined in paragraph 2.22 below.

2.21 The Requestor's effects assessment concludes:

a. Main character and amenity effects arising from the proposed plan change would arise from changes in dwelling density. However:

i. the site is only visible from immediately surrounding properties;

ii. due to topographical and access constraints, the expected dwelling yield is likely to be less than that shown in the scheme plans;

iii. the density of development would be comparable to and consistent with that which exists in the immediate area;

iv. the bulk and location standards that apply in the Rural Residential Activity Area would limit built development on the site;

v. the effects of any non-compliant buildings or earthworks can be assessed and managed under the relevant provisions of the District Plan; and

vi. the proposed plan change will not result in unacceptable character or amenity outcomes.

b. The road geometry of Stratton Street and Normandale Road limits capacity, safety and convenience, but also has positive effects in terms of operating speeds and driver behaviour. Overall, any effects on the safety and efficiency of the road network arising from the proposed plan change will be indiscernible.

c. There are no known natural hazard risks associated with the site and any potential or residual risks can be appropriately addressed and managed through the operative subdivision provisions of the District Plan.

d. While Significant Natural Resource 38 (SNR 38 – Normandale Road Bush) affects two of the three properties, the relevant District Plan rules do not apply to SNRs on private land as a result of two 2004 Environment Court decisions, and the SNR does not align with the boundaries of two areas of potential ecological significance identified by the Council as part of initial work to identify and assess SNAs within the district (undertaken prior to

[7] *Private Plan Change Request, Part B: Section 32 Evaluation,* para 142, page 44
[8] *Private Plan Change Request, Part B: Section 32 Evaluation,* paras 143 - 177, pages 45 - 49

the lodgement of the plan change).[9] Nevertheless, operative District Plan provisions relating to earthworks provide the basis for the appropriate management of natural features and character.

e. The site is not subject to any specific landscape restrictions or contain any sites of historical or cultural significance, as identified in the District Plan.

f. No formal feedback has been received from iwi.

g. The proposed plan change would result in an increased yield in the number of properties, residents and therefore support for the local business sector, and the economic effects are positive in nature.

h. Reticulated three water services are not available and therefore on-site servicing will be required. The adequacy of such provision can be demonstrated at the subdivision stage. The Requestors acknowledge that they will need to meet the costs of upgrading electricity infrastructure.

2.22 The plan change documentation, as notified, included one expert effects assessment as follows:

a. *Transportation Impact Report,* prepared by Gary Clark from Traffic Concepts Ltd (November 2019).

Plan Change provisions

2.23 As notified, the proposed plan change does not seek the introduction of any new or changes to existing District Plan provisions including objectives, policies, rules or standards. The only amendments proposed would be to District Plan Maps B3 and R1 to reflect the rezoning of the site to which the plan change relates, from General Rural Activity Area to Rural Residential Activity Area.

2.24 Following its notification, further amendments to the plan change were made by the Requestor to address issues raised in submissions and further submissions, as follows:

a. Adding a new set of site-specific standards to the Standards and Terms for Allotment Design in 11.2.2.1 of the District Plan that specify standards relating to minimum size of allotment, minimum frontage, shape factor, number of allotments, access, no-development areas and 'other'.

b. Adding a new site-specific assessment criterion relating to allotment design to the Assessment Criteria in 11.2.2.3.

c. Adding a new site-specific assessment criterion relating to engineering design in relation to earthworks to the Assessment Criteria in 11.2.2.3.

d. Adding a new site-specific discretionary activity rule to the Discretionary Activities in 11.2.4 that identifies any subdivision on the site that does not comply with the Allotment Design standards in a. above (with the exception of that relating to no-development areas) as a discretionary activity.

[9] As described on pages 6 – 7 of the *Assessment of Ecological Effects of Proposed Zoning Change of 190, 236, and 268 Stratton Street, Lower Hutt*, prepared by a project team led by Dr Herbert of Wildlands Consultants Ltd, dated September 2021

e. Introducing a site-specific assessment criterion relating to the effects on the roading network to the Assessment Criteria for Discretionary Activities in 11.2.4.1.

f. Adding a new site-specific non-complying activity rule to the Non-Complying Activities in 11.2.5 that identifies any subdivision on the site that does not comply with the Allotment Design standard relating to no-development areas) as a non-complying activity.

g. Adding a new Appendix Subdivision 9 that identifies the site to which the site-specific provisions apply, including the no-development areas (reproduced as **Figure 3**).[10]

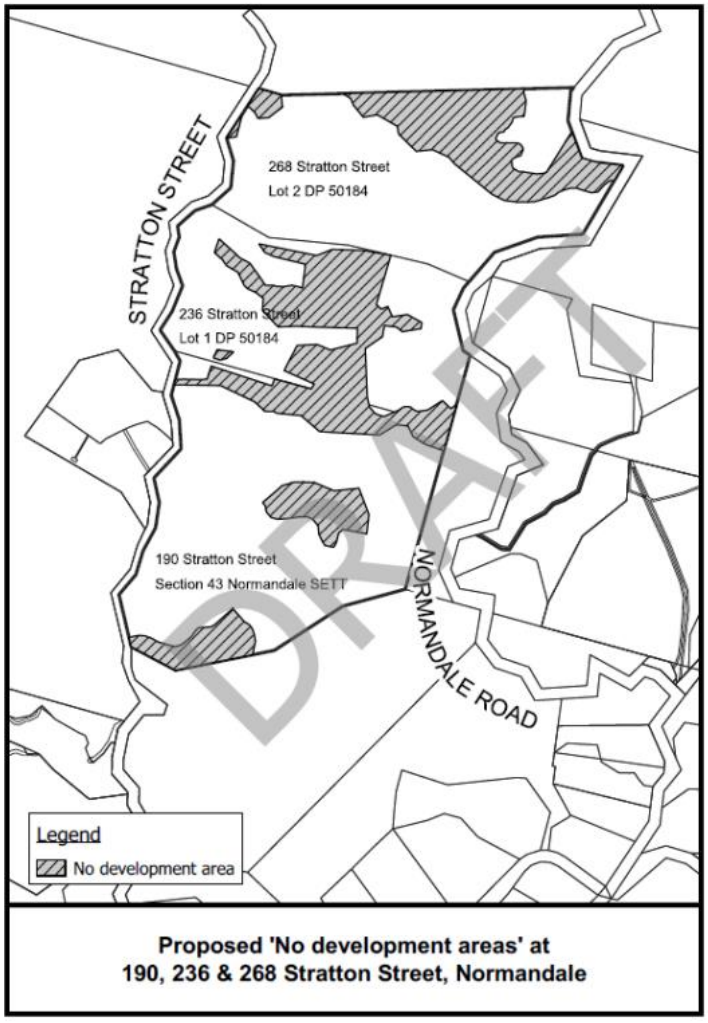


Figure 3: Proposed Appendix Subdivision 9 (PC53 as amended after hearing). Not to scale. (*image source: Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, *Appendix 1: Amendments to Chapter 11 Subdivision and Chapter 8A Rural Residential Activity Area – Revised Version after Hearing*, page 41)

2.25 The amended plan change is accompanied by a s32AA evaluation.[11] A s32AA evaluation is required when changes have been made to a proposed plan change since the original

[10] As summarised in *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 5.5 – 5.16, pages 7 – 9

[11] *PC 53 Stratton Street – Section 32AA Evaluation of Proposed Amendments,* 17 August 2021

evaluation report was completed, and where required, must be undertaken in accordance with s32(1) to (4) of the RMA.

2.26 The broad purpose of the amendments to add or introduce site-specific standards and terms is to provide certainty and a basis for controlling potential adverse effects of future subdivision on the site. The s32AA evaluation concludes that the proposed amendments:

a. will not change the objective of the plan change to provide for limited additional subdivisions and development capacity;

b. do not seek any changes to the District Plan objectives but propose site-specific additions to the District Plan's established subdivision framework;

c. are the most appropriate way to achieve the objectives of both the District Plan and the proposed plan change;

d. are consistent with higher order documentation, legislation and guidance; and

e. are the most efficient and effective way of achieving the purpose of the Act in relation to the application site.[12]

2.27 We note here that further amendments to the District Plan were proposed during the course of the hearing and in the Requestor's right of reply, and that the accompanying s32AA evaluation was updated to address these further changes (refer paragraph 2.48 in this report).

2.28 These amendments and further amendments proposed during the course of the hearing and in the formal right of reply from the Requestor (and set out in **Appendix 2**) are considered in detail under the relevant issue in **Section 3** of our report.

Notification and submissions

2.29 The plan change was publicly notified on 14 January 2020. The closing date for submissions was 12 February 2020.

2.30 A total of seven submissions were lodged with the Council.

2.31 A summary of submissions was prepared and subsequently notified for further submissions on 17 March 2020 with the closing date for receiving further submissions being 31 March. 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] *PC 53 Stratton Street – Section 32AA Evaluation of Proposed Amendments,* 17 August 2021, page 4

Submissions	
Submission number	**Submitter**
DPC53/1	Alan and Joyanne Stevens
DPC53/2	Royal Forest & Bird Protection Society of NZ Inc
DPC53/3	Karen Self
DPC53/4	Matthew Willard
DPC53/5	Peter and Sandra Matcham
DPC53/6	Friends of Belmont Regional Park
DPC53/7	Pam Guest and Peter Shaw
Further Submissions	
Submission number	**Submitter**
DPC53F/1	Alan and Joyanne Stevens
DPC53F/2	Royal Forest & Bird Protection Society of NZ Inc
DPC53F/3	Peter and Sandra Matcham

Table 1: List of submitters and further submitters to PC53

2.32 Of the seven submissions received, one (from the Royal Forest & Bird Protection Society of NZ Inc) is opposed to the proposed plan change, whereas the remaining six do not state whether they oppose or support the plan change, although they do seek further clarification or information in relation to the effects of the plan change and / or amendments to the plan change and, in the case of the Friends of Belmont Regional Park, its rejection.

2.33 Of the three further submissions received:

a. one (from Alan and Joyanne Stevens) supports all the other submissions;

b. another (from the Royal Forest & Bird Protection Society of NZ Inc) supports the submissions of the Friends of Belmont Regional Park and Pam Guest and Peter Shaw where they do not conflict with the further submitter; and

c. the third (from Peter and Sandra Matcham) supports the submissions of Alan and Joyanne Stevens, Karen Self, the Friends of Belmont Regional Park and Pam Guest and Peter Shaw, and the submission of the Royal Forest & Bird Protection Society of NZ Inc, in part.

2.34 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. traffic effects, access to the site and road safety;

b. effects on potential significant natural areas, indigenous biodiversity, natural habitats and ecology;

c. impacts on waterbodies, streams, riparian margins;

d. amenity, natural and local character, landscape, visual effects;

e. reverse sensitivity effects; and

f. historical and cultural effects.

2.35 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

2.36 Prior to the commencement of the hearing, we issued three 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.

2.37 In summary, these minutes addressed the following:

a. **Minute 1** (24.08.2021) – this confirmed the date of the hearing (10 September 2021), addressed Covid-19 matters, tendered our support for the continuation of pre-hearing discussions between the Requestor and submitters, set out dates for the circulation of evidence before the hearing, and provided a brief summary of the hearing process and our approach to further site visits.

b. **Minute 2** (07.09.2021) – this set out our approach to conducting the hearing under Covid-19 Level 2 protocols, presented a state-of-play on evidence pre-circulation and our approach to further site visits to date, and provided an update on submitters' wishes to be heard.

c. **Minute 3** (09.09.2021) – this set out an order of proceeding for the hearing to be held the following day.

2.38 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 Mr Kellow, dated 26 August 2021, and incorporating:

i. A brief of evidence from Mr Wanty, Director / Principal of Wanty Transportation Consultancy Ltd, dated 15 June 2021; and
ii. An ecological assessment, prepared by Dr van Meeuwen-Dijkgraaf, Terrestrial Ecology Lead at Cardno (NZ) Ltd, dated 20 July 2021.

b. A statement of evidence from Ms Tessendorf of Urban Edge Planning Ltd, on behalf of Judy and Neville Bannister, dated 2 September 2021, and incorporating:

i. An *Assessment of Ecological Effects of Proposed Zoning Change of 190, 236, and 268 Stratton Street, Lower Hutt*, prepared by a project team led by Dr Herbert of Wildlands Consultants Ltd, dated June 2021;
ii. Supplementary evidence from Dr Herbert, relating to ecological matters, dated 2 September 2021; and
iii. Supplementary evidence from Mr Clark of Traffic Concepts Ltd, relating to transport matters, dated 30 August 2021.

2.39 In addition, during the course of the hearing we received and made available to all parties the following:

a. An opening statement from Ms Tessendorf, dated 10 September 2021.

b. A supplementary statement from Mr Wanty dated 7 September 2021.

c. An email to the hearings administrator from submitters Mr and Mrs Willard dated 29 August 2021.

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

The Hearing

2.41 The hearing commenced at 9:00am on Friday, 10 September 2021 in the Council Chambers at 30 Laings Road, Lower Hutt.

2.42 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.

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

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

Requestor

- Brett Osborne, planning consultant at Urban Edge Planning Ltd
- Corinna Tessendorf, planning consultant at Urban Edge Planning Ltd
- Gary Clark, traffic expert at Traffic Concepts Ltd
- Dr Sarah Herbert, ecological expert at Wildlands Consultants Ltd
- Catharina Fisher, applicant
- Ian Perry, applicant
- Judy Bannister, applicant

Council s42A Advisors

- Dan Kellow, planner at Kellow Environmental Planning
- Dr Astrid van Meeuwen-Dijkgraaf, ecological expert at Cardno (NZ) Ltd
- David Wanty, traffic expert at Wanty Transportation Consultancy Ltd

Submitters

- Peter Matcham, submitter
- Pam Guest, submitter
- Matthew Willard, submitter

2.45 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

2.46 We adjourned the hearing on 10 September 2021, noting verbally at the time that we would be advising the parties subsequently of a date to reconvene or close the proceedings.

2.47 We adjourned the hearing for the following reasons:

a. To enable us to undertake a more detailed site visit (if required).

b. To enable the traffic experts for the Respondent and the Council to confer on the wording of a brief for a traffic survey addressing road speed, users and condition matters, to be undertaken by the Council, not forming part of the plan change, but catering to a potential recommendation from us, as part of our overall recommendation.

c. To enable the ecological experts for the Respondent and the Council to confer on two matters relating to:

   i. whether the existing 'Area 9' (near the boundary of 'Area 10') should be increased / extended; and

   ii. what protection should be given to water courses, inclusive of setback options.

d. To enable the planning experts for the Respondent and the Council to confer on a number of matters that arose at the hearing relating to:

   i. clarifying the objective of the plan change;

   ii. clarifying the purpose, wording, scope, application, mechanics and policy context for no-development areas;

   iii. clarifying the proposed number of dwellings per site;

   iv. further assessment against the policies of the Regional Policy Statement;

   v. s32AA assessment of further proposed amendments to the District Plan provisions arising during the course of the hearing;

   vi. options for further strengthening or adding provisions to protect indigenous biodiversity from inappropriate subdivision, use and development;

   vii. the implications of excluding 301 Normandale Road from the plan change.

e. To allow time for the Requestor's right of reply.

