

**IN THE MATTER OF**

the Resource Management Act 1991

**AND**

**IN THE MATTER OF**

Plan Change 56 to the Hutt City  
District Plan

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**PRIMARY EVIDENCE OF MAURICE DALE  
ON BEHALF OF  
ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS  
(SUBMITTER # 111)**

**Planning**

Dated 29 March 2023

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## **1 EXECUTIVE SUMMARY**

- 1.1 Ara Poutama Aotearoa the Department of Corrections (**Ara Poutama**) made submissions on the definitions, objectives, policies, and rules on Plan Change 56 (**PC56**) to the Hutt City District Plan (**HCDP**) as they relate to providing for “community corrections activity” and “residential activities” in various residential, commercial, and industrial zones. These include:
- (a) Retention of the definition of “residential unit”
  - (b) Amendment of the definition of “residential activity”, and adding a definition of “household”.
  - (c) Adding a definition of “community corrections activity”, and amending various objectives and policies, and rules to make “community corrections activity” a permitted activity in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas.
- 1.2 The PC56 Planning Officers Report, dated 7 March 2023 (**PC56 Officers’ Report**) recommends implementing the relief sought by Ara Poutama in relation to point (a) above in full, which I support. The PC56 Officers’ Report does not recommend implementing the relief in points (b) and (c) sought by Ara Poutama.
- 1.3 In my view, the definition of “residential activity” should be amended to align with the National Planning Standards, given the change will not have wider implications for the HCDP framework. Further a definition of “household” should be included in the HCDP as amended by PC56 given the definition of “residential unit” references “household” but does not define it. The inclusion of this definition will ensure that the HCDP clearly references, provides for, and meets the needs, of a variety of households including those housed by Ara Poutama and/or its service providers within the community.
- 1.4 Community corrections activities are already provided for as a permitted activity (being the default activity status) in the Central Commercial and General Business Activity Area.

- 1.5 I consider "community corrections activity" should be defined and also provided as a permitted activity in the Petone Commercial (Area 2) Activity Area, and Suburban Mixed Use Activity Area (where it adjoins the High Density Residential Activity Area) given that:
- (a) Community corrections activities are important to the successful operation and to the wider functioning of the urban environment and are essential social infrastructure.
  - (b) Community corrections activities are a compatible and appropriate activity in commercial areas as they are consistent with the character and amenity and are not prone to reverse sensitivity.
  - (c) Due to their unique nature, and limited need for these facilities in a metropolitan area, there will not be a proliferation of "community corrections activity" or any impact on the wider availability of commercial land.
  - (d) There are other examples nationally of where Councils provide for community corrections activity as a permitted activity in commercial zones.
  - (e) Restricting "community corrections activity" in the Suburban Mixed Use Activity Area to locations where it adjoins the High Density Residential Activity Area will ensure good connectivity/accessibility between housing, jobs, and community services.
  - (f) Making "community corrections activity" a permitted activity in these Activity Areas will enable community facilities to meet local needs in areas with good connectivity to align with the NPS-UD, and the policy framework of the HCDP and Regional Policy Statement for Wellington Region as amended by Plan Change 1.
- 1.6 On this basis, I support the relief, which is providing for "community corrections activity" as a permitted activity in the Central Commercial, General Business, Petone Commercial (Area 2), and Suburban Mixed Use Activity Areas.

## **2 QUALIFICATIONS AND EXPERTISE**

- 2.1 My name is Maurice Dale. I am a Senior Principal and Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualifications of Bachelor of Resource and Environmental Planning from Massey University (1998), and have completed the Ministry for the Environment Making Good Decisions programme. I am also a full member of the New Zealand Planning Institute (NZPI). I have 24 years' experience in planning and resource management, gained at local authorities and consultancies in Aotearoa New Zealand and the United Kingdom.
- 2.2 As a consultant planner, I act for a wide range of clients around New Zealand, including central and local government authorities, land developers, and those in the social and electricity infrastructure sectors. My experience as a consultant includes planning policy preparation and advice, preparing Notices of Requirement for designations, resource consenting and non-statutory planning work, and providing expert evidence at Council hearings and the Environment Court. As a local government planner, my experience was in both policy preparation and resource consent processing.
- 2.3 I have assisted Ara Poutama as a planning consultant since 2015. I have reviewed and prepared submissions, and appeared at hearings on behalf of Ara Poutama for numerous Proposed District Plans and Plan Changes across New Zealand, including others in the Wellington Region.

## **3 CODE OF CONDUCT**

- 3.1 I confirm that I have read the Code of Conduct for Expert Witnesses set out in the of the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and will continue to comply with it while giving oral evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

## 4 SCOPE OF EVIDENCE

4.1 This evidence addresses matters raised in the PC56 Officers' Report authored by Mr Stephen Davis on the points raised by Ara Poutama. To that end, my evidence:

- (a) Briefly summarises the relief sought by Ara Poutama on PC56 (Section 5);
- (b) Confirms Ara Poutama's support for the retention of the definition of "residential unit" as recommended in the PC56 Officers' Report (Section 6); and
- (c) Discusses Ara Poutama's request for amendment to the definition of "residential activity", and the addition of a definition of "household" which are recommended to be accepted in part and rejected respectively by the PC56 Officers' Report (Section 7).
- (d) Discusses Ara Poutama's request for a definition of "community corrections activity", and associated objectives, policies, and rules that provide for community corrections activities in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas (Section 8).

