

**City of Lower Hutt District Plan  
PRIVATE PLAN CHANGE 54**

**BOULCOTT'S FARM HERITAGE GOLF CLUB – REZONING PART OF SITE TO  
GENERAL 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**

**March 2022**



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**APPENDICES**

Appendix 1 Recommended Decision on Submissions and Further Submission

## 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
"BFHGC"	Boulcott's Farm Heritage Golf Club
"the Council" / "HCC"	Hutt City Council
"CRD(s)"	Comprehensive Residential Development(s)
"District Plan"	Operative City of Lower Hutt District Plan 2004
"FDS"	Future Development Strategy
"GWRC"	Greater Wellington Regional Council
"HBDCA"	Housing and Business Development Capacity Assessment for the Wellington Region 2019
"NESCO"	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
"NPS-UD"	National Policy Statement on Urban Development 2020
"PC54"	Plan Change 54
"the plan change"	Proposed Plan Change 54 to the Plan
"PNRP"	Proposed Natural Resources Plan
"the Requestor"	Boulcott's Farm Heritage Golf Club
"RMA"	Resource Management Act 1991
"RPS"	The Regional Policy Statement for the Wellington Region
"s[#]"	Section Number of the RMA, for example s32 means section 32
"s32 report"	The report prepared by the Requestor, pursuant to s32, RMA
"s42A report"	The report prepared by HCC pursuant to s42A, RMA
"the site"	The land situation on the Boulcott's Farm Heritage Golf Club – subject to this plan change request
"TIA"	Transportation impact assessment
"UGS"	Hutt City Urban Growth Strategy 2012 - 2032

**Hutt City Council**  
**Private Plan Change 54**  
**Boulcott's Farm Heritage Golf Club – Rezoning Part of Site to General Residential Activity Area**

**Recommendations of the Independent Hearing Panel**

**Proposal Description:**

Proposed Private Plan Change 54 to the City of Lower Hutt District Plan: Boulcott's Farm Heritage Golf Club – Rezoning Part of the Site to General Residential Activity Area

**Hearing Panel:**

R Schofield – Independent RMA Hearing Commissioner, Chair  
E A Burge – Independent RMA Hearing Commissioner  
Councillor B Dyer – Sitting as an Independent Commissioner

**Date of Hearing:**

1 February 2022

**Hearing Officially Closed:**

2 February 2022

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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 54 (PC54) to the Operative City of Lower Hutt District Plan 2004.
- 1.2 We were appointed by the Council to hear submissions made on the private plan change and to consider and make a recommendation as to a decision. We have the delegated authority of the Council under section 34A of the Resource Management Act 1991 (RMA) as to whether PC54 should be declined, approved or approved with amendments.
- 1.3 The plan change (as notified) seeks to rezone approximately 1.6 hectares of the Boulcott Farm's Heritage Golf Club's (BFHGC) land from General Recreation Activity Area to General Residential Activity Area and to remove the Secondary River Corridor Overlay.
- 1.4 No new provisions or amendments to existing zone provisions in the District Plan are proposed.

- 1.5 We will canvas the plan change's background in due course. It has been the subject of a section 32 report<sup>1</sup>, 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 PC54, 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 to 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 PC54 and its associated background material, read all submissions and evidence, conducted a site/locality visit and held a 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, 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 PC54 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.
- 1.11 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. Due to the Covid-

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<sup>1</sup> S32 of the RMA sets out the requirements for preparing reports that evaluate the appropriateness of a plan change

19 Red Alert level, the hearing was held via audio-visual link. All those in attendance via this link enabled a focused hearing process that greatly assisted us in assessing and determining the issues, and in delivering our recommendation as to a decision. We thank all attendees for their patience using the technology.

- 1.12 These initial thoughts recorded, we now set out the factual background to PC54.