2.48 We received the Requestor's right of reply on 17 September 2021, inclusive of the responses to the questions we posed.[13] Specifically:

a. The Requestor's right of reply is framed as a joint statement from Ms Tessendorf and Council's s42A advisor, Mr Kellow, and address the matters set out in paragraph 2.47.d. above.

b. Appendix 1 to the right of reply provides an updated version of proposed amendments to the District Plan, inclusive of further amendments proposed during the course of the hearing (refer to **Appendix 2** to our report). These further amendments relate to the following:

   i. Further amending the new standard relating to no-development areas in 11.2.2.1 to specify that it is new building platforms, new access ways and

[13] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021

vehicle tracks, new utility structures and sewage disposal fields that must be located outside those areas, and requiring measures for the on-going protection of areas of significant indigenous biodiversity in no-development areas to be registered on certificates of title by way of consent notice at the time of subdivision, while removing the requirement of building platforms and related main access ways to be identified in this way.

ii. Further amending the new assessment criterion relating to allotment design in 11.2.2.3 to indicate that priority is to be given to *"avoiding where possible"* (rather than *"minimising"*) the need for *"indigenous"* (as opposed to *"native"*) vegetation, to clarify that *"where avoidance is not possible the design must demonstrate how the effects will be minimised and remedied"*, and to preface the expectation that subdivision is designed to ensure vehicle access is provided from Stratton Street only with the word *"should"*.

iii. Adding a new permitted activity condition under 8A 2.1.1 relating to the Rural Residential Activity Area that limits dwellings to a maximum of one per site.

iv. Adding a new assessment matter for discretionary activities under 8A 2.3.1 relating to the Rural Residential Activity Area that requires consideration of *"the effects on the existing roading network*" where the development does not comply with the condition referred to in iii. above.

v. Adding a new Appendix Rural Residential 2 to Chapter 8A that identifies the site subject to the plan change.

c. Appendix 2 to the right of reply provides an updated version of the earlier s32AA assessment referred to in paragraphs 2.25 and 2.26, to address the further amendments to the District Plan proposed during the course of the hearing.

d. Appendix 3 to the right of reply is a joint statement prepared by traffic experts Mr Wanty and Mr Clark that provides the traffic survey we requested and referred to in paragraph 2.47.b. above.

e. Appendix 4 to the right of reply is a hearing response from Dr Herbert that addresses the matters set out in paragraph 2.47.c. above.

2.49 In addition to the hearing response referred to in e. above, Dr Herbert also provided us with an updated version of the ecological assessment of effects report.[14]

2.50 The above documents are all available on the council file.

2.51 Following our reading of the documents referred to in paragraphs 2.48 and 2.49 above, it became apparent to us that there were some gaps in the information received as opposed to what was requested at the hearing, and that some further information and / or clarification was required.

2.52 Accordingly, we issued **Minute 4** on 23 September 2021, seeking the following:

[14] *Assessment of Ecological Effects of Proposed Zoning Change of 190, 236, and 268 Stratton Street, Lower Hutt*, prepared by a project team led by Dr Herbert of Wildlands Consultants Ltd, dated September 2021

a. an amended map of the no-development areas for inclusion in the plan change Appendix 9, to show the 'sliver' of vegetation type 1b, that the Requestor has agreed to include in 'Area B';

b. clarification as to whether Dr van Meeuwen-Dijkgraaf agrees with Dr Herbert's opinion in relation to the inclusion of the vegetation type 1b within 'Area 9' or not, and whether her response, once forthcoming, that alters the conclusions reached in the joint statement of the planners in any way; and

c. comment from Ms Tessendorf and Mr Kellow as to whether deleted references in standards and terms to the identification of building platforms and access ways and registration on titles should be retained for the purposes of determining compliance with controlled activity standards.

2.53 We received a joint statement from Ms Tessendorf and Mr Kellow on 30 September 2021,[15] responding to our requests set out in paragraph 2.52 above. In summary, the authors of the statement:

a. have clarified that the 'sliver' was already included within 'Area B' on plan change map Appendix 9 attached to the Requestor's right of reply (and attached to our report as **Appendix 2**);

b. acknowledge the difference of opinion between Drs van Meeuwen-Dijkgraaf and Herbert regarding the significance of the vegetation type 1b in 'Area 9', but emphasise that the degree of disagreement is small and that in any case both experts agree that that the relevant provisions of the PNRP relating to works in the vicinity of streams provide a suitable basis for protection;

c. are of the view, taking into account b. above, and given the limited development potential and comprehensive approach to biodiversity protection, that from a planning perspective it is unnecessary to include the additional 1b area within 'Area 9'; and that

d. the proposed amendments, as recommended in the Requestor's right of reply, in specifically requiring consent notices to be emplaced that themselves require new development to be located outside identified no-development areas, would achieve the best balance between on-going protection of significant indigenous biodiversity and an appropriate level of flexibility for future development located outside no-development areas (as opposed to reinstating standards and terms requiring building platforms and access ways to be identified and registered at the time of subdivision).

2.54 Accordingly, we issued **Minute 5** on 11 October 2021, confirming that 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.

2.55 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.

[15] *Further Information/Clarification Requested by the Hearing Panel, Joint Statement by C Tessendorf and D Kellow*, 30 September 2021

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*[16] 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 Our starting point is to record that, in our view, it is of some significance that with the exception of the Royal Forest & Bird Protection Society of NZ Inc, no submitters requested that the plan change be declined. Rather, submitters tended to question the parameters under which the plan change might be approved, including those matters relating to traffic and ecological values. In the case of the Society, we note that its opposition was on the basis of the notified proposal. However, once the plan change was amended to introduce no-development areas and otherwise restrict the intensity of development on the site, the Society withdrew its right to appear and present evidence. We therefore consider it reasonable to conclude that the Society is no longer opposed to the plan change as now proposed.

3.4 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.

3.5 To that end, we have organised our discussion of issues to distinguish between those matters that are contested and determinative to our consideration, and those which are relevant to our consideration, but not determinative.

3.6 Determinative issues comprise the following:

- **ISSUE 1: Ecology effects**. This can be divided into two sub-issues that naturally segue from the first to the second:
  - Sub-issue 1: <u>What</u> terrestrial and aquatic ecological values are present on the site that is subject to the plan change and that require protection?
  - Sub-issue 2: <u>How</u> should identified ecological values be protected under the plan change?
- **ISSUE 2: Traffic effects**.

3.7 We note that both Mr Kellow and Ms Tessendorf were broadly in agreement that ecology and traffic effects were the two key determinative issues.[17]

[16] 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.
[17] s42A Report, Dan Kellow, 26 August 2021, para 163, page 32 and *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 10.3 and 11.2, pages 37 and 38

3.8 Two non-determinative issues that we single out comprise:

- **ISSUE 3: Effects associated with creating a General Rural Activity Area 'island'** centred on the property at 301 Normandale Road; and
- **ISSUE 4: Effects on water ways** (as distinct from the identification of aquatic ecological values as covered under **Issue 1** above).

3.9 Other, non-determinative issues are ably identified by Ms Tessendorf[18] and comprise the following:

- **ISSUE 5: Amenity and local character effects**
- **ISSUE 6: Landscape and natural character effects**
- **ISSUE 7: Natural hazards effects**
- **ISSUE 8: Historical and cultural effects**
- **ISSUE 9: Economic effects**
- **ISSUE 10: Infrastructure effects**

3.10 Overall, we need to consider whether it is appropriate to rezone the site from General Rural Activity Area to Rural Residential Activity Area. To reach a finding on the matter, we must settle the determinative issues first. We therefore return to that seminal question at the end of this section of our report.

Evaluation Preamble – Statutory Framework

3.11 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* decision[19], and include the following considerations:

General Requirements

a. the District Plan should be designed in accordance with[20], and assist the Council to carry out, its functions[21] so as to achieve the purpose of the Act;[22]

b. when changing the District Plan, the Council must:

   i. give effect to any NPS[23], the NZCPS[24] or any RPS[25];[26]

   ii. have regard to any *proposed* RPS;[27]

   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

[18] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.2, page 38
[19] ENV-2012-CHC-108, [2014] NZEnvC 55
[20] s74(1), RMA
[21] s31, RMA.
[22] ss 72, 74(1), RMA.
[23] National Policy Statement
[24] New Zealand Coastal Policy Statement
[25] Regional Policy Statement for the Wellington Region
[26] s75(3)(a)-(c), RMA.
[27] s74(2), RMA.

fisheries regulations (to the extent relevant), and to consistency with plans and proposed plans of adjacent authorities; [28]

iv. take into account any relevant planning document recognised by an iwi authority;[29]

v. not have regard to trade competition;[30]

vi. be in accordance with any regulation;[31]

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;[32] and

ii. shall have regard to any proposed regional plan on any matter of regional significance;[33]

d. the District Plan must also state its objectives, policies and the rules (if any) and may state other matters;[34]

e. the Council has obligations to prepare an evaluation report in accordance with section 32 and have particular regard to that report;[35]

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;[36]

Provisions

h. the policies are to implement the objectives, and the rules (if any) are to implement the policies;[37]

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;[38]

ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives[39], including:

a) identifying and assessing the benefits and costs anticipated, including opportunities for economic growth and employment opportunities that may be provided or reduced;[40]

b) quantifying those benefits and costs where practicable;[41]

[28] s74(2)(b)-(c), RMA.
[29] s74(2A), RMA.
[30] s74(3), RMA.
[31] s75(1)-(c), RMA.
[32] s75(4), RMA.
[33] s74(1)(f), RMA.
[34] s75(1)-(2), RMA.
[35] Schedule 1, Part 2, Clause 22, RMA.
[36] s32(1)(a), RMA.
[37] s75(1), RMA.
[38] s32(1)(b)(i), RMA.
[39] s32(1)(b)(ii), RMA.
[40] s32(2)(a), RMA.
[41] s32(2)(b), RMA.

c) assessing the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions;[42]

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;[43] and

Other Statutes

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

3.12 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 PC53 are the most appropriate way to achieve the purpose of the Act;

b. examine whether the policies, rules, standards, zoning and other methods of PC53 are the most appropriate way to achieve the existing Plan objectives and the PC53 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

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.

3.13 Further, in relation to matter 'b' above, we note that PC53 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. It is for that reason that we asked that the Requestor clarify in writing the purpose of the plan change in its right of reply after the hearing adjournment. That was duly clarified and we comment on this latter in this report.

3.14 That aside, and 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.

3.15 Accordingly, we have considered whether the proposed plan change:

[42] s32(2)(c), RMA.
[43] S76(3), RMA.

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.

3.16 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, and subsequent to, the hearing; and

e. the statements/presentations from all parties appearing before us.

3.17 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 ten 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 information[44]); and

b. test the evidence of others, and to determine the most appropriate outcome based on the views we consider best achieve sustainable management.

3.18 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.

Issue 1: Ecology effects

Issue identification and evidence

3.19 As noted in paragraph 3.6 above, our consideration of ecology effects can be divided into two sub-issues:

a. **Sub-issue 1:** <u>What</u> terrestrial and aquatic ecological values are present on the site that is subject to the plan change and that require protection?

b. **Sub-issue 2:** <u>How</u> should identified ecological values be protected under the plan change?

[44] Under s 41C(4) of the Act.

3.20 With respect to **Sub-issue 1**, as it relates to **terrestrial ecological values**, we note that a general understanding of the nature and extent of these values has developed over time. Indeed, that understanding has advanced significantly since the Council undertook early work to identify SNAs (or 'SNRs' as they are referred to in the District Plan), well before the notification of the plan change.

3.21 The results of that work included the identification of SNR 38 (Normandale Road Bush – refer **Figure 1**), which straddles the site, but has no legal status or protection under the District Plan, and in any case is acknowledged by the Council to be shown on the planning maps to be in the wrong place.[45]

3.22 A more recent 'desk top' initiative by the Council to identify and assess SNAs led to two specific areas on the site being identified as potentially significant. Noting that these areas do not correspond with the boundaries of SNR 38 on the planning maps, they were not subsequently confirmed by way of ground truthing and, as before they are not supported by any protective provisions in the District Plan.[46]

3.23 Some submitters were concerned[47] that the plan change, as notified, was not consistent with s6(c) of the RMA or the objectives and policies of the RPS and PNRP, given that SNRs / SNAs had previously been identified on the site, but no specific protection of their values was provided for. Ms Guest and Mr Shaw, for example,[48] were of the opinion that the plan change should make provision for the protection of identified and potential significant areas irrespective of whether the District Plan places mandatory restrictions on private landowners or not.

3.24 To address the concerns of submitters in this respect, and to better characterise the nature and extent of terrestrial ecological values of the site, the Requestor commissioned an ecological assessment of effects from Wildlands Consultants, undertaken by a team led by Dr Herbert. As described in Ms Tessendorf's evidence in chief,[49] the ecological assessment applied Policy 23[50] of the RPS in identifying areas of significance and including recommendations relating to the consequential location and extent of no-development areas.

3.25 The ecological assessment was peer reviewed by Dr van Meeuwen-Dijkgraaf on behalf of the Council, who observed that the recommended no-development areas were more numerous than the original SNRs / SNAs and concluded that they were *"generally appropriately identified as being ecologically significant"*, subject to some minor reservations around connectivity.[51]

3.26 In response to Dr van Meeuwen-Dijkgraaf's peer review, and prior to the hearing, Dr Herbert recommended[52] an amendment to clarify the ecological significance of non-development 'Areas C and E' and the amendment of the vegetation maps and habitat types relating to vegetation type 9. Dr Herbert recommended no changes to the boundary of no-

[45] *Private Plan Change Request, Part B: Section 32 Evaluation,* para 24, page 18
[46] *Private Plan Change Request, Part B: Section 32 Evaluation,* paras 23 and 25, page 18
[47] DPC53/2 (Forest & Bird), DPC53/5 (Peter and Sandra Matcham), DPC53/6 (Friends of Belmont Regional Park) and DPC53/7 (Pam Guest and Peter Shaw)
[48] DPC53/7
[49] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.15, page 41
[50] Policy 23 sets out criteria as guidance that must be considered in identifying indigenous ecosystems and habitats with significant biodiversity values.
[51] Letter titled *Hutt City District Plan Change 53 Review of Ecological Report* and dated 20 July 2021, attached as Appendix 6 to the s42A report
[52] *Statement of Evidence of Sarah Maree Herbert*, 2 September 2021, paras 4.7 to 4.15, pages 6 to 11, attached as Appendix 5.3 to *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021

development 'Area B' and this remained a point of difference between the ecological experts as we discuss further in paragraphs 3.40 and 3.41 below.

3.27 As we note in paragraph 2.24 of our report, the Requestor then sought to amend the plan change; the principal change being the identification of no-development areas, and the addition of standards, terms and assessment criteria that provide the 'mechanics' by which activities in no-development areas are accorded a consent status and are to be assessed on that basis. There was further discussion on the spatial extent of the no-development areas during the course of the hearing; we address the issues arising from this in our *'Discussion and findings'* sub-section below. We return to the 'mechanics' of protection in relation to **Sub-issue 2**, below.

3.28 With respect to **Sub-issue 1**, as it relates to **aquatic ecological values**, the plan change as notified proposed no changes to the District Plan text. The s32 evaluation attached to the plan change acknowledged that there appeared to be *"two small streams on the site*" of an *"intermittent or ephemeral"* nature.[53] No discussion on the ecological value of or means of protecting on-site water bodies was provided in the evaluation.[54]

3.29 This absence was a source of concern for some submitters.[55] Specifically, and in relation to aquatic ecology and related water quality considerations, they were concerned that the effects of development enabled by the plan change would not be consistent with the requirements of the NPS-FM, RPS and PRNP. To address this perceived failing, Ms Guest and Mr Shaw, for example,[56] sought that provision be made for the protection of at least the two permanently flowing streams on the site, together with their riparian margins.