## 5 RELIEF SOUGHT

5.1 Ara Poutama lodged a submission on PC56 dated 20 September 2022 (submitter number 111).

5.2 The PC56 Officers' Report addresses Ara Poutama's following submission points on PC56:

- (a) **The addition of a definition of "community corrections activity"**, consistent with the National Planning Standards.
- (b) **The definition of "residential activity"** whereby Ara Poutama sought its amendment in form which aligns with the National Planning Standards.
- (c) **The definition of "residential unit"**, whereby Ara Poutama sought its retention, **and the addition of a definition of "household"** whereby Ara Poutama sought its inclusion to clarify

that residential accommodation activities (with support) such as that provided by Ara Poutama are captured by the definition of “residential unit”.

- (d) **Objectives 4F 2.3 and 4G 2.3 and Policies 4F 3.2 and 4G 3.2** whereby Ara Poutama sought they be amended to specifically enable a variety of *households* in the Medium Density and High Density Residential Areas.
- (e) **Objectives 5B1.1.2A and 6A1.1.1** whereby Ara Poutama sought that they be amended to provide for “community corrections activity” in the Petone Commercial (Area 2) and General Business Activity Areas.
- (f) **The activity status of “community corrections activity”**, whereby Ara Poutama sought that it be provided as a permitted activity in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas.

## **6 SUPPORT FOR REPORTING PLANNERS’ RECOMMENDATIONS**

- 6.1 The PC56 Officers’ Report recommends retention of the proposed definition of “residential unit”. I support this recommendation as the definition is consistent with the equivalent definition in the National Planning Standards.

## **7 THE DEFINITIONS OF “RESIDENTIAL ACTIVITY”, “RESIDENTIAL UNIT” AND “HOUSEHOLD”**

### **Background**

- 7.1 Throughout Aotearoa, Ara Poutama delivers and manages residential housing in the community to assist people within its care with their transition and/or reintegration into the community where they have been on custodial sentences, and to assist people with proactively participating in society where they are on community-based sentences. These homes accommodate people following their release from prison, those on bail and/or those serving community-based sentences (such as home detention).

- 7.2 In instances where more than one person resides at these homes, the group operates as a household participating in typical domestic activities, using the homes for sleeping, eating, cleaning, bathing and studying and the like. Depending on the needs of the residents, they receive varying levels of support and/or supervision from on-site providers, such as help with domestic duties and responsibilities (e.g. navigating daily household chores or getting a drivers licence), rehabilitation, and/or reintegrative support (e.g. assistance with finding employment).
- 7.3 Significant demand for Ara Poutama housing exists nationally. This is in part driven by the provisions of the Sentencing Act 2002, requiring sentencing judges give consideration to community-based sentences before considering custodial sentences.
- 7.4 In order to support this statutory requirement and for Ara Poutama to fulfil its own statutory mandate, it is imperative that such residential activities are clearly provided for within the relevant plan definitions. To that end, Ara Poutama has sought, in PC56 and in other District Plans nationally, the consistent implementation of the National Planning Standards definitions and associated plan provisions for "residential activity" and "residential unit".
- 7.5 The definition of "residential activity" entirely captures residential accommodation activities (with support), such as those provided for by Ara Poutama (i.e. people living in a residential situation, who are subject to support and/or supervision by Ara Poutama). Specifically, residential accommodation activities (with support) use "land and building(s) for people's living accommodation" (as per the definition of "residential activity") and these activities occur within "*a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities*" (as per the definition of "residential unit").
- 7.6 I understand the Council has previously adopted this position in regard to a residential housing activity (with support) recently established by Ara Poutama on a site in the Medium Density General residential Activity Area in Hutt City. In that case the Council considered the establishment of the activity containing up to 11 residents and support staff in 5

existing residential units was a “residential activity”. Resource consent was only required in respect of a car parking shortfall (reference RM200105).

- 7.7 In my opinion, there is no meaningful effects basis for distinguishing residential activities which include varying degrees of support, such as those provided by Ara Poutama, from any other residential activity. Where consents for Ara Poutama’s activities are required in a residential context, in my experience, they tend to be strongly opposed by surrounding residents because of perceived safety and amenity concerns associated with those in Ara Poutama’s care.
- 7.8 However, the decision to accommodate those persons within the community has already been made by the Courts or the Parole Board through sentencing or release decisions. The District Plan should not afford Council Officers the opportunity to frustrate the statutory requirements under the Sentencing Act, Parole Act and Corrections Act. Imposing unnecessary consenting requirements on those activities, particularly when there is no material effects based differential, risks undermining the operation of the justice system and Ara Poutama’s ability to fulfil its statutory obligations.