## 2 PLAN CHANGE CONTEXT

### Site and Local Environment

- 2.1 The site is located in the Boulcott suburb of Lower Hutt. Totalling approximately 1.6 hectares, it forms a portion of the golf course (being primarily the 10<sup>th</sup> fairway), to the west of Kingston and Allen Streets. The street address for the entire golf course is 33 Military Road, Boulcott, Lower Hutt. The site is undulating in contour, primarily covered in grass, with plantings of mature trees, forming a typical golf course landscape.
- 2.2 The site is shown in Figure 1 below, overlying the current zoning pattern in the Plan. The area subject to the plan change is outlined in red, denoted by green and yellow stripes.
- 2.3 The s32 evaluation report for PC54 provides the following description for the site:<sup>2</sup>

*The site includes the southern half of the 10th hole of the golf course and is approximately 260m long (north to south) and 70m wide at the northern end and 50m wide at the southern end. The site contains the 10th tee area at the southern end, the fairway and some scattered mature vegetation. At the northern end the site aligns with a 5m buffer area, protected by an easement on Record of Title, that extends around the stopbank. To the south of the DPC site is the club's maintenance/greenkeepers building. This land is [zoned] General Recreation Activity Area and is not part of the DPC request. The land to the north is occupied by the stopbank, utilised as part of the golf course, and a large expanse of golf course. To the west is a large expanse of golf course land zoned General Recreation Activity Area.*

*The land to the immediate east of the DPC site is zoned General Residential Activity Area and is typically occupied by dwellings on sites in the order of 558m<sup>2</sup>. Most of these sites have large rear yards adjacent to the golf course although there are accessory buildings present in some yards. Two sites, namely 34 Allen Street and 35 Kingston Street, contain dwellings that are positioned close to the boundary with the golf club. Beyond the greenkeepers building to the south is General Residential Activity Area with the Special Residential Activity Area starting to the south west.*

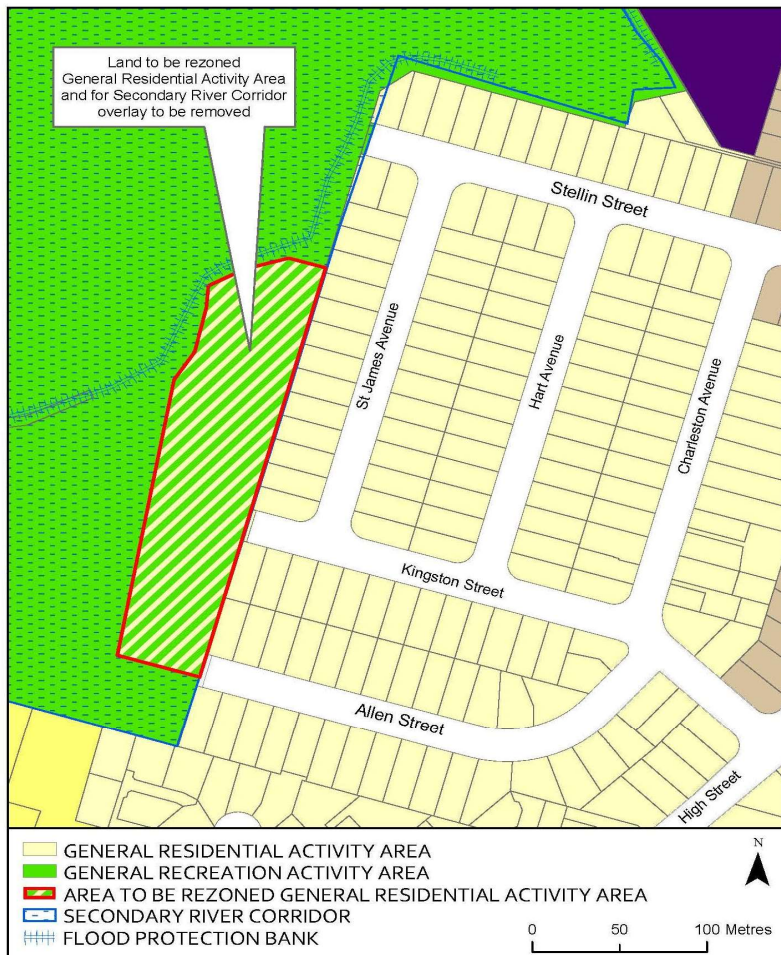
*At the western end of Allen and Kingston Streets are two strips of land that are owned by Hutt City Council. These strips are held in one Record of Title Lots 176/177 & 207 DP 8543/4 PS 39 C2/840. The Lots are not legal road. The DPC site southern boundary*