3.30 The ecological assessment prepared by Wildlands Consultants on behalf of the Requestor sought to address these concerns. The assessment noted that the owners of the site had identified eight tributaries of the Korokoro Stream that run through the three properties, but that only three of these were identified as 'major streams' in the Regional Council's streams mapping layer. The Wildlands' assessment also noted the presence of two small artificial wetlands on the site. The three streams were found by Wildlands to be ecologically significant on the basis that they flowed into the Korokoro Stream and were likely to provide habitat for 'at risk – declining' indigenous freshwater fish.[57]

3.31 As Ms Tessendorf noted in her evidence in chief,[58] the recommended no-development areas that emerged from this assessment covered the two wetlands and three streams and provided at least a 10m riparian buffer with respect to those streams.

3.32 During the course of the hearing, there was further discussion on the spatial coverage of protection measures with respect to the remaining five tributaries; again, we address the issues arising from this in our *'Discussion and findings'* sub-section below. Note, also, that we deal with the direct effects of the development of the site on water ways as a non-determinative matter under **Issue 4**.

3.33 Turning now to **Sub-issue 2** (i.e., the 'how' of protection), the plan change, as notified, contained no direct means of protecting either terrestrial and aquatic ecological values.

[53] *Private Plan Change Request, Part B: Section 32 Evaluation,* para 22, page 18
[54] *Private Plan Change Request, Part B: Section 32 Evaluation,* Section 7.4 *Landscape, Natural Character and Ecology Effects*, paras 162 – 168, pages 48 - 49
[55] DPC53/2 (Forest & Bird), DPC53/5 (Peter and Sandra Matcham), DPC53/6 (Friends of Belmont Regional Park) and DPC53/7 (Pam Guest and Peter Shaw)
[56] DPC53/7
[57] *Assessment of Ecological Effects of Proposed Zoning Change of 190, 236, and 268 Stratton Street, Lower Hutt*, Wildlands Consultants Ltd, September 2021, Sections 6 *Aquatic Habitats*, 8.4 *Aquatic fauna*, and 9.2 *Summary of aquatic ecological values*.
[58] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.19, page 42

Rather, it was anticipated that the thresholds for earthworks in the District Plan would be tripped by the development of the site, and that the resulting resource consent process would allow the Council to address the effects of earthworks on 'natural character' at that time.[59] Understandably, in our view, submitters were not convinced of the adequacy of this argument. Amendments to the plan change to introduce standards, terms and assessment criteria in relation to identified no-development areas represent the Requestor's response to the concerns of submitters.

3.34 Ms Tessendorf provided a succinct description of the mechanics of the no-development areas in her evidence in chief, as follows:

The proposed site specific subdivision provisions introduce new standards and terms relating to allotment design which limit the number of lots per site and introduce no-development areas. Any subdivision application must identify the location of new building platforms for dwellings and their main access ways at the time of subdivision to ensure they are located outside the no-development areas. Any subdivision that proposes new building platforms for dwellings or main access ways that are located within the no-development areas will be a non-complying activity. While this does not prevent the clearance of vegetation in the no-development areas altogether it significantly reduces the need for such clearance to allow for development enabled by the rezoning.[60]

3.35 We consider it worthy of note at this point that 'no-development areas' are a slight misnomer in the sense that they may be interpreted by submitters. They do not entirely preclude or prohibit any form of development; rather, they are first and foremost a mechanism for assigning consent status.

3.36 The questions that remain for us as a panel to consider have largely arisen during the course of the hearing as a result of evidence presented by planning and ecological experts, rather than submitters, who appear to be largely comfortable with the outcome. These questions relate to both spatial and mechanical aspects of the proposed no-development areas, and can be expressed as follows:

a. Should the southern edge of vegetation area 1b (the 'sliver' identified by a red arrow in **Figure 4**) be included in no-development 'Area B'?

b. Should the vegetation type 9 area on the 190 Stratton Street property (identified by the blue arrow in **Figure 4**) be identified as a no-development area?

c. Should all eight tributaries of the Korokoro Stream (identified in **Figure 5**), rather than just the three currently identified, be included in no-development areas?

d. Is the wording of the plan change with respect to no-development areas sufficiently certain (e.g., is it clear whether utilities and wastewater disposal fields can be located within no-development areas or not)?

e. How efficacious will no-development areas be as a means of protecting indigenous biodiversity?

f. Are no-development area provisions framed as subdivision rules sufficient in their own right, or should they be supplemented by land use controls relating directly to vegetation clearance?

[59] *Private Plan Change Request, Part B: Section 32 Evaluation,* paras 164 - 168, pages 48 – 49
[60] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.20, pages 42 – 43

3.37 We address each of these six questions in turn in the *Discussion and findings* sub-section that follows.

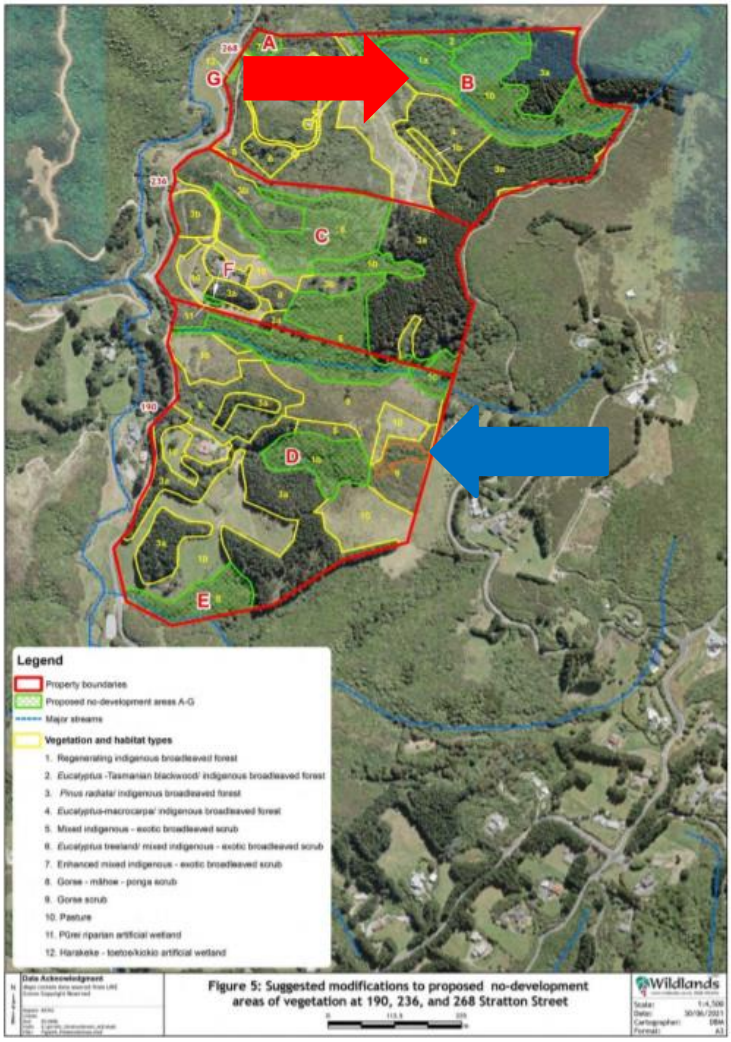


Figure 4: Figure from Wildland Consultants (2021) ecological assessment showing the vegetation types delineated on the property. Attached as Figure 2 to Dr Herbert's evidence in chief, 2 September 2021. Not to scale. Arrows added.

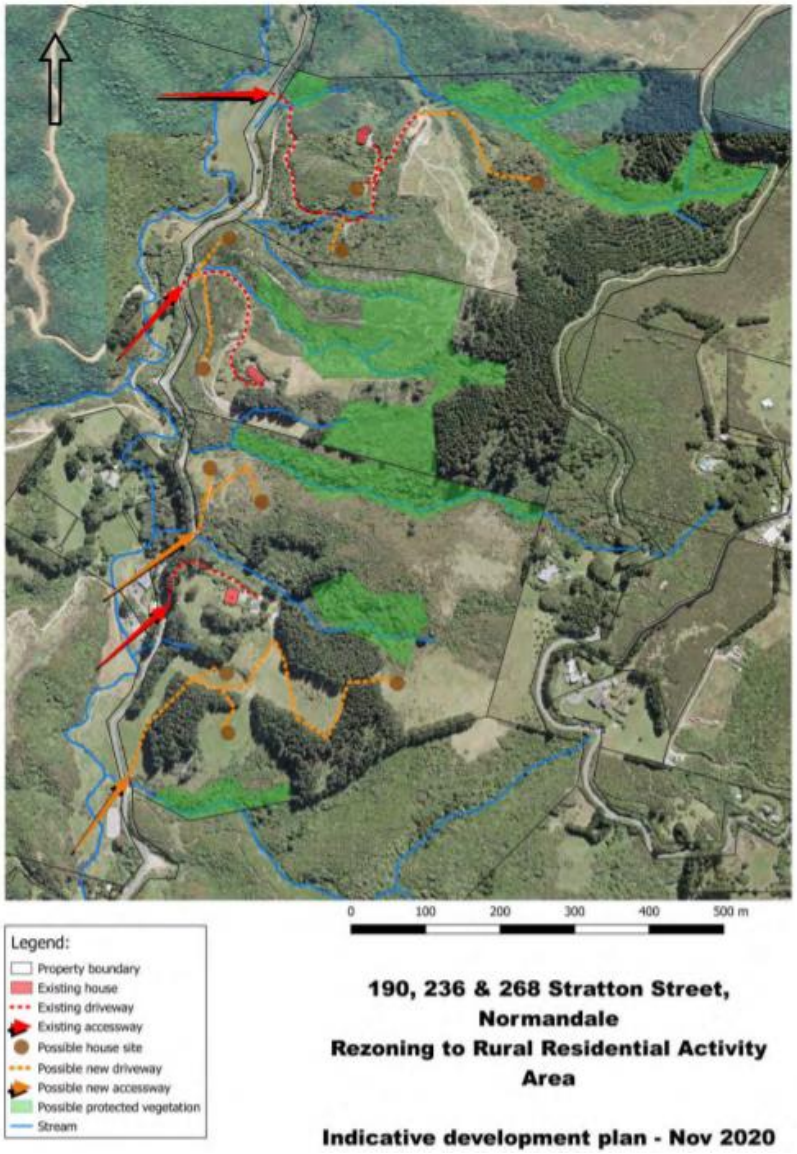


Figure 5: Figure 3 from Dr Herbert's evidence in chief, 2 September 2021. Not to scale.

Discussion and findings

3.38 With respect to **whether the 'sliver' should be included in no-development 'Area B'**, we note that its ecological significance remained a point of difference between the ecological experts. Dr van Meeuwen-Dijkgraaf was of the opinion that the area meets the significance criteria of RPS Policy 23, while Dr Herbert considered that it does not. In any case, the Requestor subsequently offered to include the majority of the sliver of vegetation type 1b in no-development 'Area B'. The exception to this being the north-western 'tip', so as to not preclude a future access way in this area. We note that the area associated with the tip is approximately 160m^2, amounting to less than 0.4% of no-development 'Area B'.[61]

3.39 In our opinion, the disagreement over whether it meets muster under Policy 23 is largely moot as the Requestor has volunteered to include the majority of the vegetation type within a no-development area and, in the absence of evidence to the contrary, we have to

[61] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, pages 8 - 9

accept that to include the tip could inhibit future access arrangements. We observe that the specific and broader outcomes of the plan change, in terms of the identification of no-development areas and attendant development controls, represent a considerable improvement on the current situation under the District Plan, which provides no protection whatsoever. We find that the inclusion of the sliver (minus the tip) within a no-development area will help give effect to s6(c) of the RMA.

3.40 With respect to **whether the vegetation type 1b area adjacent to 'Area 9' should be identified as a no-development area**, we note Dr Herbert's assessment (in response to a question raised by Dr van Meeuwen-Dijkgraaf in her peer review) that it should not, as it does not meet the Policy 23 criteria.

3.41 As set out in paragraph 2.52, we sought clarification of Dr van Meeuwen-Dijkgraaf's position on this matter. From Dr van Meeuwen-Dijkgraaf's response, it is evident that she:

a. considered that the area may be of higher ecological value than outlined by Dr Herbert; and

b. noted that there is an additional small stream to the south of the area; but

c. concluded that the protection provided by the relevant rules of the PRNP relating to earthworks and vegetation clearance in proximity to water bodies should be sufficient.[62]

3.42 From a planning perspective, Ms Tessendorf and Mr Kellow agree, in concluding that it is unnecessary to include the additional area within 'Area 9'.[63] We concur.

3.43 With respect to **whether all eight tributaries should be included within no-development areas**, we accept the conclusion reached in the ecological assessment[64] that only three of the eight meet the criteria of RPS Policy 23. No position or expert evidence to the contrary was presented to us during the course of the hearing.

3.44 We further acknowledge the observation made in the Requestor's right of reply[65] that all remaining tributaries on the site are subject to the relevant provisions of higher order documents, including PRNP Policies P40 and P41A.[66] Finally, we note that any proposals at the time of subdivision to bridge, culvert or otherwise cross any of the eight tributaries would be subject to likely consent requirements under the PNRP. This prospect should provide submitters including Ms Guest and Mr Shaw with a degree of comfort.

3.45 With respect to **whether the wording of the plan change with respect to no-development areas is sufficiently certain**, we note with favour that the plan change, as now worded, clarifies that *"all new building platforms <u>for building and structures, new access ways and vehicle tracks, new utility structures and sewage disposal fields</u>"* that must be located outside identified no-development areas. We agree with the Requestor's right of reply[67] that is addresses the uncertainty regarding the terms previously proposed.

[62] Email from Dr van Meeuwen-Dijkgraaf dated 30 September 2021, attached as Appendix 1 to *Further Information/Clarification Requested by the Hearing Panel, Joint Statement by C Tessendorf and D Kellow*, 30 September 2021

[63] *Further Information/Clarification Requested by the Hearing Panel, Joint Statement by C Tessendorf and D Kellow*, 30 September 2021, page 4

[64] *Assessment of Ecological Effects of Proposed Zoning Change of 190, 236, and 268 Stratton Street, Lower Hutt*, Wildlands Consultants Ltd, September 2021

[65] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, pages 9 – 10

[66] Policy P40 relates to ecosystems and habitats with significant indigenous biodiversity values and Policy P41A relates to effects on the spawning and migration of indigenous fish species

[67] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, page 4

3.46 We further agree with the Requestor's position[68] that proposed amendments to require measures for the on-going protection of areas of significant indigenous biodiversity within no-development areas to be registered on certificates of title by way of consent notices at the time of subdivision will improve the **efficaciousness of the provisions,** and represent an advance on an earlier proposal to simply identify and register building platforms and related access ways on titles by way of consent notices at subdivision. In this context, we also accept the Requestor's response to our query relating to the potential reinstatement of standards and terms requiring building platforms and access ways to be identified and registered at the time of subdivision (refer paragraph 2.52.c.) that, to do so, would unnecessarily constrain flexibility outside no-development areas without providing any additional protection to areas of significant indigenous biodiversity.[69]

3.47 Finally, with respect to the question as to the **sufficiency of subdivision controls on their own**, it is our starting point that in a perfect world, direct controls on vegetation clearance in identified SNAs would be brought to bear. Given the broader state of play with respect to the absence of District Plan provisions relating to SNAs, this is not immediately achievable. Notwithstanding that, we are conscious that we are considering a request for a private plan change in the context of higher order RMA and RPS level obligations relating to the protection of significant biodiversity, and therefore this issue with respect to 'sufficiency' and the potential need to impose direct controls, remains a live matter for us.