**“Residential activity”: consistency with the National Planning Standards**

- 7.9 The existing definition of “residential activity” in the HCDP has not been amended by PC56 and is slightly different to that in the National Planning Standards. In the HCDP, “residential activity” is defined as *“the use of land and buildings by people for living purposes”*, whereas in the National Planning Standards it is defined as *“the use of land and building(s) for people’s living accommodation”*. Ara Poutama’s submission on PC56 sought amendment of the definition of “residential activity” to align with the National Planning Standard.
- 7.10 While in essence the two definitions mean the same, the National Planning Standards require the wording in the standard to be used.<sup>1</sup> I therefore consider the existing HCDP definition should be amended accordingly as set out in Appendix A.

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<sup>1</sup> National Planning Standards – section 14 Definitions Standard, point 1.



**“Household”: clarity of interpretation on what constitutes a “residential unit”**

7.11 The National Planning Standards definition of “residential unit” has been included in PC56, and is thus supported (as noted in section 6 above). To provide clarity of interpretation within the HCDP, Ara Poutama’s submission on PC56 sought the inclusion of a definition of “household”. The definition of “residential unit” contains a reference to household, but does not further define it. Ara Poutama sought inclusion of a definition of “household” which explicitly references the existence of support elements to avoid any misinterpretation. The proposed definition is set out below, and has been updated to include minor corrections in wording (also included in Appendix A below):

***Household:*** means a person or group of people who live together as a unit whether or not:

- a. any or all of them are members of the same family; or
- b. one or more members of the group ~~(whether or not they are paid)~~ provides receives day-to-day care, support and/or supervision to any other member(s) of the group ~~(whether or not that care, support and/or supervision is provided by someone paid to do so).~~

7.12 Inclusion of this definition will ensure that the HCDP provides for, and meet the needs of, a variety of different households including those housed by Ara Poutama and/or its service providers within the community.

7.13 The National Planning Standards do not preclude Council’s including additional defined terms in their District Plans where they are a sub-category of, have a narrower application, and do not have the same or equivalent meaning as a definition in the National Planning Standards.<sup>2</sup> I consider the requested replacement definition of “household” meets these requirements.

**Reporting Planners’ Recommendations**

7.14 The PC56 Officers’ Report has made the following assessment in relation to the amendment of the definition of “residential activity”:<sup>3</sup>

<sup>2</sup> National Planning Standards, section 14 Definitions Standard, point 1.

<sup>3</sup> PC56 Officers’ Report, paragraph 200.

*"The Department of Corrections (111.002, plus a number of related amendments) sought a new definition for "residential activity". This was supported by Kāinga Ora (F17.1). There is already a definition of 'residential activity' in the Operative District Plan which is very similar to that sought by Corrections. It is recommended this submission is accepted in part."*

7.15 As set out above, while the essence the existing HCDP and National Planning Standards definitions of "residential activity" are the same, the National Planning Standards require the wording in the standard to be used. While I acknowledge the Council has seven years until November 2026 to align the HCDP definitions with the National Planning Standard, I support the relief of Ara Poutama to amend the definition in the HCDP as set out in Appendix A given the minor change required will not have wider implications for the effective operation of the HCDP framework.<sup>4</sup>

7.16 The PC56 Officers' Report has made the following assessment in relation to the inclusion of a definition of "household":<sup>5</sup>

*The Department of Corrections (111.004, plus a number of related amendments) sought a new definition for "household". This was opposed by Kāinga Ora (F17.2). As discussed further below, this submission is outside the scope of the plan change, which as notified did not seek to make amendments to the land uses enabled in different activity areas, except minor consequential changes.*

7.17 Putting aside the issue of scope which will be addressed in Ara Poutama's legal submissions, in my view the addition of the definition of "household" does not represent an amendment to the land uses enabled in the different activity areas. It simply seeks to provide clarity to all Plan users, what a "household" as referenced in the definition of "residential unit" constitutes; and that residential housing provided by Ara Poutama falls within the definitions of "residential activity" and "residential unit", consistent with the position previously adopted by the Council. In my opinion, providing a definition of "household" which explicitly references the existence of support elements is necessary to avoid any misinterpretation. The term "household" is not universally defined in other District Plans and it is for these reasons that Ara Poutama is seeking this relief through its submissions nationally.

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<sup>4</sup> National Planning Standards, section 17 Implementation Standard, point 6(a).

<sup>5</sup> PC56 Officers' Report, paragraph 201.

7.18 Accordingly, I support the relief sought by Ara Poutama to include the above definition of "household" in the HCDP as set out in Appendix A.

## **8 PROVISION FOR "COMMUNITY CORRECTIONS ACTIVITY" IN THE CENTRAL COMMERCIAL, PETONE COMMERCIAL (AREA 2), SUBURBAN MIXED USE, AND GENERAL BUSINESS ACTIVITY AREAS**

### **Background**

8.1 Community corrections activities are a vital part of Ara Poutama's justice system role in safely managing people serving Court or Parole Board ordered sentences/release orders within the community.