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<sup>2</sup> Page 2, Boulcott's Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd October 2020



does not extend, or align with, the full width of Allen Street. The location of the southern boundary has been chosen to preserve yard space for the greenkeepers and provide physical separation between the greenkeepers building and future residential development. The traffic impact assessment has considered this arrangement and noted that the proposed access to the site is the same width as the existing sealed road width and the width would not affect capacity issues to and from the site.



**Proposed Private Plan Change 54**

Proposed rezoning from General Recreation Activity Area to General Residential Activity Area and removal of the Secondary River Corridor overlay.

**Figure 1.** Plan Change 54 site and existing zoning pattern in locality.  
(image source: Plan Change prepared in response to request.)

**Operative District Plan**

2.4 The current zoning of the site and broader area is illustrated in Figure 1 above. The application site is currently zoned General Recreation Activity Area, is designated by GWRC (WRC 11- Flood

Protection Purposes) and is located within the “Secondary River Corridor”. The properties immediately to the east have a Residential General Activity Area zoning.

- 2.5 Under the Operative General Recreation Activity Area provisions, the only permitted use for the site are “recreational activities” (Rule 7A 2.1(a)), with buildings no larger than 100m<sup>2</sup> (Rule 7A 2.1.1(d)).
- 2.6 It is requested the subject site be changed to General Residential Activity Area. No new provisions or amendments to the existing General Residential Activity Area provisions in the District Plan are proposed.
- 2.7 The works undertaken by GWRC pursuant to its designation to realign the Hutt River stopbank and associated works to the golf course mean the area subject to the plan change request is now on the city side of the stopbank and the site is now protected from flooding of the Hutt River.
- 2.8 In regard to the ongoing use of the site as a golf course, if the PC54 request is successful, then s10(1)(a) of the RMA 1991 allows this via ‘existing use rights’. To maintain existing use rights under section 10(1)(a) the golf ‘activity’ would need to have been lawfully established and the effects of the use must remain the same or similar in character, intensity, and scale to those which existed prior to the plan change. In this case the activity is long established, over 80 years, and is a permitted activity under rule 7A 2.1(a) which permits ‘Recreation Activities’. In regard to the effects of the use there would be no change in effects from the current use in that golf activity would continue as it currently does if the land was not developed for housing.

### **Plan Change Request: Reasons, Purpose, Evaluations and Provisions**

- 2.9 Part 2 of the RMA’s First Schedule sets out various requirements for private plan changes such as PC54. 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.
- 2.10 Each of these are discussed further below.

### **Reasons and Purpose for the Proposed Change**

- 2.11 As notified, the plan change proposes to rezone the area to which it relates from General Recreation Activity Area to General Residential Activity Area, as illustrated in Figure 1.
- 2.12 The purpose of the plan change is described in the s32 evaluation report as follows:

*The Plan Change Request is proposed for the following main reasons:*

- *the rezoning would assist with Council meeting its housing needs under the National Policy Statement for Urban Development;*
- *the rezoning allows for Council to meet the growth targets set out in the Urban Growth Strategy;*

- *the proposed zoning is consistent with the adjoining residential area;*
- *the General Residential Activity Area allows for a variety of housing forms*
- *the site can be developed in a manner that allows stormwater discharge to be fully accommodated on site;*
- *the land that is the subject of the Request is now protected from flooding; and*
- *the site provides a logical extension to urban development; and*
- *the plan change would allow the golf club to continue to function with minor modifications to the course layout.<sup>3</sup>*

2.13 As an aside, we note that, because the notified plan change does not propose any changes to the objectives of the District Plan, 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.