3.48 In this respect, we are not convinced by the argument presented in the Requestor's right of reply,[70] to the effect that to introduce land use provisions for the protection of SNAs would be a potential subversion of the Council's resolution to defer SNA work in advance of the release of the NPS-IB.

3.49 However, on balance, we find that there is no necessity or basis for imposing direct controls, as:

a. with respect to the operative District Plan provisions:

   i. there are no rules directly protecting indigenous vegetation or controlling its clearance that can be applied to the site;

   ii. while rules relating to earthworks would only trigger resource consent requirements if applicable thresholds are exceeded, and these thresholds are not based on the presence of ecological values, they nevertheless will likely be brought to bear in relation to the development of the site and enable appropriate consideration of the effects of erosion and sediment on ecological values;

   iii. there are no directive policies relating to the protection of indigenous vegetation, rather policy considerations are framed around effects on 'natural character', which means that the ability to impose more direct controls is limited by a narrow policy focus;

b. with respect to higher order considerations:

   i. RPS Policy 47[71] would be brought to bear at the time of subdivision and we take comfort that, as an interim measure (in the absence of directly

[68] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, pages 4 - 5
[69] *Further Information/Clarification Requested by the Hearing Panel, Joint Statement by C Tessendorf and D Kellow*, 30 September 2021, page 5
[70] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, page 5
[71] RPS Policy 47 relates to managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values-consideration

applicable SNA controls at the District Plan level), it would effectively require the survey and identification of on-site indigenous biodiversity in any case;[72]

c. with respect to the no-development area provisions proposed to be introduced by way of the plan change:

i. whilst the no-development areas do not directly preclude vegetation clearance, they do limit the need to undertake clearance by requiring forms of 'development', as redefined, to be located outside the no-development areas; and

ii. the requirement that measures to protect indigenous biodiversity are identified a registered by way of consent notices on certificates of title at the time of subdivision provides a 'belts and braces' approach to the matter.

3.50 Overall, ultimately, we accept the evidence presented on behalf of the Requestor, that the proposed subdivision controls, as now amended, inclusive of the identified no-development areas, the clarification that has been provided regarding the nature of 'development' that can only occur outside these areas, and the provision for consent notices to be imposed on titles at the time of subdivision, together with a new inclusion within the plan change limiting development to one dwelling per lot,[73] represent the most appropriate way to achieve purpose and objective of s6(c) of the RMA.

3.51 We would like to take this opportunity to note that, as appointed commissioners, this is the second private plan change that we have dealt with[74] where we have had to consider the means to protect indigenous biodiversity in the absence of any policy and rule framework in the District Plan. Policy 47 in the RPS, which itself was made operative in April 2013, was developed as an interim solution in a situation in which second generation district-level plans took the required time to develop such frameworks. However, it was not anticipated that Policy 47 would continue to serve in perpetuity. We appreciate that the Council is now waiting on the release of the NPS-IB to provide higher level direction, but the Council has always been able to avail itself of the guidance and direction RPS Policies 23 and 24[75] provide. In our view, the Council should be prioritising this task.

Issue 2: Traffic effects

Issue identification and evidence

3.52 The proposed plan change as notified was accompanied by a transportation impact report (TIR) prepared by Gary Clark from Traffic Concepts Ltd. The TIR, which provided an assessment of the existing road environment, description of the traffic environment, analysis of the crash history of the area, and impact assessment relating to the proposal was based on an indicative concept plan yielding a total of 23 lots, comprising 20 new lots and three balance lots, as nominally achievable under the District Plan. It was also based

[72] As covered in *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, pages 5 and 7

[73] Although this amendment to the plan change is proposed in response to the consideration of traffic effects (refer **Issue 2**) we consider that it is beneficial to biodiversity outcomes in terms of limiting development potential and therefore pressure on ecological values.

[74] The first was PC47, relating to the rezoning of Major Gardens, Kelson to General Residential Activity Area and General Recreation Activity Area, which independent commissioners DJ McMahon and EA Burge, heard.

[75] Policy 24 requires that district and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.

on the assumption that access from both Stratton Street and Normandale Road would be available.

3.53 The TIR concluded that:

a. Stratton Street and Normandale Road both have easy access to the wider road network;

b. the road geometries of both roads have limitations that limit capacity, safety and convenience but also positive effects in terms of reducing operating speed and moderating driver behaviour; and

c. traffic flows from the plan change are after development can be accommodated with any traffic effects on the safety and efficiency of the road network being indiscernible.[76]

3.54 Mr Clark did identify some improvements to the northern part of Stratton Street from Cottle Park Drive that he considered if made would benefit existing and future road users. These improvements comprise isolated curve widening and vegetation removal to improve slight distances and conditions for passing manoeuvres, but in such way that did not compromise the value that current geometric constraints place on vehicle speeds.[77]

3.55 Submitters to the plan change raised the following concerns regarding traffic effects:

a. Alan and Joyce Stevens[78] submitted that the effects associated with creating 23 potential lots on already substandard roads would create added pressure and requested a full investigation of traffic effects and the implementation of mitigation measures.

b. Karen Self[79] submitted that no vehicle access should be given to proposed subdivided lots via Normandale Road past the current entrance at Old Coach Road.

c. Matthew Willard[80] submitted that any assessment should also consider near misses and points towards the variety of road users and recreational activities along Stratton Street, in putting forward his view that the road is not suitable for walkers, cyclists, horse riders, and additional residential vehicles accessing Stratton Street. He urged that Council ensure that the risks are reduced so far as reasonably practicable.

d. Peter and Sandra Matcham[81] and the Friends of Belmont Park[82] noted that none of the properties subject to the plan change abut Normandale Road and that Normandale Road is also a major access point to Belmont Regional Park. They questioned the assumptions made regarding the calculation of peak traffic flows and considered the expected increase in traffic movements to be understated.

[76] *Plan Change – 190, 236, and 268 Stratton Street – Normandale – Hutt City Transportation Impact Report*, Gary Clark, Traffic Concepts Ltd, 7 November 2019, page 17
[77] *Plan Change – 190, 236, and 268 Stratton Street – Normandale – Hutt City Transportation Impact Report*, Gary Clark, Traffic Concepts Ltd, 7 November 2019, page 16
[78] DPC53/1
[79] DPC53/3
[80] DPC53/4
[81] DPC53/5
[82] DPC53/6

3.56 Subsequent to the preparation of the TIR, and to address the concerns of submitters, the Requestor elected to amend the plan change to limit the overall number of additional lots to ten, and require all new lots to be accessed from Stratton Street.[83]

3.57 Mr Wanty, on behalf of the Council, peer reviewed the TIR with reference to the concerns of submitters as part of his s42A report.[84] He concurred with Mr Clark's conclusion that some improvements to Stratton Street should be made[85] and, somewhat confusingly, that *"the potential doubling of the average daily traffic"* (envisaged under the 23 lot scenario) *"may or may not be able to be accommodated without any roading improvements with a no more than a minor effect"*.[86] He also recommended that user surveys of Stratton Street by motor vehicles, pedestrians, cyclists and equestrians should be conducted, together with the trimming of vegetation to improve sight visibility.[87]

3.58 Mr Wanty went on to assess the updated 13 lot scenario. Although he reached a conclusion that *"Stratton Street north of Cottle Park Drive is not of a form to readily cater for much additional traffic and to mitigate the impact would likely involve engineering improvements while recognising the needs of existing users including equestrians"*,[88] it was not entirely clear from his evidence what his position was on the timing of the interventions required, vis-à-vis the development of the site. We return to this matter in our *Discussion and findings* sub-section below.

3.59 Mr Clark addressed the reduction in lot yield and responded to Mr Wanty's points in his evidence to the hearing.[89] In doing so, Mr Clark came to the following conclusions:

a. the crash history shows a very low crash rate;

b. the expected increase in the number of vehicle movements is very low;

c. the private plan change as amended will have a lesser effect than originally assessed;

d. the traffic experts agree that overall traffic related effects are no more than minor (on Stratton Street) or less than minor (on the wider road network); and

e. the traffic experts agree that some improvements to Stratton Street are required and should be considered by Council in order to address existing issues.[90]

3.60 At this stage, we observe that the opinions of the traffic experts aligned by the end of hearing. This goes to our substantive finding on traffic effects as set out below. In this context, we also address a couple of related, residual issues relating to traffic that remained unresolved and/or a matter of on-going concern for submitters:

a. the timing of recommended improvements to Stratton Street, vis-à-vis the development of the site; and

b. a development of a clearer understanding of the effects of the plan change on non-motorised users of Stratton Street.

[83] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.34 and 11.40, pages 46 and 47
[84] Framed as a *Brief of Evidence of David Keith Wanty*,15 June 2021 and attached to the s42A report as Appendix 2
[85] *Brief of Evidence of David Keith Wanty*,15 June 2021, para 13, page 3
[86] *Brief of Evidence of David Keith Wanty*,15 June 2021, para 14, page 4
[87] *Brief of Evidence of David Keith Wanty*,15 June 2021, paras 16 and 17, page 4
[88] *Brief of Evidence of David Keith Wanty*,15 June 2021, para 47, page 12
[89] *Evidence of Gary Clark*, 30 August 2021, attached as Appendix 6.3 to the *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021
[90] As summarised in *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.43, page 47

Discussion and findings

3.61 In noting that the expert evidence on traffic matters presented to us remained uncontested, we adopt the shared view of Mr Clark and Mr Wanty that:

a. while Stratton Street does not provide an ideal road environment, its limitations actually invite driver caution, limit vehicle speed and reduce risk;

b. the local road network and wider road network are both capable of dealing with demand that would be created by the development of the site subject to the plan change;

c. the effects of the site's development in traffic terms will be indiscernible; and

d. there is no need for immediate intervention to improve the road environment.

3.62 We note with favour that the Requestor has made additional amendments to the plan change to:

a. require all access to new lots to be via Stratton Street, rather than Normandale Road, via a subdivision standard;[91]

b. limit the overall yield to 13 lots inclusive of balance lots via a subdivision standard;[92] and

c. limit the number of dwellings to one per new lot via a land use rule (c.f. the two dwellings per lot enabled under the standard Rural Residential Activity Area provisions), with consideration as an assessment criterion given to traffic effects on the existing road network in the event that this rule is ever infringed.[93]

3.63 In our view, collectively, these amendments will 'cap' potential traffic effects arising from the site's subdivision and development, and we recommend their adoption (refer **Appendix 2**).

3.64 Accordingly, we also adopt Ms Tessendorf's conclusions with respect to the traffic effects associated with the plan change,[94] to the effect that:

a. the proposed additional ten lots that can be accommodated as a controlled activity would have acceptable traffic effects on the existing road network;

b. any subdivision beyond the number of additional lots provided for would be a fully discretionary activity and provide sufficient opportunity to either consider the potential effects at that point and manage adverse effects via mitigation measures or, should management not be possible, enable the application to be declined;

c. some improvements to Stratton Street would be beneficial and would improve the convenience for existing and future users of the road but are not required to address safety or capacity issues;

d. such improvements should be based on traffic count data and undertaken by Council but are outside the plan change process; and

[91] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.45, page 48
[92] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.45, page 48
[93] *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021, page 6
[94] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.51 – 11.53, page 49

e. the proposed site-specific provisions in combination with the underlying framework of the District Plan ensure that any transport related effects are either acceptable or can be managed at the subdivision and development stage.

3.65 Consequently, we endorse and adopt the final form of the plan change with respect to the addition of standards, terms and assessment criteria as proposed by the Respondent in relation to traffic matters, with one exception. Our view is that the reference to *"should"* in the assessment criterion *"Subdivision should also be designed to ensure that motor vehicle access to all new allotments is provided from Stratton Street only"* is more appropriately replaced by the word *"shall"* as this outcome is key to our finding that the effects of the plan change will be no more or less than minor. We have altered the wording of the plan change that we recommend be adopted accordingly (refer to **Appendix 2**).

3.66 We now turn to address the residual concerns of submitters expressed at the hearing, as summarised in paragraph 3.60. These concerns are very much inter-related.

3.67 In verbal submissions to us at the hearing, Mr Willard picked up on the ambiguity of Mr Wanty's statements relating to the place and effect of road improvements, as quoted in paragraph 3.57 above. This uncertainty, in Mr Willard's view, doubled down on the need for a 'site inspection' and 'independent traffic assessment' to be undertaken for Stratton Street to better characterise the nature of current and predicted usage, the road's physical condition and constraints, and the capacity of the road to deliver required levels of service safety in this context.[95] In his view, the further 'inspection' and / or 'assessment' that he identified as being needed is required to determine the outcome of PC53, and should not wait until the resource consent stage.

3.68 As a panel we clarified through questioning that Mr Wanty did not think that immediate attention to the condition of Stratton Street was required, if the lot yield from the subdivision changed from 23 to 13. His view in this respect appeared to be that any assessment of the impact on the safety and efficiency of Stratton Street (inclusive of a road survey) could best be dealt with when resource consent applications are made, subsequent to the approval of the plan change.[96] Mr Wanty also informed us that the Council has no plans to widen or improve Stratton Street other than carrying out basic maintenance in the near future.[97] We note that Mr Wanty had earlier raised the option of the Requestor vesting portions alongside road to the Council for the purposes of road widening,[98] but in any event he did not frame this as a pre-condition underlying the conclusions he subsequently reached.

3.69 Mr Willard was also of the view that neither Mr Clark nor Mr Wanty had sufficiently considered the nature of non-motorised users of Stratton Street, including recreational walkers, cyclists and equestrian traffic.[99] Mr Wanty responded to the effect that, while acknowledging that his assessment had been based on the limited information available to him, the analytical effort he had made was commensurate with the scale and significance of the issues raised.[100]

[95] Email to the hearings administrator from submitters Mr and Mrs Willard dated 29 August 2021
[96] *Supplementary Statement of David Keith Wanty (in relation to the 26/8/2021 email from Matthew and Claire Willard),* 7 September 2021, paras 6 and 12, pages 3 and 5 - 6
[97] *Supplementary Statement of David Keith Wanty (in relation to the 26/8/2021 email from Matthew and Claire Willard),* 7 September 2021, para 12, page 6
[98] *Brief of Evidence of David Keith Wanty*,15 June 2021, para 60, page 15
[99] Email to the hearings administrator from submitters Mr and Mrs Willard dated 29 August 2021
[100] *Supplementary Statement of David Keith Wanty (in relation to the 26/8/2021 email from Matthew and Claire Willard),* 7 September 2021, para 9, pages 4 – 5

3.70 We find that a road survey of the type envisaged by Mr Willard would properly relate as much if not more to the existing state and wider use of Stratton Street, than the effects of the development of the site. It is therefore not something that we consider needs to be a pre-condition for the further assessment of the plan change. Further, while we accept the shared view of the traffic experts that no immediate improvements to Stratton Street are required to address the effects of the plan change, a survey of road usage, driver behaviour and road conditions would usefully serve to provide a benchmark, inform the nature of those improvements and assist the Council in deciding at what point specific interventions are required. Essentially, however, the responsibility for undertaking a road survey and actioning any recommendations arising from it should rest with the Council, as the road controlling authority, and not the Requestor.

3.71 To address the concerns of submitters and assist the Council in this respect, we asked the traffic experts to co-draft a brief for a road survey, for the Council's consideration, outside the context of this plan change (refer to paragraph 2.47.b). We take this opportunity to thank Mr Clark and Mr Wanty for preparing a suitable brief[101] and to Mr Willard for bringing this matter to our attention in clear and robust terms. While the outcome of our considerations may not entirely satisfy Mr Willard's concerns, they are as far as we can go, given the uncontested nature of the traffic evidence.