8.2 Such activities include non-custodial service centres and community work facilities. Service centres and community work facilities may be located separately or may be co-located on the same site. By way of further detail:

(a) Service centres provide for probation, rehabilitation, and reintegration services. Offenders report to probation officers as required by the courts or as conditions of parole. Ara Poutama's staff use service centres to undertake assessments and compile reports for the courts, police and probation officers. Service centres may also be used as administrative bases for staff involved in community-based activities or used as a place for therapeutic services (e.g. psychological assessments). The overall activity is effectively one of an office where the generic activities involved are meetings and workshop type sessions, activities which are common in other office environments.

(b) Community work facilities are facilities that enable community work programmes to be implemented by Ara Poutama. Community work is a sentence where offenders are required to undertake unpaid work for non-profit organisations and community projects. Offenders will report to a community work facility where they may undertake jobs training or subsequently travel to their community work project under the supervision of a Community Work Supervisor. The community work facilities can be large sites with yard-based activities and large equipment and/or vehicle storage.

- 8.3 The establishment and operation of community corrections activities within, and their accessibility to, communities is important to their successful operation, and to the wider functioning of our urban environments. They are essential social infrastructure and play a valuable role in reducing reoffending. They enable people and communities to provide for their social and cultural well-being and for their health and safety, and therefore the activities and services they provide contribute to the sustainable management purpose of the Resource Management Act 1991.
- 8.4 As communities grow and change, community corrections activities need to be provided for within affected areas to ensure that accessibility to those services is secured. For that reason, Ara Poutama has generally sought the introduction and/or retention of the definition of "community corrections activity" as defined in the National Planning Standards, as well as a permitted activity status for those activities in areas proposed for intensification. For the HCDP as amended by PC56, those relevant areas are the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas.

### **Appropriateness in Commercial and Industrial Zones**

- 8.5 Ara Poutama's submission on PC52 sought:
- (a) The inclusion of the definition of "community corrections activity" in the National Planning Standards.
  - (b) "Community corrections activity" be provided for as a permitted activity in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Area (where currently they would only be permitted activity in the Central Commercial and General Business Activity Areas).
  - (c) Changes to Petone Commercial Activity Area objective and policy 5B1.1.2A and General Business Activity Area objective and policy 6A1.1.1 to provide for "community corrections activities" in those activity areas.
- 8.6 Ara Poutama looks to locate community corrections activities in areas accessible to offenders, and near other supporting agencies where

possible. Commonly, sites are therefore located in commercial or business areas, but may also be located in industrial areas, where large lots and accessibility suit the yard-based nature of some operations, and in particular community work components which may involve job training, and large equipment and/or vehicle storage.

- 8.7 Such relief is appropriate in those zones to ensure that:
- (a) Community corrections activities remain accessible to areas with growing populations (enabled by intensification).
  - (b) Increased demand for community corrections activities brought about by that growing population can be adequately catered for under the respective plan provisions.
- 8.8 Community corrections activities are a compatible and appropriate activity in commercial and industrial areas as the scale and nature of the activity is consistent with the character and amenity. They are also not “sensitive” to the effects of commercial and industrial zones (e.g. noise, high traffic movements, etc), and therefore are not prone to reverse sensitivity.
- 8.9 I also note that community corrections activities are a unique activity and only administered by Ara Poutama. No other entity delivers such services across the country. In any metropolitan area, there is only ever the need for a discrete number of such facilities, commensurate with demand. Accordingly, there will not be a proliferation of them or any impact on the wider availability of commercial or industrial land as might, for example, occur with other activities in these zones.
- 8.10 The compatibility and appropriateness of community corrections activities in commercial zones is evident in the location of the existing Lower Hutt Community Corrections site at 5 Market Grove, Lower Hutt in the Central Commercial Activity Area. In addition, there are also many examples around the country where community corrections activities are either located in, or provided for as permitted activities in commercial and industrial zones. For example:

- (a) The Proposed Porirua District Plan provides for “community corrections activity” as a permitted activity in the Metropolitan Centre, Mixed Use, and Local Centre Zones.
- (b) Wellington Community Corrections, 42 Adelaide Road, Newtown, Wellington – located in the Central City Zone under the Proposed Wellington District Plan.
- (c) The Proposed Selwyn District Plan provides for “community corrections activity” as a permitted activity in the Local Centre, Large Format Retail, and Town Centre Zones.
- (d) The Proposed Te Tai o Poutini West Coast District Plan provides for “community corrections activity” as a permitted activity in the Commercial, Mixed Use, Town Centre, Light Industrial, and General Industrial Zones.
- (e) Rāwhiti Community Corrections, 296 Breezes Road, Aranui, Christchurch – located in the Commercial Core Zone under the Christchurch District Plan.
- (f) Christchurch Community Corrections (Annex Road), 209 Annex Road, Middleton, Christchurch – located in the Industrial Heavy Zone under the Christchurch District Plan.
- (g) Onehunga Community Corrections, 3-5 Newsome Street, Onehunga, Auckland – located in the Business Mixed Use Zone under the Auckland Unitary Plan.
- (h) Mangere Community Corrections, 24 Canning Crescent, Mangere, Manakau – located in the Business Town Centre Zone under the Auckland Unitary Plan.
- (i) Waitakere Ratanui Street Community Corrections, 17 Ratanui Street, Henderson, Auckland – located in the Business Metropolitan Town Centre Zone under the Auckland Unitary Plan.
- (j) North Shore Community Corrections, 71 – 73 Wairau Road, Wairau Valley, Auckland - located in the Business Light Industry Zone under the Auckland Unitary Plan.