### Section 32 Report

2.14 S32 requires, in this case, an evaluation which:

- examines the extent to which the purpose of the plan change is the most appropriate way to achieve the purpose of the Act (s32(1)(a)); and
- examines whether the provisions proposed to be changed are the most appropriate way to achieve the purpose of the plan change (s32(1)(b)) - by:
  - identifying other reasonably practicable options
  - assessing the efficiency and effectiveness of the provisions in achieving the purpose of the plan change by, in accordance with s32(2), identifying and assessing benefits and costs of anticipated effects (including economic growth and employment), if practicable quantify those benefits and costs, and assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions, and
  - summarising the reasons for deciding on the provisions.<sup>4</sup>

2.15 The Requestor's s32 evaluation report outlined four main zone options for the land in question.

- Option 1 – Maintain the Existing Zoning of General Recreation Activity Area
- Option 2 – Change to Special Residential Activity Area
- Option 3 – Change to Medium Density Residential Activity Area
- Option 4 – Change to General Residential Activity Area.

<sup>3</sup> Pages 5 and 6, Boulcott's Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020

<sup>4</sup> S32, RMA

- 2.16 We concur with the s32 finding that: “Other residential zones (e.g. Historic Residential and Hill Residential) provide for quite specific environments within the urban area of Hutt City, and in terms of their particular objectives and policies do not provide a comfortable ‘fit’ with the site. Other zoning options (i.e. Commercial, Industrial etc) are considered to be unsuitable given their particular provisions and aims.”<sup>5</sup>
- 2.17 The s32 report finds that Option 4 is the recommended approach for the plan change, as it:
- Is the most appropriate way to achieve the objectives of the District Plan;
  - Provides for the most appropriate zoning of the site subject to the plan change, by using the provisions that apply to the adjacent residential sites; and
  - Is the most appropriate way of achieving the sustainable management of the site as it implements s5 of the RMA (enabling the efficient utilisation of the site in a way and at a rate that will best meet the wellbeing of the people of the city, and the wider region, now and in the future).
- 2.18 In regard to the proposal to remove the Secondary River Corridor notation, the s32 report concludes that:
- This notation should be removed from the site because the realignment of the stop bank means that the site is now protected from flooding of the Hutt River. The GWRC has not raised any concerns with removing the overlay.*
- It is not efficient or effective for a notation that is now not applicable to the site to be retained. There are negligible costs involved because this provision is an ancillary part of this DPC. The benefit is that the District Plan is updated and does not contain a redundant notation.*<sup>6</sup>
- 2.19 In regard to quantification, Section 32(2)(b) requires that, if practicable, the benefits and costs of environmental, economic, social, and cultural effects that are anticipated from a proposal, are quantified. We concur with the s32 report findings, that:
- No development plans are associated with this plan change request so quantification of benefits in regard to employment can only be speculated. The construction of dwellings will clearly result in greater employment compared to retaining the land as a golf course. While economic growth has not been quantified it is reasonable to conclude that during the construction period will boost economic growth. Therefore, while costs and benefits have been considered in evaluating different options above, an exact quantification of benefits and costs was not considered necessary, beneficial or practicable.*<sup>7</sup>
- 2.20 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.

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<sup>5</sup> Page 7, Boulcott’s Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020

<sup>6</sup> Page 9, Boulcott’s Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020

<sup>7</sup> Ibid

## Environmental Effects Assessment

2.21 The plan change request included an assessment of environmental effects (Section 6). It concluded that residential development of the site:

- can and will be efficiently serviced in terms of water, wastewater and stormwater, the latter two can be appropriately managed through on-site infrastructure. It was noted that downstream capacity issues currently existed with the stormwater and wastewater networks;
- can occur with no adverse traffic effects. It noted the site access could be affected through a non-public process to legalise the two strips of land at the end of Kingston and Allen Streets under the Public Works Act;
- would have no adverse cultural effects on the site;
- would result in significant and ongoing positive social and community effects for residential of the city as it would be an efficient and effective use of the land;
- may produce adverse amenity and character effects on the immediate neighbours, in terms of an altered vista (residential buildings instead of a golf course) and the introduction of residential activities and associated effects e.g. residential noise and traffic (instead of effects associated with a golf course); however that these adverse effects can be suitably avoided, remedied or mitigated through the provisions of the General Residential Activity Area;
- may produce adverse amenity effects on 34 Allen Street and 35 Kingston Street due to the location of the dwellings on these sites;
- would have positive economic effects as the construction activity would provide employment, additional housing would increase the ratings base for the city and the sale of the site would provide an economic boost of the financial position of the BFHGC;
- would be affected by flooding to the same extent as the wider Boulcott residential area and that it was very unlikely the area would be flooded by the Hutt River that due to the realignment of the stopbank;
- was no more or less exposed to the risk of earthquake hazard than the wider Boulcott residential area;
- was no more or less exposed to the risk of tsunami or the effects of sea level rise than the wider Boulcott residential area;
- would have no material effect on the availability and accessibility of the General Recreation Activity Area, as the subject land was non-public and its change to allow for residential development would not affect the amount of General Recreation Activity Area that the general public could access;
- would not materially affect the operation of the golf course, as the course layout could be modified to accommodate the loss of land;

- would not materially affect public access to the stopbank, as currently no public access was possible across the subject land;
- did not affect the change of ownership of the stopbank land to GWRC;
- could occur as the site was most likely not contaminated and that historic pesticide use would not have any impact on the ability to develop the site for residential purposes;
- would have no adverse ecological effects as although there will probably be a loss of some trees, none are listed as being Notable Trees, there is no Significant Natural resources overlay over the subject land, and the requirements of the General Residential Activity Area in regards to protection of vegetation are more restrictive than those under the current General Recreation Activity Area;
- could occur under the recently reviewed General Residential Activity Area provisions; and
- would contribute to meeting the Urban Growth Strategy 2014 and requirements of the NPS-UD.

2.22 The plan change documentation, as notified, included correspondence from GWRC, Ministry for the Environment and iwi authorities. It contained historical aerial photographs of the site. It also included expert effects assessments as follows:

- Transportation Effects Assessment, prepared by Ms L Skilton, Cardno (NZ) Ltd
- Infrastructure Effects Assessment, prepared by Cuttriss Consultants Ltd, with associated correspondence from Wellington Water Ltd (WWL), Wellington Electricity and Chorus, and GWRC;
- The Housing and Business Capacity Assessment, HCC; and
- Expert comments regarding the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011, from Prattle Delamore Partners Ltd.

### **Notification and Submissions**

- 2.23 The proposed plan change was publicly notified on 20 April 2021 and the submission period closed on 21 May 2021, by which time fifteen submissions had been lodged. A late submission was received by the Council on 23 June 2021.
- 2.24 Two submissions were in support of the proposal and one submission was neutral. The two submissions in support cited the benefits of additional residential land with one submission noting the appropriateness of the location.
- 2.25 One neutral submission was received from Hutt City Council's Parks and Recreation Division and sought provision for consideration during the resource consent assessment process of providing public access and recreation opportunities along the stopbank.
- 2.26 The summary of decisions requested by submitters was notified on 15 June 2021, and further submissions closed on 29 June 2021. There was one further submission lodged. The submissions

received are shown in the following tables (submission numbering is used for the analysis of the issues later in this report):

Submission Number	Name	Position
DPC54/001	James Brodie	Support
DPC54/002	Paul and Kerry Gillan	Oppose
DPC54/003	Danny Langstraat	Oppose
DPC54/004	Hutt City Council – Parks and Recreation Division	Neutral
DPC54/005	Robert Chisholm	Oppose
DPC54/006	Craig Burnett and Keryn Davis	Oppose
DPC54/007	Steve Machirus	Oppose
DPC54/008	Jennifer Butler for St James Ave Collective	Oppose
DPC54/009	Paul Laplanche	Oppose
DPC54/010	David Cody for St James Ave Collective	Oppose
DPC54/011	Henry Clayton and Margaret Waghorn	Support
DPC54/012	Wendy MacDougall	Oppose
DPC54/013	Long Young	Oppose
DPC54/014	Roger Harvey	Oppose
DPC54/015	Charlie Lee	Oppose
DPC54/016 (late)	Amy and Alastair Sidford	Oppose