3.72 Finally, we note that in his submissions, Mr Willard also questioned the independence of Mr Wanty. We would simply draw attention to the fact that Mr Wanty had previously indicated that he had read and agreed to comply with the Environment Court's Code of Conduct for Expert Witnesses.[102] It was appropriate for us to accept his evidence at face value on that basis.

Other Issues

Issue 3: Rural Zone 'Island'

3.73 As we noted in paragraph 2.8, one effect of the plan change is that the property at 301 Normandale Road would retain a General Rural Activity Area zoning, in isolation to the properties which surround it (refer **Figure 2**).

3.74 However, as Ms Tessendorf observes,[103] the current General Rural Activity Area zoning of the properties that are subject to the plan change, together with 301 Normandale Road (refer **Figure 1**), is already something of an anomaly when considered in a broader context. These properties are surrounded by others zoned either General Recreation Activity Area and Rural Residential Activity Area.

3.75 We accept Ms Tessendorf's view that the size of the property at 301 Normandale Road means that it will be similar in scale to the surrounding Rural Residential Activity Area properties.[104] The proposed rezoning concurs no advantage on the owner of the property as the minimum lot size standard for the General Rural Activity Area would preclude its further subdivision in any case. In our view there is no discernible difference in appearance between the property at 301 Normandale Road, those properties subject to

[101] *Joint statement by traffic experts re roading surveys along Stratton Street*, 10 September 2021, attached as Appendix 3 to *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow*, 17 September 2021
[102] *Brief of Evidence of David Keith Wanty*,15 June 2021, para 9, page 3
[103] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.4 - 11.5, page 39
[104] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.6, page 39

the plan change, and surrounding properties that already have a Rural Residential Activity Area zoning.

3.76 The property's 'orphan' status could be addressed as part of a forthcoming District Plan review, should the Council deem this necessary.

Issue 4: Effects on water ways

3.77 Some submitters, including Ms Guest and Mr Shaw,[105] raised concerns regarding the potential effects of the plan change on water quality arising from the site's development. To address this issue, Ms Guest and Mr Shaw sought the addition of controls requiring a 10-metre set back of development from all eight tributaries of the Korokoro Stream.

3.78 In this respect, we accept Ms Tessendorf's view[106] that such concerns are suitably addressed under the following:

a. the Regional Council's functions with respect to the maintenance and enhancement of water quality under s30(10(c) of the RMA;

b. by extension, the associated resource consent requirements of the PNRP; and

c. the introduction, via amendments to the plan change, of a controlled activity assessment criterion requiring the preparation of an erosion and sediment control plan to manage potential effects on streams and wetlands.

3.79 We further note that the three main tributaries are also located in identified no-development areas.

3.80 In terms of the above, we find that the effects on waterways will be appropriately managed.

Issue 5: Amenity and local character effects

3.81 Mr and Mrs Matcham and the Friends of Belmont Park[107] were concerned that increases in building density arising from the development of the site for rural residential purposes would be visible from and have an impact on the wider area, beyond immediately surrounding properties.

3.82 With respect to amenity and local character effects, we accept Ms Tessendorf's view[108] that these will be acceptable, as a result of the fact that:

a. while the site is visible from Belmont Regional Park, development at a rural residential scale will be aligned with existing development patterns in the area and form an anticipated part of the wider landscape; and

b. potential effects on amenity and character would be limited by constraints on lot yield and no-development areas built into the plan change, as amended.

3.83 For the above reasons, we find that the amenity and local character effects will be less than minor.

[105] DPC53/7
[106] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.29, page 45
[107] DPC53/5 and DPC53/6
[108] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.56 – 11.58, page 50

Issue 6: Landscape and natural character effects

3.84 Mr and Mrs Matcham and the Friends of Belmont Park[109] were concerned that if consideration of landscape and natural character effects are left to the subdivision stage then this will not account for wider and cumulative effects.

3.85 With respect to landscape and natural character effects, we accept Ms Tessendorf's view[110] that these can be appropriate managed at the subdivision and development stage, on the basis that:

a. the additional development enabled by the plan change would be similar in scale to the existing rural residential development in the surrounding area;

b. due to the proposed limitation of additional lots that can be achieved as a controlled subdivision and the introduction of no-development areas the average lot size would in fact be higher than that of surrounding areas;

c. the application of the framework of underlying District Plan provisions relating to land use (e.g., dwelling bulk and location), subdivision (e.g., the consideration of the natural and physical characteristics of the land) and earthworks (e.g., limiting the volume and height of earthworks and enabling assessment of visual amenity effects and effects on existing natural features and topography; and

d. the proposed site-specific subdivision provisions will also provide additional protection for the landscape values and natural character of the wider area.

3.86 For the forgoing reasons we accept that the development that will be enabled by the rezoning will be of a nature and scale that will not substantially alter the landscape of natural character of the area.

Issue 7: Natural hazards effects

3.87 Submitters did not raise any issues relating to natural hazards. We adopt Ms Tessendorf's opinion[111] that the proposed rezoning will not result in an increase in natural hazard risk and any natural hazard effects can be managed appropriately through existing subdivision and land use provisions.

Issue 8: Historical and cultural effects

3.88 Mr and Mrs Matcham and the Friends of Belmont Park[112] were concerned regarding potential effects of the rezoning on Old Coach Road, a Grade 2 listed historical site.

3.89 We adopt Ms Tessendorf's opinion[113] that:

a. Old Coach Road is listed in the District Plan as a Significant Cultural Resource and the relevant rules of Chapter 14E therefore apply, that any potential adverse effects can be addressed at the subdivision and development stage; and that

b. the proposed additional provisions that limit access to new lots to be from Stratton Street and elevate any subdivision that relies on access from

[109] DPC53/5 and DPC53/6
[110] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.61 – 11.65, pages 50 - 51
[111] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.66 – 11.70, page 51
[112] DPC53/5 and DPC53/6
[113] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 11.74 – 11.75, page 52

Normandale Road / Old Coach Road to be a discretionary activity, provide sufficient opportunity to assess and manage any potential effects at the time of subdivision and development.

3.90 As such, we find that the potential effects of the rezoning on Old Coach Road will be negligible.

Issue 9: Economic effects

3.91 No submission points were made in relation to economic effects. We accept Ms Tessendorf's view[114] that the economic effects will be of a positive nature as the proposed rezoning will provide for limited additional rural residential development potential while not resulting in any significant changes to anticipated non-residential activities in the area.

Issue 10: Infrastructure effects

3.92 No submission points were made in relation to infrastructure. It has always been clear that development of the site would need to be 'self-serving' in terms of 'three water' services and that electricity infrastructure may need to be upgraded to service the new development.

Appropriateness of Rezoning

3.93 From an effects perspective, and based on the foregoing assessment, none of the magnitude of the identified effects, including the two determinative issues relating to ecology and traffic, are such as to lead us to consider that the rezoning of the site from General Rural Activity Area to Rural Residential Activity Area would be inappropriate.

3.94 In other words, there is no fundamental impediment in terms of site constraints or values that would preclude development of the site for rural residential purpose.

3.95 That being the case, we now move to assess our conclusions in light of the relevant policy framework at a national, regional and local level.

Objective and Policy Framework

Resource Management Act

3.96 We find that Ms Tessendorf has correctly identified[115] the relevant sections of the RMA that we are obliged to assess the plan change against, and we agree with her conclusion[116] that, overall, the proposed plan change provisions are appropriate to address and fulfil the City Council's functions under those sections and, in particular, s31 of the RMA, in light of the fact that, in some cases, submitters raised issues, such as the control of discharges of contaminants into or onto land, air or water and discharges of water into water, that more squarely fall within the ambit of the Regional Council under s30.

National Policy Statements / National Environmental Standards

[114] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 11.76, page 52
[115] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 6.3 – 6.9, pages 10 – 13
[116] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.10, page 13

3.97 We agree with Ms Tessendorf[117] that the NPS-UD has only limited relevance given its focus on intensification in the urban environment, as opposed to rural-residential environments. However, we find that the proposed plan change is not inconsistent with the purpose of the NPS-UD.

3.98 We also agree with Ms Tessendorf[118] that the proposed plan change will not prejudice the ability of the Regional Council to progress its responsibilities under the NPS-FM and that the proposed zone and site-specific provisions will ensure any potential impact on freshwater bodies can be adequately managed, consistent with the purpose of the NPS-FM.

3.99 We have given no consideration to the provisions of the NPS-IB as it remains in draft form.

3.100 We agree with Ms Tessendorf that the NES-FW is the only relevant set of national environmental standards relevant to this plan change.[119] We accept her view[120] that while the two artificial wetlands may not fall within the NES-FW's definition of "natural wetlands", their inclusion within no-development areas, together with the three main streams on the site, will ensure that development is effectively set back in compliance with NES-FM permitted activity standards, and the waterbodies are protected on that basis.

Regional Policy Statement

3.101 We find that Ms Tessendorf has correctly identified[121] the relevant objectives and policies of the RPS, and we agree with her conclusion[122] that the proposed plan change is consistent with those objectives and policies.

3.102 Notably, we agree that the plan change supports the maintenance and restoration of indigenous ecosystems and habitats with significant biodiversity values, through the undertaking of a site-specific ecological assessment, the identification of significant indigenous biodiversity and the proposal for no-development areas, and in doing so is consistent with RPS Policies 23, 24 and 47. Indeed, we find that the plan change goes above and beyond the provisions of the District Plan in this respect.

Regional Plans

3.103 We find that Ms Tessendorf has correctly identified the relevant objectives and policies of the PNRP[123] and the relevance of operative regional plans[124] and, with respect to the PNRP, we agree with her assessment[125] that the proposed plan change is consistent with those objectives and policies, on the basis that:

a. any future development enable by the plan change will likely require consent under the PNRP and District plan, collectively providing sufficient opportunity to manage potential adverse effects on streambeds, water quality, vegetation and soils;

[117] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.18, page 14
[118] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.27, page 15
[119] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.29, page 16
[120] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 6.32 – 6.35, pages 16 – 17
[121] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.37, pages 17 – 19
[122] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.39, page 19
[123] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.42, pages 20 – 21
[124] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 6.45 – 6.46, page 22
[125] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 6.44, pages 21 – 22

b. the proposed Rural Residential Activity Area zoning yields only limited development potential which ensure on-site stormwater (and, we would add, wastewater) disposal can be achieved without direct discharges to water bodies; and

c. defined development in no-development areas would prompt consideration as a non-complying activity (which would in turn bring those objectives and policies to bear).

Hutt City District Plan

3.104 We find that Ms Tessendorf has correctly identified[126] the relevant objectives and policies of the District Plan and we agree with her assessment[127] that the proposed plan change is consistent with the objectives and policies relating to:

a. Resource management and the tangata whenua of Lower Hutt (Chapter 1.10.1);

b. Amenity values (Chapter 1.10.2);

c. Rural activity (Chapter 1.10.7);

d. Significant natural, cultural and archaeological resources (Chapter 1.10.9);

e. Rural residential character and amenity values (Chapter 8A 1.1.1);

f. Opportunity for future urban growth (Chapter 8A 1.1.2);

g. Minimum requirements for sites and buildings (Chapter 8A 1.2.1);

h. Allotment standards (Chapter 11.1.1);

i. Special areas (Chapter 11.1.4);

j. General Rural and Rural Residential Activity Areas (Chapter 11.1.5);

k. Protection of significant natural, cultural and archaeological resources (Chapter 14E 1.1);

l. Natural character (Chapter 14I 1.1); and

m. Amenity, cultural and historic values (14I 1.2).

3.105 We note that there are no objectives and policies relating to ecological or biodiversity matters in the District Plan that we are able to assess the proposal against.

3.106 Of particular import, given its identification as a determinative issue, are the objectives and policies of the District Plan relating to traffic effects. In this respect, we further find that Ms Tessendorf has correctly identified[128] the relevant objectives and policies of the District Plan and we agree with her assessment[129] that the proposed plan change is consistent with the relevant objectives and policies, taking into account on the basis the additional site-specific provisions, that limit the number of additional allotments and restrict access for new lots to be from Stratton Street.

[126] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 7.2 – 7.15 and 7.10 – 7.24, pages 25 – 31 and 33 – 35
[127] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 7.2 – 7.15 and 7.10 – 7.24, pages 25 – 31 and 33 – 35
[128] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 7.16, pages 31 – 32
[129] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, para 7.18, page 32

Non-Statutory Strategies and Plans

3.107 We agree with Ms Tessendorf[130] that the most relevant non-statutory strategies and policies produced by Hutt City Council are the UGS 2012 – 2032 and the Environment Sustainability Strategy 2015 – 2045 and that the proposed plan change is consistent with these documents on the basis that, respectively, it:

a. provides for limited additional development capacity at a rural-residential density level in the Normandale area as anticipated in the former strategy; and

b. particularly accords with 'Focus Area 5 Biodiversity' in the latter strategy.

[130] *Statement of Evidence of Corinna Tessendorf on Behalf of Judy and Neville Bannister*, September 2021, paras 8.1 – 8.3, page 35

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 PC53 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-UD and is not inconsistent with the NPS-FM.

4.6 The NZCPS is not relevant to the plan change and we have not taken the draft NPS-IB into account.

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

4.7 As summarised in paragraph 3.101, we find that PC53 provisions give effect to, or at least are consistent with, the following RPS provisions:

a. Objectives 12 and 13 and Policies 15, 40, 41, 42 and 43 relating to fresh water;

b. Objective 16 and Policies 23, 24 and 47 relating in indigenous ecosystems;

c. Objective 22 and Policies 55, 56, 57, 58 and 67 relating to regional form, design and function; and

d. Objective 29 and Policies 15, 41 and 68 relating to soils and minerals.

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

4.8 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?

4.9 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. We have found that Old Coach Road, a Significant Cultural Resource, that is located in proximity to the site, will remain unaffected by the site's development (refer paragraph 3.89).

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

4.10 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?

4.11 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

4.12 Assessing the former first, we consider that 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 paragraphs 2.13 and 2.14). 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.

4.13 Rezoning the site to Rural Residential Activity Area will enable the site to be developed for rural residential purposes. With suitable, additional amendments, as proposed (as set out in **Appendix 2**), the rezoning of the site does provide for the protection of significant natural areas. And, finally, the inclusion of site-specific provisions into the operative District 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 Stratton Street do not arise.

4.14 Turning to the settled, relevant objectives of the **operative Plan**, we have previously agreed with Ms Tessendorf that these are to be found in the chapters referred to in paragraphs 3.104 and 3.106.

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 We find that the proposal will *"protect and enhance the rural character, landscape and amenity values of the rural activity area"* (Area Wide Objective 1.10.7). We also accept that the site's rezoning for rural-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 We have not been presented with any information or evidence to suggest that the proposal is inconsistent with Area Wide Objective 1.10.9, which seeks to *"protect significant natural, cultural and archaeological resources from inappropriate subdivision, use and development."*

4.18 We find that the proposed plan change will *"ensure that the character and amenity values of rural residential areas are maintained and enhanced"* in accordance with Rural Residential Activity Area Objective 8A 1.1.1).

4.19 We find that the proposal will do nothing to undermine the intent of Rural Residential Activity Area Objective 8A 1.1.2 which seeks to *"retain land as rural residential, recognising that it may be appropriate to utilise the land for urban expansion in the future if demand justifies this."*

4.20 The combination of existing zone-based rules and standards and proposed site-specific subdivision provisions will ensure the intent of Rural Residential Activity Area Objective 8A 1.2.1 *("to recognise those elements within a site that determine the character and amenity of rural residential areas and manage them effectively")* is achieved.