- (k) New Lynn Community Corrections, 18 Portage Road, New Lynn, Auckland - located in the Business Light Industry Zone under the Auckland Unitary Plan.
- (l) Otara Community Corrections, 25 Bairds Road, Otara, Auckland - located in the Business Light Industry Zone under the Auckland Unitary Plan.
- (m) Manurewa Community Corrections, 20 Beatty Avenue, Manurewa, Manukau - located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (n) Papakura Community Corrections, 22 Tironui Road, Takanini, Auckland - located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (o) Blenheim Community Corrections, 1A Park Terrace, Blenheim - located in the Industrial 1 Zone under the Proposed Marlborough Environment Plan.
- (p) Invercargill Community Corrections, 131 Eye Street, Invercargill - located in the Industrial 1 (Light) Zone under the Invercargill City District Plan.
- (q) The Whangarei District Plan provides for "community corrections activity" as a permitted activity in the Light Industrial Zone.
- (r) The Proposed Waikato District Plan provides for "community corrections activity" as a permitted activity in the General Industrial Zone.
- (s) The Whanganui District Plan provides for "community corrections activity" as a permitted activity in the General Industrial Zone.
- (t) The Proposed Waimakariri District Plan provides for "community corrections activity" as a permitted activity in the Light and General Industrial Zones.

8.11 I raise these examples to indicate that other Councils have considered community corrections activities to be appropriate in commercial and industrial zones as a permitted activity.

## **Planning Analysis**

8.12 I consider a more permissive pathway for “community corrections activity” in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas is supported by the following objectives of the HCDP as amended by PC56, and as recommended to be further amended by the PC56 Officers’ Report (emphasis added):

**Central Commercial Activity Area – Objective 5A1.1.1 – Activities**

*– To promote the efficient use and development of the physical resources in the Central Commercial Activity Area, whilst sustaining its vitality and vibrancy as the commercial, civic and community focus of Lower Hutt City.*

**Central Commercial Activity Area – Policy 5A1.1.1(c) – Provide for**

*development capacity through providing for the redevelopment of existing property in the Central Commercial Activity Area, and making more efficient use of the land resource by providing for a wide range of activities.*

**Petone Commercial Activity Area – Objective 5B1.1.2A – Area 2**

*– **Petone Mixed Use – Activities** – To provide for a mixed use activity area within Petone which caters for a range of complementary commercial, small-scale or low intensity light-industrial, business and service activities, residential and large format retail activities, increasing the number of residents and workers in Petone, and avoiding or mitigating adverse effects so that amenity values and character of the area, neighbouring areas and the overall environment are maintained or enhanced.*

**Petone Commercial Activity Area – Policy 5B1.1.2A(a) – Area 2 –**

*Provide for a range of residential, commercial, small-scale or low intensity light industrial, business and service activities, and large format retail activities, provided their effects are compatible with each other and the character and amenity values of the area.*

**Petone Commercial Activity Area – Policy 5B1.1.2A(f) – Restrict**

*activities, including heavy industrial or late-night activities, which*



*may be incompatible with residential and other activities and/or degrade the character and amenity values of the Petone Mixed Use Area.*

**Suburban Mixed Use Activity Area – Objective 5E 2.1** – *Commercial activities which primarily serve the local community coexist with residential living and provide good community access to goods, services, and community facilities.*

**Suburban Mixed Use Activity Area – Policy 5E 3.1** – *Provide for a range of commercial, retail and community facilities with a focus on local needs.*

**General Business Activity Area – Objective 6A1.1.1 – Accommodation of a Mix of Activities** - *To accommodate those non industrial activities which are suitable in the General Business Activity Area and which do not cause adverse effects on amenity values of the area and the receiving environment.*

**General Business Activity Area – Policy 6A1.1.1(e)** – *That the accommodation of non industrial activities avoids or mitigates adverse effects on the amenity values of the area and the environment.*

8.13 I consider that providing for “community corrections activity” as a permitted activity would:

- (a) In the Central Commercial Activity Area, support the provision of a wide range of activities consistent with Policy 5A1.1.1(c).
- (b) In the Petone Commercial Activity Area (Area 2), result in effects that are compatible with other activities permitted in the Area and its character and amenity values consistent with Policy 5B1.1.2A(a), and Policy 5B1.1.2A(f).
- (c) In the Suburban Commercial Activity Area, support the provision of community facilities with a focus on local needs consistent with Policy 5E3.1.
- (d) In the General Business Activity Area, not cause adverse effects on amenity values over and above those that would be generated by permitted industrial activities in the Area, consistent with Policy 6A1.1.1(e).