Further Submission No.	Name	Position
DPC54/FS001	Robert Chisholm	Confirms submitters' position in DPC54/005

2.27 Twelve of the submissions in opposition used a common format that all addressed the same broad themes, as follows:

- Loss of recreation space
- Loss of residential amenity
- Infrastructure capacity
- Traffic effects
- Vegetation loss
- Potential decline in property values, and
- Contamination on the golf course.

2.28 The submissions in opposition also asked that HCC investigate and assist the BFHGC to secure additional funding to enable the land to be left as it is. They also asked that should PC54 be approved, caveats be placed on the land limiting the scale and style of development and maximizing the amount of open green space. They further requested all affected parties be consulted regarding such caveats.

### Pre-Hearing Directions and Procedures

2.29 Prior to the commencement of the hearing, we issued a minute to the parties to address various administrative and substantive matters

- 2.30 In summary, the first minute, dated 8 October 2021 addressed the following:
- Advice as to the date of the hearing
  - Advice as to the dates for receipt of the Council evidence, Requestor's evidence and Submitter's evidence
  - Where the reports associated with PC54 can be viewed
  - The hearing process
  - Matters relating to Covid-19
  - A request that all expert witnesses engage in pre-hearing meetings and conferencing
  - Advise that the Panel would be conducting an independent site/locality visit, and
  - Administrative address for any queries relating to the hearing.
- 2.31 A second minute was issued on 3 February 2022 and advised that deliberations into the matter had been closed, resulting in the official closure of the hearing being 2 February 2022.
- 2.32 This minute, and the one we issued prior to the hearing, are available on Council file.
- 2.33 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 Tom Anderson, a consultant planner from Incite Planning, acting for Hutt City Council, dated 3 December 2021, and incorporating evidence from the Traffic Engineer, Ms Harriet Fraser of Harriet Fraser Traffic Engineering and Transportation Planning, and evidence from the Land Development Engineer, Mr Ryan Rose of Envelope Engineering.
  - b) The statement of evidence from the consultant planner for the Requestor, Mr Dan Kellow, dated 10 December 2021. Accompanying statements of evidence from the Consultant Engineer, Mr Neil Johnstone of Cuttriss Consultants Ltd, and the Consultant Traffic Engineer, Ms Laura Skilton of Cardno (NZ) Ltd.
- 2.34 No expert evidence was received on behalf of the submitters either during the lead-up to or during the course of the hearing.

### **The Hearing**

- 2.35 The hearing commenced at 9.00am on Tuesday 1 February 2022 in the Council Chambers at 30 Laings Road, Lower Hutt.
- 2.36 Mr Cameron Kapua-Morrell, Pou Reo me Ōna Tikanga (HCC Māori Cultural Advisor) opened the hearing proceedings with a karakia via audio visual link.
- 2.37 Those present in person were the Hearing Panel, the Council Administrative Assistant, Ms Asha Surrey, and the Council Minute Taker, Mrs Heather Clegg. All other attendees joined the meeting via audio-visual link.