4.21 With respect to the District Plan's policy direction in relation to subdivision, we find that PC53 aligns with Objectives 11.1.1, 11.1.4 and 11.1.5 which provide the rationale for allotment standards, the protection of 'special areas' and the maintenance of amenity values and the efficient use of land.

4.22 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, 3.4 and 3.5 refer).

4.23 Finally, we find that the combination of existing earthworks rules and standards and proposed site-specific provisions (particularly those relating to no-development areas) will:

a. *"ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape"* as sought under Objective 14E 1.1; and

b. *"ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site"* as sought under Objective 14I 1.2.

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 53.

5.2 We further recommend that the Council undertake a survey of road usage, driver behaviour and road conditions relating to Stratton Street, to provide a benchmark, inform the nature of potential improvements, and assist the Council in deciding at what point specific interventions are required. For guidance on the scope and methodology employed, the Council can refer to the brief prepared by Mr Clark and Mr Wanty titled *Joint statement by traffic experts re roading surveys along Stratton Street*, 10 September 2021, and attached as Appendix 3 to *Final Evidence – Right of Reply Joint Statement by C Tessendorf and D Kellow,* 17 September 2021. We note that our recommendation that the plan change be accepted is not conditional on the undertaking of this survey.

DATED AT WELLINGTON THIS 13th DAY OF OCTOBER 2021

DJ McMahon
Chair

EA Burge
Independent Commissioner

S Edwards
HCC Councillor
(Appointed as a Commissioner)

APPENDIX 1
Panel recommendations on relief sought by submissions and further submissions

DPC53/1 Alan and Joyanne Stevens					
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reasons**	**Decision/Relief Sought**	**Recommended Decision**
1.1	Not stated	Not stated	Not stated	A full investigation of traffic effects.	Accept in part. A peer review of the traffic report has been undertaken. We consider that the Council should conduct a road survey relating to Stratton Street, although our recommendation that the plan change be adopted is not conditional on this.
1.2	Not stated	Not stated	Not stated	Implementation of mitigation measures for traffic effects, including improved sight lines, road widening, no parking lines, clearways, traffic control during development phases for all sites.	Accept in part. Amended proposal restricts development yield to ten new lots and one dwelling per lot and enables consideration of effects on transport network where these standards are infringed. The road survey referred to above will inform the exact nature and timing of any improvements.
1.3	Not stated	Not stated	Not stated	Identification of who pays for the necessary upgrades to roads.	Reject. We accept uncontested traffic evidence that there is no need to upgrade roads identified as a precursor to the site's development.

DPC53/2 Royal Forest and Bird Protection Society of New Zealand Inc					
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
2.1	Not stated	Oppose	Not stated	Reject the proposal.	Reject. The proposal has been amended significantly post submissions. No-development areas have been identified and significant limitations on development introduced.

DPC53/3 Karen Self					
Sub. Ref.	**Amendment & Provision**	**Support /Oppose**	**Reasons**	**Decision/Relief Sought**	**Recommended Decision**
3.1	Not stated	Not stated	Not stated	Subdivision enabled by the proposed plan change is not accessed from Normandale Road past the current Old Coach Road gated entrance to Belmont Regional Park.	Accept. Amended proposal requires all lots to be accessed via Stratton Street. Discretionary activity status in the event this standard is not complied with enables consideration of effects and rejection of proposal if required.
3.2	Not stated	Not stated	Not stated	Council decisions are fully informed by further in-depth traffic studies of Normandale Road from 237 to 308 Normandale Road, and beyond the entrance to Belmont Regional Park if lots are to be accessed from this area. The Council needs to consider further the impact on infrastructure if the rezoning and subsequent proposed subdivisions take place. Specific consideration be given to roads, as I believe no upgrades or improvements are currently intended.	Accept. Amended proposal requires all lots to be accessed via Stratton Street. Discretionary activity status in the event this standard is not complied with enables consideration of effects and rejection of proposal if required.
3.3	Not stated	Not stated	Not stated	Creation of a regenerated native bush corridorfrom a strip of the subdivided lots along the current Old Coach Road to the join the two sections of Belmont Regional Park.	Reject.

DPC53/4	Matthew Willard				
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
4.1	Not stated	Not stated	Not stated	Council ensures that the risks to the safety of the transport network are reduced so far as is reasonably practicable and that Council adopts a philosophy of avoidance of all avoidable risks. Council should review the need to improve safety on Stratton Street considering the need to avoid all avoidable risks.	Accept in part. Amended proposal restricts development yield to ten new lots and one dwelling per lot and enables consideration of effects on transport network where these standards are infringed.

DPC53/5	Peter and Sandra Matcham				
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
5.1	Not stated	Not stated	Not stated	Revision of the application to correctly reflect the actual situation, with planned subdivisionsre drawn in a way that better reflects the actualtopography and provides a realistic evaluation of effects on the environment and locale. Development that provides robust and transparent measures to protect the natural, social and recreational environment of the area.	Accept in part. The proposal now includes no-development areas and assessment criteria related to sediment control and avoidance of development in no-development areas.
5.2	Not stated	Not stated	Not stated	Identification and protection of significant natural areas.	Accept in part. No-development areas include surveyed SNAs.

DPC53/6	Friends of Belmont Regional Park				
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**

6.1	All provisions	Not stated	Not stated	Reject the proposal in its present form and amend the proposal to include a robust analysis of environmental effects.	Accept in part. The proposal has been amended and an ecological assessment provided.

DPC53/7 Pam Guest and Peter Shaw

Sub. Ref.	Amendment & Provision	Support / Oppose	Reason	Decision/Relief Sought	Recommended Decision
7.1	Not stated	Not stated	Not stated	Include conditions that protect the health and safety of local roads.	Accept in part. Amended proposal restricts development yield to ten new lots and one dwelling per lot and enables consideration of effects on transport network where these standards are infringed. Access limited to Stratton Street only.
7.2	Not stated	Not stated	Not stated	If the proposal is accepted, that Council recognises the risks of higher conflict on roads from an increasing population and prepares an appropriate traffic management plan.	Reject.
7.3	Not stated	Not stated	Not stated	Include conditions that protect the areas that have already been identified as having, or potentially having, significant indigenous vegetation and significant habitats of indigenous fauna.	Accept. No-development areas have been introduced, based on surveyed SNAs.
7.4	Not stated	Not stated	Not stated	Include conditions that protect streams and their riparian margins.	Accept in part. No-development areas include streams.

DPC53F/1 Joyanne and Alan Stevens					
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
1.1	Not stated	Not stated	The proposal will have significant effects on biodiversity and the traffic assessment is poor quality.	Support all of the submissions.	Accept in part. No-development areas have been introduced, based on surveyed SNAs. Further traffic evidence has been provided.

DPC53F/2 Forest and Bird Protection Society New Zealand Inc.					
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
2.1	Not stated	Not stated	Not stated	Support the submissions of Friends of Belmont Regional Park, Pam Guest and Peter Shaw where they are not in conflict with Forest and Bird's original submission.	Accept in part.

DPC53F/3 Peter and Sandra Matcham					
Sub. Ref.	**Amendment & Provision**	**Support / Oppose**	**Reason**	**Decision/Relief Sought**	**Recommended Decision**
3.1	Submission DPC52/1	Support	We concur that the traffic report fails totally to consider the normal traffic pattern on the roads which would be affected by development at the scale enabled by the PPC. Only vehicular traffic is considered despite the wide variety of user types that make up a normal days usage, with non-vehicular traffic often dominating.	Accept the submission and reject the traffic report.	Reject. A peer review of the TIR was undertaken which did not identify significant shortcomings.

3.2	Submission DPC53/2 Forest& Bird	Support	The area of PPC53 contains permanent streams that extend beyondthat area, and which form an integral part of the Korokoro catchment. Their courses are dominated by regeneratingnative bush which contain a wide diversity of flora from secondary colonisers, to emergent and canopy species, in steep gullies and adjoining hillsides. The zoning sought by the PPC has no provision to establish the primacy of te Mana o te Wai and through this te Hauora o te Taiao as required in the NPS-FM (2017). It is also evident that any subdivision with the associated creation of building sitesand roading will have a major long termeffect in terms of surface permeability and contaminant run off that would be directly contrary to objective 2A of the NPS-FM to improve and maintain the overall quality of fresh water, and policy 14 of the Wellington RPS to minimise storm water contamination from development. We consider that PPC53 also fails to address the requirements of objectives 12(b) Safeguarding the life sustaining capacity of water bodies, Objective 13… support healthy functioning ecosystems, and associated polices, inparticular policies 40 - 43, of the Wellington RPS.	Accept the submission	Reject. The proposal has been amended in significantly and has introduced sediment control as a matter of consideration.

3.3	DPC53/2 Forest & Bird	Support	We note that under RMA Section 6(c) protection is the imperative action required. We further note that the reference to 'Matters of national importance' in Section 6 defines the matter to be considered. It does not refer to the geographical scope of the matter. In recognising and providing forthe protection of 'significant indigenousvegetation and significant habitats of indigenous fauna' it is the local context that matters. Therefore it is the level of significance in terms of the District Plan, and of the local environment which must be considered. As noted in our and other submissions, the area subject to PPC 53 contains identified although not gazetted, areas of natural significance (SNAs). To meet the Councils' obligations under the Section6(c) RMA and the Wellington RPS on biodiversity, any change in zoning mustprovide for and give effect to the protection of indigenous biodiversity and as a minimum areas identified as SNAs be excluded from any zone change.	Accept the submission	Reject. The proposal has been amended significantly with no-development areas introduced.
3.4	DPC53/2 Forest & Bird	Support	The scope of the potential subdivision permitted under the requested zoningwould entail the loss of significant areas of regenerating native biodiversity and development in accordance with the permitted limits would create major effects on the waterquality in the Korokoro catchment contrary to the requirements of the NPS-FM.	Accept the submission.	Reject. The proposal has been amended significantly with no-development areas introduced.

3.5	DPC53/2 Forest & Bird	Support	As noted in our submission and in our comments above, the suggestion that consideration of the environmental effects that would be created by subdivision at the scale enabled by therequested change, is contrary to both international best practice, the overall purpose of the RMA and Policy 64 of the Wellington RPS which requires consideration a whole of catchment approach. With regard to points (a) and (b) We concur that the District Plan andin particular the Rural Residential Activity Area and subdivision rules do not reflect current legislative requirements under the NPS–FM, nor the changes in public expectations withregard to the protection of fresh water, indigenous biodiversity and amenity values. We understand from HCC staff, that the District Plan is due to be revised in the near future at which pointthese defects will no doubt be addressed. In the meantime we consider that to allow a change under the existing requirements of the District Plan would be a mistake.	Accept the submission.	Reject. Identified no-development areas include the three main tributaries and other proposed amendments enable and existing District Plan provisions able erosion and sediment control matters to be addressed.

	DPC53/2 Forest & Bird	Support	*No reason stated*	Accept the submission.	Reject.
	DPC53/2 Forest & Bird	Support	The inaccuracies, inadequate investigation and analysis of Section 32 matters noted in our submission, together with its failure to address the overarching requirements of national, regional and local policies on biodiversity calls into question the validity and competence of the entire report. We do not consider the application presented for the proposedplan change a valid basis for a decision.	Accept the submission.	Reject. The proposal has been significantly amended and an appropriate s32AA has been provided.
	DPC53/2 Forest & Bird	Support	We support this view for the reasonsgiven in our submission and in comments above.	Accept the submission.	Reject. The proposal has been significantly amended.
	DPC53/2 Forest & Bird	Support in part	We consider that on balance the inability of the zoning criteria sought to give effect to Section 6 of the RMA, theWellington RPS, the NPS-FM, and provisions of the District plan with regard to the maintenance and protection of water quality, indigenous bio-diversity and amenity landscape, together with the failure of subdivision and building consent application process to adequately consider wider and cumulative environmental effects that this change would enable, means that the proposal should be rejected in its entirety.	Reject the proposal in its current form.	Reject. The proposal has been significantly amended.

	DPC53/3 Karen Self	Support	The assumption made in PPC53 that access to the area is available via the Old Coach Road-Belmont to Pauatahanui (Mis-named Normandale Road in the PPC) is not only contrary to the reality, but if considered would be contrary to the requirements of RMA Section 6(f) and Objective 15 andassociated policies of the Wellington RPS. We further note here that in our opinion, the degree of protection for historic artefacts determined by the High Court in Lambton Quay Properties Nominee Ltd v Wellington City Council [2014] NZHC 878 at [70- 71] has by implication been increased by the decision of the Environment Court in EDS vs King Salmon, and thatalthough the primary means by which protection of historic heritage is provided for is by scheduling items or areas in the district plan, section 6(f) still offers protection in its absence. (New Zealand Historic Places Trust v Waitaki DC (NZEnvC C034/08, 3 April 2008))	Accept the submission.	Accept in part. Amended proposal restricts access to Stratton Street only.
	DPC53/6 Friends of Belmont Regional Park	Support	As noted in our reasons for supporting DPC53/2 Forest & Bird Para 11 above,we consider the suggestion that environmental and societal effects canbe deferred to a piecemeal consideration at resource consent stage demonstrates a failure to understand the basic concepts of ecological assessment and the increasing importance of amenity value. We also support the concern over reverse sensitivity.	Accept the submission.	Accept in part. The proposal has been amended and an ecological assessment provided, which has informed the inclusion of no-development areas.

	DPC53/6 Friends of Belmont Regional Park	Not stated	In addition to the points made in our own submission which support this section, we would argue that in adopting a numeric scale to assess scale and significance the section is fundamentally flawed. The greatest danger in a subjective assessment is tobase this on a numeric scale since this is assumed to be interval when in reality any assessment here is ordinal.	Not stated.	Reject.
	DPC53/6 Friends of Belmont Regional Park	Not stated	We note again a fundamental methodological flaw in the quantification in that dollar cost is assumed a valid proxy for non- monetary values. This assumption leads, when considering mitigation andavoidance costs, to goal transference from ecological cost equivalence, to dollar cost minimisation, and should beavoided. The use of dollar proxy also encourages the limiting of values considered to those easily quantified rather than their ecological significance.	Not stated.	Reject.
	DPC53/6 Friends of Belmont Regional Park	Support		Accept the submission.	Reject.
	DPC53/6 Friends of Belmont Regional Park	Support	As noted in our reasons for support of DPC53/2 Forest & Bird Para 7 (d), thefailure to consider Kaitiakitanga and RMA Section 6(c) is to negate the entire purpose of the RMA.	Accept the submission.	Reject. The proposal has been amended significantly with no-development areas introduced.
	DPC53/6 Friends of Belmont	Support	As noted in our reasons for support of	Accept the submission	Reject.

	Regional Park		DPC53/2 Forest & Bird Para 7 (a) (b) and (c) We further note HCC's acknowledgement of the importance ofcatchment level assessment in its participation in the te Whanganui a Tara Whaitua process.		The proposal has been amended in significantly and has introduced sediment control as a matter of consideration.
	DPC53/6 Friends of Belmont Regional Park	Support	We also consider this section to be methodologically flawed and illogical. It utilises straw man arguments based oncircular hypotheticals and attempts to equate incommensurables.	Accept the submission and reject the evaluation.	Reject.
	DPC53/6 Friends of Belmont Regional Park	Support	We believe that the failure to even consider the ecological, amenity and landscape effects of the proposed change indefensible. To suggest that these will be addressed later during aprocess when the opportunity to consider wider and cumulative effectsare curtailed and public consultation denied, is in our opinion a deliberate attempt to avoid their consideration completely.	Accept the submission	Accept in part. The proposal has been amended significantly with no-development areas introduced.