8.14 The Regional Policy Statement for the Wellington Region as amended by notified Plan Change 1 (**WRPS PC1**) contains the following higher order policies for regionally significant centres, key industrial-based employment locations, and integration of land use and transportation (emphasis added):

**Policy 30: Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres** – *District plans shall include policies, rules and/or methods that enable and manage a range of land use activities that maintain and enhance the viability and vibrancy of:*

(2) *Other regionally significant centres:*

(ii) *Lower Hutt;*

(3) *Locally significant centres of:*

(i) *Petone;*

**Policy 32 – Identifying and protecting key industrial-based employment locations** – *District plans should include policies, rules and/or methods that identify and protect key industrial-based employment locations where they contribute to the qualities and characteristics of well-functioning urban environments by:*

(d) *Managing the establishment of non-industrial activities, in industrial zones, by avoiding activities likely to result in reverse sensitivity effects on industrial activities, or likely to result in an inefficient use of industrial zoned land or infrastructure.*

**Policy 57 – Integrating land use and transportation** – *When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, for subdivision, use or development, require land use and transport planning within the Wellington Region is integrated in a way which:*

(b) *supports connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity;*

*(c) minimises private vehicle travel and trip length while supporting mode shift to public transport or active modes and support the move towards low and zero-carbon modes;*

8.15 I consider a more permissive pathway for “community corrections activity” in the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas would give effect to these policies, and specifically:

- (a) In the Central Commercial and Suburban Mixed Use Activity Areas, it would enable a range of activities in Lower Hutt and Petone consistent with policy 30.
- (b) As I set out earlier in my statement, in the General Business Activity Centre it will avoid reverse sensitivity effects and the inefficient use of industrial land, consistent with policy 32.
- (c) By providing a wide opportunity for their establishment, it will support connectivity with public services, and to the extent that these Activity Areas are well serviced by public and active transport, it will support mode shift, consistent with policy 57.

8.16 Under the NPS-UD community corrections activities fall within the ambit of “community services” as they are also included in the definition of “community facilities” under the National Planning Standards.<sup>6</sup> The NPS-UD’s framework of objectives and policies contain the following provisions of relevance with regard to community services, including community corrections activities (emphasis added):

**Objective 1:** *New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

**Objective 3:** *Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

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<sup>6</sup> NPS-UD, Section 1.1 Interpretation: “**community services** means the following: (a) *community facilities ...*”

- (a) *the area is in or near a centre zone or other area with many employment opportunities*
- (b) *the area is well-serviced by existing or planned public transport*
- (c) *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

**Policy 1:** *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*  
...

- c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; ...*

8.17 As set out above, Objective 1 provides a general objective to provide for the health and safety of people and the community, which is an overarching objective of the services provided by Ara Poutama’s community corrections activities. Objective 3 provides direction for community services such as community corrections activities to be provided for in appropriate areas under District Plans, and Policy 1 directs that community services are provided in areas that are accessible to housing.

8.18 I consider, Ara Poutama’s submission points made in relation to community corrections activities directly align with the purpose and intent of Objective 3 and Policy 1. These provisions of the NPS-UD support the need for more permissive treatment of community corrections activities in light of the intensification proposed by PC56.

8.19 I also consider the effects of “community corrections activity” are compatible with the Central Commercial, Petone Commercial (Area 2), Suburban Mixed Use, and General Business Activity Areas as noted above. The existing performance standards that apply to activities in these zones are appropriate to manage the effects of community corrections activities to ensure they are consistent with the character and amenity of these areas.

8.20 Accordingly I consider providing a permissive pathway for community corrections activities in these zones is the most efficient and effective, and therefore appropriate way to achieve the objectives and policies of the HCDP when compared with not providing for them, or providing for them in other zones where effects arising from their nature and scale (e.g. noise, traffic movements) may be incompatible (e.g. residential zones).

### **Reporting Planners' Recommendation**

8.21 The PC56 Officers' Report has made the following assessment in relation to the inclusion of a definition for "community corrections activity", amendment of its activity status in the Central Commercial, Petone Commercial, Suburban Mixed Use, and General Business Activity Area, and related changes to objectives and policies 5B1.1.2A and Policy 6A1.1.1:

*"The Department of Corrections (111.10, plus a number of related amendments e.g. 111.11, 111.12) sought amendments to provide for "community corrections activities" in the Central Commercial, Petone Commercial, Suburban Mixed Use, and General Business Activity Areas.*

*In my view, this submission is outside the scope of the plan change, which as notified did not seek to make amendments to the land uses enabled in different activity areas, except minor consequential changes.*

*However, in case the panel is of a mind to consider this submission in scope, I will discuss its merits.*

*The submitter currently operates one Community Corrections facility in Lower Hutt, which is in the Central Commercial Activity Area where it is already a permitted activity, subject to conditions. Given the number of facilities the submitter operates in other cities such as Wellington, it seems unlikely there would any change to this in the lifetime of the plan other than moving the existing facility or opening at most one additional facility.*

*As a specialised and unique facility, Community Corrections facilities will serve clients from across the city, who will regularly need to travel to it, and may need to use other community or commercial services on the same trip. It is therefore relevant to consider how Community Corrections facilities sit within the identified centres hierarchy and which zones it is appropriate to locate in. It is also relevant to consider Objective 22 and Policies 30 and 57 of the RPS.*

*In my view, as relatively large, specialised, rare, city-wide destinations, Community Corrections facilities are best located in the regionally significant centres of the Central Commercial Activity Area (where the current facility is located), and Petone Commercial Activity Area. These locations make efficient use of existing parking and public transport services and allow clients and employees the benefits of colocation with other community and commercial services.*

*Community Corrections facilities are likely to be inappropriate in General Business or Special Business areas with poor connection to public and active transport, unless the nature of the activity is significantly lower density than typical in centres or includes significant industrial-type nuisances to neighbours, and the transport effects can be adequately managed. A resource consent assessment would be advisable, rather than a permitted activity.*

*They may be suitable in Suburban Mixed Use or other commercial areas with good connectivity, and this would be reasonable to consider in a resource consent application.*

*Finally, the submitter is a requiring authority under the Act and has the option to pursue a designation if necessary."*

8.22 In summary, putting aside the issue of scope, I understand the PC56 Officers' Report, considers:

- (a) The existing community corrections activity in Lower Hutt in the Central Commercial Activity Area is already a permitted activity.
- (b) Community corrections activities are best located in the Central Commercial and Petone Commercial Activity Area under the centres hierarchy, where they are accessible to parking and public transport services, and other community and commercial services.
- (c) Community corrections activities would be inappropriate in those locations in the General Business Activity Area with poor connectivity to public and active transport unless required to manage the effects on neighbours, and transport effects can be adequately managed. Resource consent should be required.
- (d) Community corrections activities would be appropriate in those locations in the Suburban Mixed Use Activity Areas with good connectivity. Resource consent should be required.
- (e) Ara Poutama as a requiring authority can designate land for community corrections activities.

- 8.23 I agree with the PC56 Officers' Report that the existing Lower Hutt Community Corrections site in the Central Commercial Activity Area is a permitted activity.<sup>7</sup> This is due to the current rule structure of the HCDP for this Activity Area which adopts a default permitted activity status rather than specifically defining and listing "community corrections activity" as permitted. Given the current rule structure (which remains unchanged under PC56), I consider no change to the objectives, policies, and rules is required to enable community corrections activities as a permitted activity in this Activity Area.
- 8.24 The PC56 Officers' Report considers community corrections activities would be inappropriate in those areas of the General Business Activity Area with poor connectivity. Regardless of the issue of connectivity, I note that community corrections activities are already a permitted activity by virtue of the current default permitted activity status in this Activity Area.<sup>8</sup> Similar to the Central Commercial Activity Area above, given the current rule structure (which remains unchanged under PC56), I consider no change to the objectives, policies, and rules is therefore required to enable community corrections activities as permitted in this Activity Area.
- 8.25 The Petone Commercial Activity Area (Area 2) and Suburban Mixed Use Activity Area adopt a different rule structure whereby defined activities are listed as either permitted, controlled, restricted discretionary, discretionary, and non-complying. Community corrections activities do not fall under any of the current activities listed and therefore would be a discretionary activity in the Petone Commercial Activity Area – Area 2,<sup>9</sup> and a non-complying activity in the Suburban Mixed Use Activity Area.<sup>10</sup>
- 8.26 As set out earlier in my statement, it is my opinion that commercial zones are appropriate locations for community corrections activities. I therefore agree with the PC56 Officers' Report that they would be appropriately located in the Petone Commercial Activity Area (Area 2). I consider this would give effect to the HCDP, WRPS PC1, and NPS-UD policy framework discussed above. I therefore support the relief sought

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<sup>7</sup> Rule 5A 2.1(a).

<sup>8</sup> Rule 6A 2.1(a).

<sup>9</sup> Rule 5B 2.2.3(r).

<sup>10</sup> Rule 5E 4.1.8(a).

by Ara Poutama to include National Planning Standards definition of “community corrections activity”, and that it be provided for as permitted activity in this Activity Area. I consider no change is required to the current objectives and policies to enable this outcome given they are supportive of a mixed use character and amenity for this Area.