	DPC53/6 Friends of Belmont Regional Park	Support		Accept the submission	Accept in part. The proposal has been amended with access restricted to Stratton Street.
	DPC53/7 Pam Guest	Support	In addition to the points made in in our reasons for support of DPC53/2 Forest & Bird, Para 7 (d), we note the requirement on councils to maintain indigenous biodiversity under RMA S31(b)(iii) has in the words of the Parliamentary Commissioner for the Environment been characterised by "… an undervaluing of biodiversity in decision making and inadequate regulatory protection contributing to indigenous biodiversity loss." We consider that to avoid this charge, HCC must require a full and independent ecological evaluation of the land in question.	Accept the submission	Accept – an ecological assessment has been provided and has informed the identification of no-development areas.

APPENDIX 2
Annotated version of Plan Change provisions

The various changes to Chapter 11 Subdivision and Chapter 8A Rural Residential Activity Area as revised following the hearing are annotated as follows:

Example 1 and Example 2 and ~~Example 3~~ and Example 4 and ~~Example 5~~	1. The additions made to the chapters by the Requestor to address issues raised in submissions and further submissions, post the notification of the plan change, are shown in red single underlined text. 2. Where further additions were made to that text to address issues raised at the hearing, these are shown in red double underlined text. 3. Where deletions to address issues raised at the hearing were made to text originally added as a result of 1. above, these are shown in red text with a double strike through. 4. Where we as a panel have made further additions to the text to address issues raised subsequent to the hearing, these are shown in blue double underlined text. 5. Where we as a panel have made further additions to the text to address issues raised subsequent to the hearing, these are shown in blue double underlined text with a double strike through.

11 Subdivision

(with recommended PC53 amendments – 15 October 2021)

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 Subdivision 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: 400m^2

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 5. 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: 700m^2

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: 1000m^2

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: 2000m^2

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: 600m^2

Minimum frontage: 20m

Landscape Protection Residential Activity Area

Minimum size of allotment: 2000m^2

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: 200m^2

Minimum frontage: 6m

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

Petone Commercial Activity Area 2

Minimum size of allotment: 1000m^2

Minimum frontage: 20m

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

General and Special Business Activity Area

Minimum size of allotment: 200m^2

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: 400m^2

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 8,000m^2.
- 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.

AMENDMENT 1 (amended after hearing)

Rural Residential Activity Area - 190 Stratton Street (SEC 43 Normandale Sett Blk VII D3/922), 236 Stratton Street (LOT 1 DP 50184 20B/82) and 268 Stratton Street (LOT 2 DP 50184 20B/83) as identified in Appendix Subdivision 9

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.
Number of Allotments:	The maximum number of allotments per site after subdivision shall be limited to: • 190 Stratton Street (SEC 43 Normandale Sett Blk VII D3/922) – no more than 6 rural residential allotments • 236 Stratton Street (LOT 1 DP 50184 20B/82) – no more than 3 rural residential allotments • 268 Stratton Street (LOT 2 DP 50184 20B/83) – no more than 4 rural residential allotments
Access:	Motor vehicle access to all new allotments must be from Stratton Street.
No-development Areas:	All new building platforms for ~~dwellings and related main access ways~~ buildings and structures, new access ways and vehicle tracks, new utility structures and sewage disposal fields must be located outside the no-development areas identified in Appendix Subdivision 9. ~~The location of all building platforms for dwellings and related main access ways must be identified at the subdivision stage and registered on the certificate of title by way of consent notice.~~ At the time of

subdivision measures for the ongoing protection of areas of significant indigenous biodiversity within the no-development areas from inappropriate use and development must be registered on the certificate of title by way of consent notice.

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

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 200m^2 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			
	Primary SystemARI	Total System ARI	Freeboard (mm)
Parks & Reserves	2	5	-
Recreational Buildings	10	50	200
Non-Habitable Buildings	5	10	200
Residential Houses	10	100	500
Commercial	20	100	100
Industrial	10	50	100
Public Utilities	10	100	500
Culverts	20	100	-
Bridges	50	100	-
Car Parks	5	10	-
Arterial Roads	20	50	-
Local Roads	10	20	-
Hill Roads (gradient >3%)	10	20	-

Subsidiary Standards			
1.	Max.Depth and speed on roads and footpaths	Max Depth	Max. Speed
	Arterial Roads	0.1m	2.0m/s
	Local Roads	0.2m	2.0m/s
	Hill Roads	0.1m	3.0m/s
	Walkways only	0.4m	1.0m/s
2.	Depth Speed Product	< 0.4mm/s	
3.	Channel/Pond Side Slopes	Maximum 1:5 Vertical : Horizontal	
4.	Channel/Pond Free board	> 0.5 metre	
5.	Detention Pond	< 1.2 metres depth of water unless access restricted	
6.	Kerb Opening	< 150mm high unless screened	
7.	Pipe Diameter	> = 300mm for mains > = 225mm for sump leads	
8.	Watercourses	No scour or deposition in events < 5yrs ARI	

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

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

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	100% for 2 pump installation 50% for 3 pump installation
minimum storage in pumped system	4 hours ADWF (Average Dry 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 200m^2 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.

AMENDMENT 2 (amended after hearing)

- For the land identified in Appendix Subdivision 9, in addition to the above, subdivisions should be designed to give priority to avoiding where possible ~~or minimise~~ the need for indigenous ~~native~~ vegetation clearance and earthworks within the identified no-development areas. Where avoidance is not possible the design must demonstrate how the effects will be minimised and remedied.

  ~~and~~ Subdivision shall ~~should~~ also be designed to ensure that motor vehicle access to all new allotments is provided from Stratton Street only.

(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.

AMENDMENT 3

- For the land identified in Appendix Subdivision 9, in addition to the above, a sediment and erosion control plan must be prepared to manage the potential effects of earthworks on streams and identified wetlands on the site.

(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 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 (i.e. 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 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 site 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 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.

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 identified in Appendix Subdivision 7 or Appendix Subdivision 8 that do not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (a) Allotment Design.

AMENDMENT 4

(m) Any subdivision of the land identified in Appendix Subdivision 9 that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (a) Allotment Design relating to Minimum Size of Allotment, Minimum Frontage, Shape Factor, Number of Allotments, Access and Other but excluding No-development Areas.

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).

AMENDMENT 5

(f) For the land identified in Appendix Subdivision 9, where the subdivision does not comply with the maximum Number of Allotments, the effects on the existing roading network.

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 identified in Appendix Subdivision 8 which results in any new lots having vehicular access to Liverton Road.

AMENDMENT 6

(c) Any subdivision of the land identified in Appendix Subdivision 9 that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of (a) Allotment Design relating to No-development Areas.

11.3 Anticipated Environmental Results

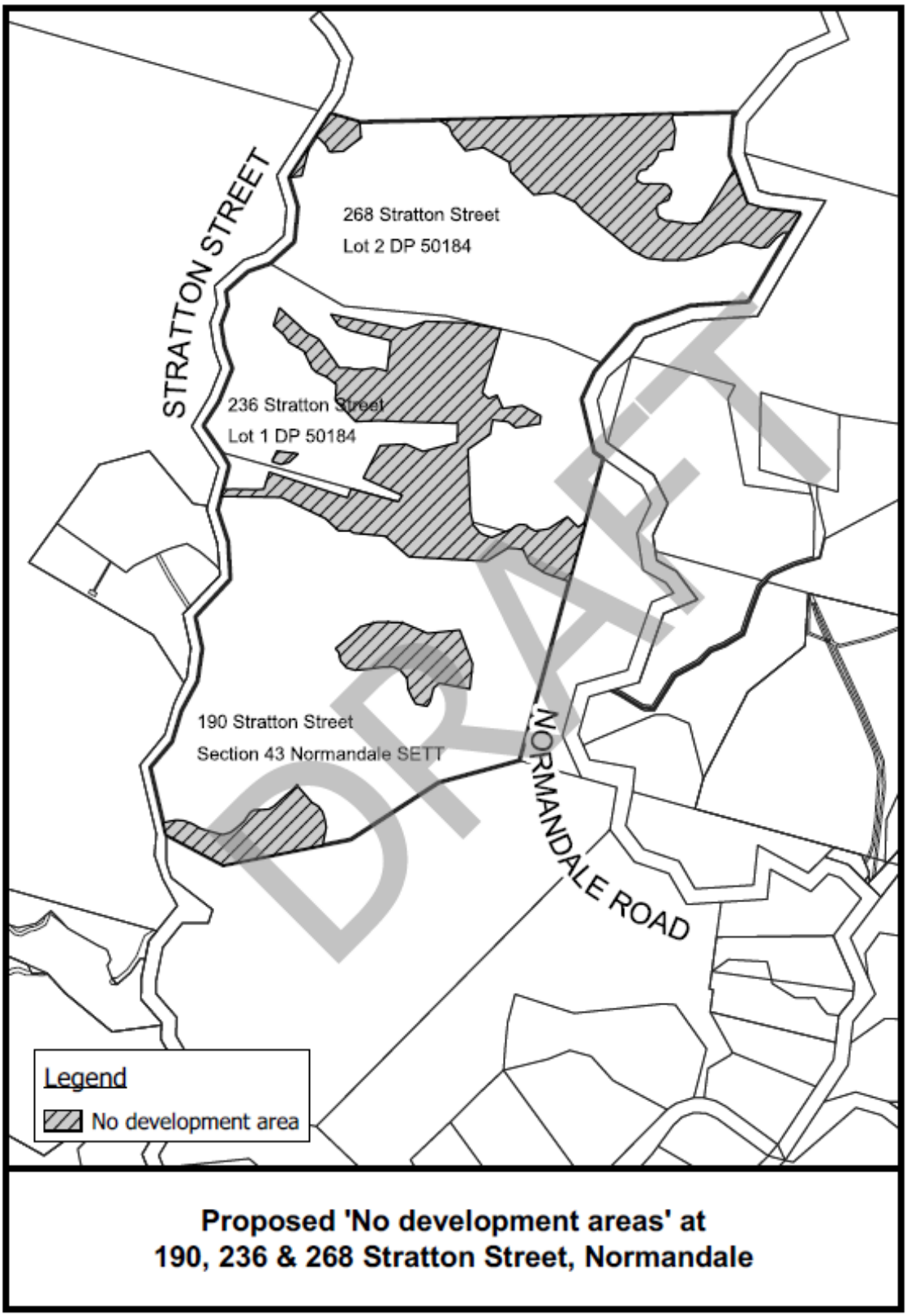
(a) That allotments created are suitable for the proposed use.

(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

AMENDMENT 7 (amended after hearing)

Appendix Subdivision 9



Proposed 'No development areas' at 190, 236 & 268 Stratton Street, Normandale

8A Rural Residential Activity Area

(with recommended PC53 amendments – 15 October 2021)

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.

8A 1 Issues, Objectives and Policies

8A 1.1 Local Area Issues

8A 1.1.1 Rural Residential Character and Amenity Values

Issue

The mix of residential and small scale rural activities, the subdivision pattern and the sense of open space contribute to the character and amenity values of the various rural residential areas. Inappropriate activities, and development and performance standards will adversely affect the existing character and amenity values of these areas.

Objective

To ensure that the character and amenity values of rural residential areas are maintained and enhanced.

Policy

(a) To provide for rural residential development where the existing activities and subdivision pattern have established areas with rural residential characteristics and amenity values.
(b) To ensure that the adverse effects of activities do not detrimentally affect rural residential character and amenity values or the intrinsic values of ecosystems.
(c) To allow for small businesses providing products and services to the entire City and where a rural environment is more appropriate because of the scale and effects generated by the activities.
(d) To ensure that rural residential character and amenity values are not compromised by inappropriate subdivision standards.

Explanation and Reasons

Rural residential developments are established activities in this City. Generally they occur in close proximity to urban development. They give a particular character to those parts of the City where they occur which differs from the intensity of the urban environment and the more extensive character of the remaining rural area.

One of the most significant factors contributing to the character and amenity values of a rural residential area is the subdivision pattern. Allotments are generally substantially larger than those in urban residential environments but also significantly smaller than in the Rural General Activity Area. Existing rural residential patterns include allotments of varying sizes and wide frontages.

Rural residential areas contain a diversity of activities. These include sites utilised purely for residential purposes, but because of the larger site area than in the urban residential areas, there is significantly more open space around the dwelling and greater separation between neighbours. Many sites are developed as hobby farms with limited numbers of animals and small forestry plantings. There are a number of small businesses located within rural residential areas. These include businesses providing for the boarding of domestic pets.

Land in this activity area is adjacent to land in the Extraction Activity Area on the western hills. Quarrying activities can have an adverse effect on

activities on adjacent land. It is appropriate to manage activities on that adjacent land to ensure those activities are not adversely affected and that the quarrying activities can operate without undue restriction. A Quarry Protection Area shown in Appendix Rural Residential 1 identifies land subject to a Rule requiring a resource consent for specific activities in the Quarry Protection Area.

8A 1.1.2 Opportunity for Future Urban Growth

Issue

A significant amount of land on the western hills of the Hutt Valley and in Wainuiomata was previously zoned residential. The land is not required for urban development in the medium term and it is appropriate that it be included in the Rural Residential Activity Area. In the future it may be appropriate for urban development to occur on this land.

Objective

To retain land as rural residential, recognising that it may be appropriate to utilise the land for urban expansion in the future if demand justifies this.

Policy

(a) To allow for rural residential development adjacent to urban environments where it may be appropriate for there to be expansion of the urban environment in the long term future.

Explanation and Reasons

The rural residential areas on the western hills of the Hutt Valley and in the vicinity of Upper Fitzherbert Road, Wainuiomata are in close proximity to urban residential development. Population and household projections in the past, indicated that there would be considerable growth of the residential population and household numbers. Land was zoned residential to meet this expectation. Projections indicate that it is no longer appropriate to make such an extensive provision. On the western hills of the Hutt Valley and at the northern end of Upper Fitzherbert Road there is land that is suitable for future urban development due to its proximity to existing services, topography and relationship to urban development. It is appropriate that this land is retained as rural residential until demand justifies alteration in the future.

8A 1.1.3 Liverton Road

Issue

The narrow formation and twisty alignment of Liverton Road mean that it is inappropriate to allow further subdivision or new activities which result in an increase in traffic volumes using the road.

Objective

To recognise that it is not appropriate for there to be further growth in the number of vehicles using Liverton Road.

Policy

(a) To require subdivisions creating the opportunity for further dwellings or new activities that will generate traffic movements to use alternative routes to Liverton Road.

Explanation and Reasons

Liverton Road is a narrow and twisty route. At the lower end it is in a gorge but towards the top opens out onto land with flatter topography. Due to the poor condition of the road it is inappropriate for there to be further subdivision or new activities which will place greater traffic volumes on the road. The land which is suitable for further rural residential development can be accessed from Major Drive, Kelson, a route which can accommodate growth in traffic volumes.

8A 1.1.4 Recreation

Issue

It is appropriate to allow a range of recreation and leisure activities in rural residential areas, where amenity values and character can be maintained.

Objective

To allow rural residential areas to be used for recreation and leisure activities, where amenity values and character are not adversely affected.

Policy

(a) To allow for activities that provide recreational opportunities or ancillary facilities that support recreational activities.

Explanation and Reasons

The Belmont Regional Park, East Harbour Regional Park and Rimutaka Forest Park are all in close proximity to rural residential areas. There are also a number of individuals undertaking private ventures providing recreation opportunities. As well as providing opportunities for those living in this City's urban areas, the regional population are also catered for within these areas.

The opportunity exists for a range of activities which complement recreational activities. These include various forms of visitor accommodation, services and facilities.
Visitor accommodation is an example of an activity which could be developed to enhance the use of the recreation opportunities.

8A 1.1.5 Forestry

Issue

Harvesting of commercial forestry can have adverse effects on the visual amenities of the rural residential area. It is important that these be mitigated to ensure the maintenance and enhancement of rural residential amenity values and character.

Objective

To maintain and enhance the visual amenity values of rural residential areas by ensuring that the adverse effects generated by the clearing of commercial forestry are appropriately mitigated.

Policy

(a) To require appropriate amenity planting, where planting extends to the road boundary, to mitigate the adverse visual effects resulting from the harvesting of commercial forestry.
(b) To require commercial forestry to be planted at a minimum distance from site boundaries to mitigate the adverse effects of shading.

Explanation and Reasons

Forestry development already exists in rural residential areas and there is potential for further planting. Forestry is an appropriate activity in many

rural residential locations. A number of specific issues arise from forestry as an activity. These include matters relating to soil quality, run-off control, and the visual changes that occur when forests are harvested. Some of the issues have potential effects which come under the jurisdiction of the Regional Council, however some can be addressed in this Plan.

The visual impact when large areas of forestry are cleared can be softened by the presence of mature amenity planting at the road side. The height of a mature tree is considerably greater than the provision for the maximum height of buildings. Providing a minimum setback from a site boundary mitigates the potential effects from shading of neighbouring sites and dwellings. While the current roading network from rural residential areas is capable of accommodating the impacts for logging trucks it is important that future planting be monitored to ensure that any intensification of the forestry industry will not adversely affect roading.

8A 1.2 Site Development Issue

8A 1.2.1 Minimum Requirements for Sites and Buildings

Issue

The size and shape of sites, the number and size of buildings and the location of buildings on the sites are important elements in determining the character and amenity values of rural residential areas. It is necessary to have conditions relating to these elements to ensure the character and amenity values of rural residential areas are maintained, and that buildings and structures are sited to avoid or mitigate the adverse effects of flood hazards.

Objective

To recognise those elements within a site that determine the character and amenity values of rural residential areas and manage them appropriately.

Policy

(a) To ensure the character and amenity values of rural residential areas are maintained and enhanced through specific minimum site area conditions for dwellings.
(b) To require minimum setback requirements and maximum site coverage for all buildings.

(c) To establish appropriate minimum conditions for the size and shape of sites.
(d) To manage the siting of all buildings and structures to mitigate the effects of a flood hazard on development.

Explanation and Reasons

Minimum conditions which determine in what circumstances and where buildings are located on a site, contribute to the character and amenity values of rural residential areas. The first determinant of this is the minimum size and shape of sites. Once the subdivision pattern is established, the extent to which a site is built on, the relationship of buildings to boundaries, the height of buildings and adequacy of daylight admission are important on-site determinants of the overall character and amenity values of rural residential areas.

8A 2 Rules

8A 2.1 Permitted Activities

(a) Any activity complying with the Conditions and not specified as a Restricted Discretionary, Discretionary or Non-Complying Activity.

8A 2.1.1 Permitted Activities - Conditions

(a) Dwelling:

Dwelling: Minimum net site area per dwelling - 2ha.

Where a Certificate of Title has been issued for a site prior to 5 December 1995, and it can be established that the site has been created with an intention to accommodate a dwelling, then in such circumstances the area of the site shall be the minimum net site area.

Compliance with all other Permitted Activity Conditions

AMENDMENT 8A (added after hearing)

For sites within the area identified in Appendix Rural Residential 2: Maximum of one dwelling per site.

(b) Minimum Yard Requirements:

(i) Principal Building - 10.0m.

(ii) Accessory Building - 5.0m.

(iii) For all buildings and structures -

20m minimum set back from water bodies, where the average width of the water body is greater than 3.0m measured from natural bank to natural bank;

or

3.0m minimum set back from water bodies, where the average width of the water body is less than 3.0m measured from natural bank to natural bank.

(c) Maximum Height:

Maximum Height: For any principal or accessory building, 8.0m.

(d) Recession Planes:

For any principal or accessory building, and from all site boundaries -

(i) From the north facing site boundary - 2.5m + 45°

(ii) From the north-east and north-west site boundary - 2.5m + 41°

(iii) From all other site boundaries - 2.5m + 37.5°

provided the recession plane angles shall not apply to television aerials, flagpoles and chimneys.

(e) Maximum Site Coverage:

Maximum Site Coverage: 450m^2.

(f) Dust:

All outside areas shall be surfaced, or managed appropriately, so that there shall be no dust nuisance at or beyond the boundary of the site.

(g) Odour:

All activities shall be carried out in such a manner so as to ensure that there is not an offensive odour at or beyond the site boundary.

(h) Lightspill and Glare:

(i) Artificial light shall not result in added illuminance in excess of 8 lux measured at the window of a dwelling on a neighbouring site.

(ii) All activities shall be undertaken so as to avoid all unreasonable light spill beyond the site boundary.

(iii) All activities, buildings and structures shall avoid glare (light reflection) beyond the site boundary.

(i) Vibration:

All activities that cause vibration shall be carried out in such a manner that no vibration is discernible beyond the site boundary.

(j) Home Occupations:

An occupation, craft or profession established on the same site as a dwelling, which is used for residential purposes, (but excluding activities such as livestock farming and forestry where these are the principal use ofthe site) provided that:

(i) At least one resident of that dwelling is employed in the home occupation;

(ii) Not more than two persons who do not reside on the site shall work on the site at any one time

(iii) Home occupations shall not include:

- the repair, alteration, restoration or maintenance of motor vehicles not belonging to residents ofthe site; and
- courier depots.

(iv) No home occupation shall involve the use of trucks or other heavy vehicles;

(v) No retail sales shall be permitted directly from the site, except for goods or produce grown or produced on the site;

(vi) Home occupations shall not involve visitors to the site between 8.00pm and 7.00am;

(vii) Not more than 35% of the gross floor area of all the buildings on the site, and not more than 15% of any outdoor areas on the site may be used in association with the home occupation; and

(viii) Any external storage of materials associated with the home occupation shall be screened so as not to be visible from outside the site.

(k) Piggeries:

(i) All grazing and shelter areas must be a minimum of 50m from a residential building on the site and from the site boundary.

(ii) A maximum of five adult pigs (defined to be one year or older) are permitted at any one time.

(iii) All adult pigs shall have a nose ring.

(l) Commercial Forestry:

(i) Where the commercial forestry is planted to within 50m of a site boundary with a public road, a 10m amenity strip, planted in species not used in the commercial forestry operation, will be provided, parallel and for the length of the commercial forestry operation, adjacent to a public road boundary and shall not be harvested at the same time as the commercial forest.

(ii) Minimum separation of 30m between an existing dwelling on a neighbouring site and commercial forestry planting.

(m) Recreation:

(i) no motorised recreational activity shall be permitted except for the enjoyment of those residents on the site and their visitors, or in the case of the Rimutaka Forest Park where the Department of Conservation has granted consent for motor vehicles within the Park.

(ii) no buildings may be used for or in association with a recreation activity.

(iii) recreation includes garden tours where there are no associated sales or services.

(n) General Rules:
Compliance with all matters in the General Rules - see Chapter 14.

8A 2.2 Restricted Discretionary Activities

(a) Rural service industries.
(b) Boarding of domestic pets.

(c) Commercial recreation.
(d) Visitor accommodation excluding (f)(vi) below
(e) Residential accommodation for the elderly.
(f) In the Quarry Protection Area, as shown on Appendix Rural Residential 1, the following activities, in addition to (e) above:
    (i) Any new dwelling, excluding a single dwelling on any lot approved by Council prior to 19 October 2001 which is a Permitted Activity providing the Permitted Activity Conditions are satisfied.
    (ii) Community Facilities.
    (iii) Hospitals and Emergency Facilities.
    (iv) Health Care Facilities.
    (v) Kohanga Reo, Childcare and Education Facilities.
    (vi) Visitor Accommodation.

8A 2.2.1 Matters in which Council has Restricted its Discretion and Standards and Terms

(a) Rural service industries.
(b) Boarding of domestic pets.
(c) Commercial recreation.
(d) Visitor accommodation excluding (f)(vi).
(e) Residential accommodation for the elderly.
    (i) Amenity Values:

        The extent to which the activity will alter the amenity values of the Rural Residential Activity Area and in particular the visual amenity values.

    (ii) Landscaping and Screening:

        The ability of appropriate landscaping and screening to mitigate the adverse visual effects of the activity on the rural residential amenity values

(f) In the Quarry Protection Area, as shown on Appendix Rural Residential 1, the following activities, in addition to (a) to (e) above:
    (i) Any new dwelling, excluding a single dwelling on any lot approved by Council prior to 19 October 2001 which is a Permitted Activity providing the Permitted Activity Conditions are satisfied.
    (ii) Community Facilities.
    (iii) Hospitals and Emergency Facilities.

(iv) Health Care Facilities.

(v) Kohanga Reo, Childcare and Education Facilities.

(vi) Visitor Accommodation.

- Location, Site Layout and Design:

  Locations with direct line of sight to and from the quarry should be avoided where this is physically possible. Where a line of sight between buildings and the quarry is unavoidable, mitigation through screening or design may be appropriate. Acoustic and vibration minimisation treatment of buildings, and planting to minimise dust nuisance may also be necessary.

- Amenity Values:

  Activities must not result in any increased likelihood of people in the area being exposed to adverse effects from the nearby quarry. Screening, acoustic or other building treatment, or restrictions of density, intensity or location, may be necessary.

8A 2.2.2 Other Matters

All Restricted Discretionary Activities must comply with other relevant Permitted Activity Conditions

8A 2.3 Discretionary Activities

(a) Except where stated in the General Rules, any Permitted or Restricted Discretionary Activity which fails to comply with any of the relevant Permitted Activity Conditions, or relevant requirements of Chapter 14 - General Rules.
(b) Intensive farming.
(c) Brothels and commercial sexual services not falling within the ambit of home occupation.

8A 2.3.1 Assessment Matters for Discretionary Activities

(a) The matters contained in sections 104 and 105, and in Part II of the Act shall apply.
(b) The degree of compliance or non-compliance with any relevant Permitted Activity Conditions.

AMENDMENT 8B (added after hearing)

(c) For sites within the area identified in Appendix Rural Residential 2, where the development does not comply with the maximum number of dwellings per site, the effects on the existing roading network.

8A 2.4 Non-Complying Activities

(a) Any retailing activity.
(b) Service stations.
(c) Any industrial, manufacturing, storage or depot activity.
(d) Residential activities, not otherwise provided for in this Activity Area.
(e) Turf farming.
(f) Top soil removal.
(g) Prospecting, exploration and extraction of minerals.
(h) Places of public assembly.
(i) Landfills and transfer stations.

8A 2.5 Other Provisions

(a) Subdivisions - See Chapter 11.
(b) Financial Contributions - See Chapter 12.
(c) Network Utilities, including the National Grid - See Chapter 13.
(d) General Rules - See Chapter 14.

8A 3 Anticipated Environmental Results

(a) Containment of the urban and rural residential environments.
(b) Recognition of those locations where future urban growth may be appropriate in the long term.
(c) Maintenance and enhancement of the character and amenity values of rural residential areas.
(d) Avoidance of the adverse effects of growth in traffic volumes on Liverton Road.
(e) Opportunities for a diverse range of activities which are appropriate to rural residential areas where adverse effects can be appropriately managed.

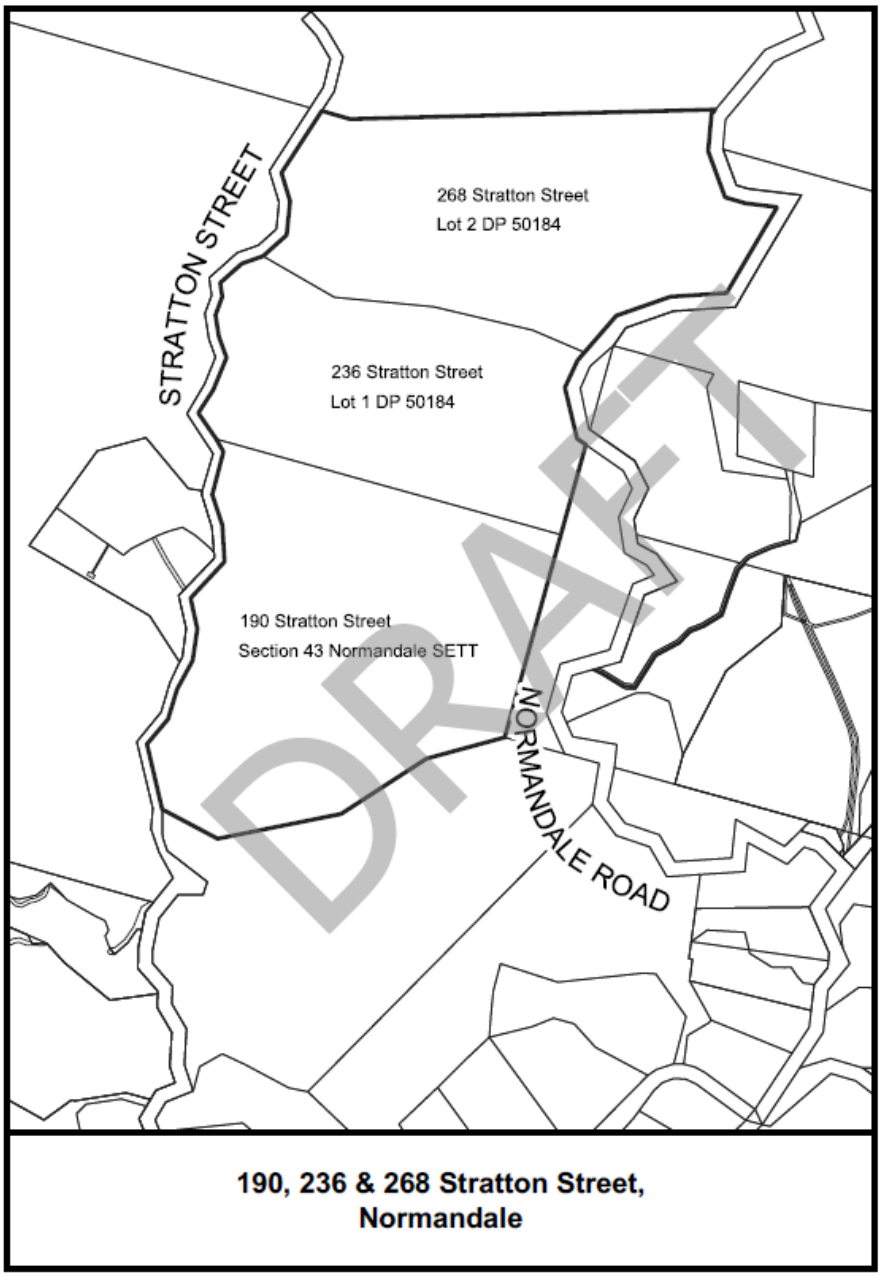
(f) Avoidance of undue adverse effects on quarrying operations in the Extraction Activity Area from activities within the Quarry Protection Area.

8A Appendices

Appendix Rural Residential 1

AMENDMENT 9 (added after hearing)

Appendix Rural Residential 2



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