- 8.27 The PC56 Officers’ Report also considers community corrections activities would be appropriate in those locations in the Suburban Mixed Use Activity Areas with good connectivity, with that being considered by way of the resource consent process. I have reviewed the mapping of the Suburban Mixed Use Activity Areas as proposed to be amended under PC56.
- 8.28 I acknowledge that a number of the Suburban Mixed Use Activity Areas comprise remote and/or small commercial areas in outlying suburban areas to be zoned Medium Density Residential Activity Areas (e.g. Stokes Valley, Naenae) where locating community corrections activities is unlikely to support good connectivity to public services and mode shift to public transport. I note also these are locations in which Ara Poutama would be unlikely to locate a community corrections activity.
- 8.29 By contrast, I note that the Suburban Mixed Use Activity Areas that are adjacent to areas proposed to be rezoned as High Density Residential Activity Areas are within a walkable catchment of existing and planned rapid transit thereby providing good accessibility between housing, jobs, and community services stops to meet the requirements of Policies 1 and 3 of the NPS-UD.
- 8.30 All of these Suburban Mixed Use Activity Areas adjacent to the High Density Residential Activity Area are within 500m walkable distance, to train or bus services (or both). For comparison, a 400m walkable distance is typically associated with a 5 minute average walk.<sup>11</sup> I consider that locating a community corrections activity in these areas would therefore support connectivity to public services, and mode shift to public transport.
- 8.31 In my view, those Suburban Mixed Use Activity Areas adjacent to the High Density Residential Activity Area are an appropriate location for

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<sup>11</sup> Section 5.5, Understanding and Implementing Intensification Provisions for the National Policy Statement on Urban Development, Ministry for the Environment, September 2020



community corrections activities, and requiring resource consent to consider connectivity issues would be inefficient from a resource management perspective. On this basis, I therefore support the relief sought by Ara Poutama that they be provided for as permitted activity in this Activity Area.

- 8.32 I consider that this would most effectively be achieved by including them in rule 5E 4.1.3 which captures other similar community focussed activities including health care services, community facilities, marae, education facilities, and places of assembly. In my view, the existing rule standards are appropriate to manage the effects arising from the scale and intensity of community corrections activity. I consider that no change is required to the current Activity Area objectives and policies to enable this outcome given they are supportive of providing good community access to community facilities to meet local needs.
- 8.33 Based on the above, I therefore propose that the changes set out in Appendix A be made to the definitions, and rules for the Petone Commercial Activity Area (Area 2), and Suburban Mixed Use Activity Area to provide for "community corrections activity".
- 8.34 For the purposes of the further evaluation required under s32AA of the RMA, I consider this relief will be a more efficient, effective, and appropriate way to achieve the relevant HCDP objectives under s32(1)(b) of the RMA. I consider there is sufficient information to support this change given the good understanding of the environmental, economic, social, and cultural effects of corrections activities, for the purposes of s32(2) of the RMA.

**Maurice Dale**

29 March 2023

## APPENDIX A

### ARA POUTAMA PROPOSED AMENDMENTS

Black Text – Original wording of the proposed plan change or HCDP.

Blue Text – Officer's recommended changes, as set out in the Council Officer Report.

Red Text – Additional changes proposed by Ara Poutama.

(Additions underlined, deletions ~~crossed-out~~.)

#### **Chapter 3 Definitions**

##### Community Corrections Activity

means the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups.

##### Household

means a person or group of people who live together as a unit whether or not:

- a. any or all of them are members of the same family; or
- b. one or more members of the group receives care, support and/or supervision (whether or not that care, support and/or supervision is provided by someone paid to do so).

##### Residential Activity

~~the use of land and building(s) by~~ for people's ~~for~~ living accommodation purposes

## **Chapter 5B Petone Commercial Activity Area**

### **Rule 5B 2.2.1 – Permitted Activities**

(p) Community corrections activity.

## **Chapter 5E Suburban Mixed Use Activity Area**

### **Rule 5E 4.1 – Activities**

Rule 5E 4.1.3 Health Care Services, Community Facilities, Marae, Education Facilities, and Places of Assembly

(a) Health Care Services, Community Facilities, Community Corrections Activity, Marae, Education Facilities and Places of Assembly are permitted activities if:

(i) The gross floor area of the activity does not exceed 500m<sup>2</sup>.

(ii) For sites adjoining a Residential Activity Area:

1. Servicing hours are limited to 7.00am to 10.00pm.

2. All outdoor storage and servicing areas are screened so they are not visible from adjoining residential sites.

(iii) For Community Corrections Activity, it is located adjacent to or on the opposite side of a road from the High Density Residential Activity Area or General Business Activity Area.

(b) Health Care Services, Community Facilities, Community Corrections Activity, Marae, Education Facilities and Places of Assembly that do not meet the above permitted activity standards are restricted discretionary activities.

For non-compliance with (a) (i) above discretion is restricted to:

(i) The effects arising from the scale and intensity of the activity.

(ii) The effects on the amenity of the streetscape.

*(iii) The need to provide for the functional requirements of the activity.*

*For non-compliance with (a) (ii) above discretion is restricted to:*

*(iv) The effects on the night time amenity of the surrounding residential area.*

*(v) The effects on the visual amenity of adjoining sites.*

*For non-compliance with (a) (iii) above discretion is restricted to:*

*(vi) Connectivity to public services and public and active transport.*