- 2.38 At the outset of proceedings, we outlined the manner in which we expected the hearing to be conducted, and the order of appearances. We outlined our role, and requested the two traffic experts be available at the same time, in order for questions to be asked of both of them.
- 2.39 No procedural matters were raised during the course of the hearing that we were obliged to make a finding on.
- 2.40 Over the course of the hearing, we heard from the following people:
- a. Requestor  
Mr Dan Kellow, Planning Consultant at Urban Perspectives Ltd  
Ms Laura Skilton, Traffic Engineer at Cardno New Zealand Ltd  
Mr Neil Johnstone, Consultant Engineer at Cuttriss Consultants Ltd
  - b. Council s42A Advisors  
Mr Tom Anderson, Planning Consultant at Incite  
Ms Harriet Fraser, of Harriet Fraser Traffic Engineering and Transportation Planning  
Mr Ryan Rose, Consultant Land Development Engineer at Envelope Engineering  
Mr Stephen Davis, Policy Planner, Hutt City Council
  - c. Submitters  
Mr Paul Gillan (on behalf of himself and his wife, Mrs Kerry Gillan)  
Mr Robert Chisholm  
Mr Henry Clayton  
Mr Danny Langstraat
- 2.41 All other submitters had formally withdrawn their right to be heard. However, the issues raised in submissions remain 'live' for our consideration, whether heard or not, and we have done so, as we are required to do. A number of observers and interested parties also joined the audio-visual link, although they did not participate in the hearing.
- 2.42 We adjourned the hearing at 3.50pm on Tuesday 1 February 2022 after receiving a verbal right of reply from the Requestor and carried out our deliberations on Wednesday 2 February. These deliberations closed at 12.20pm on Wednesday 2 February 2022, and we sent out a minute as already detailed in paragraph 2.31 above formally closing the hearing.

### **Late Submission**

- 2.43 One late submission to the plan change was received by the Council. Under Section 37(1) RMA, the Council has the authority to waive a failure to comply with a requirement under this Act, regulations, or plan for the time or method of service of documents. Under its delegated authority, the Council may therefore exercise discretion to receive submissions made out of time by waiving a failure to comply with the deadline for the close of submissions in respect of PC54.
- 2.44 The Council cannot exercise this discretion until it has complied with the provisions of Section 37A of the Resource Management Act 1991 which states that a local authority must not waive compliance with a time limit in accordance with Section 37 unless it has taken into account:

- *The interests of any person who, in its opinion, may be directly affected by the ... waiver; and*
  - *The interests of the community in achieving adequate assessment of the effects of the proposal, policy statement, or plan; and*
  - *Its duty under Section 21 to avoid unreasonable delay.*
- 2.45 No person is considered to be adversely affected by the grant of a waiver of time. The late submission raised no new issues, but simply repeated the issues raised in most other submissions. The submission raised the same matters that were summarised in the public notice for further submissions.
- 2.46 It is in the interest of the community to test the provisions of PC54, and the late submission would assist that process. It is also a matter of natural justice to allow the fullest participation in the development of policy under the RMA and the District Plan.
- 2.47 The receipt of the late submission did not cause an unreasonable delay in terms of the preparation of the summary of submissions, or the processing of the proposed plan change generally. There was no risk to the Council's ability to meet its duty to avoid unreasonable delay.
- 2.48 Accordingly, we agreed to waive the time limit in respect of the late submission from Amy and Alistair Sidford.

### 3 STATUTORY FRAMEWORK

#### Evaluation Preamble – Statutory Framework

- 3.1 Before formally recording our consideration of the issues raised in relation to PC54, we summarise here the relevant statutory matters that frame our evaluation. They have been derived from the Environment Court's *Colonial Vineyards* decision<sup>8</sup>, and include the following considerations:

##### General Requirements

- a) the District Plan should be designed in accordance with<sup>9</sup>, and assist the Council to carry out, its functions<sup>10</sup> so as to achieve the purpose of the Act;<sup>11</sup>
- b) when changing the District Plan, the Council must:
  - i. give effect to any National Policy Statement, the New Zealand Coastal Policy statement or any Regional Policy Statement for Wellington;<sup>12</sup>
  - ii. have regard to any proposed RPS<sup>13</sup>;

<sup>8</sup> ENV-2012-CHC-108, [2014] NZEnvC 55

<sup>9</sup> s74(1), RMA

<sup>10</sup> s31, RMA

<sup>11</sup> ss 72, 74(1), RMA

<sup>12</sup> s75(3)(a)-(c), RMA

<sup>13</sup> s74(2), RMA

- iii. have regard to any management plans and strategies under any other Acts and to any relevant entry on the NZ Heritage List and to various fisheries regulations (to the extent relevant), and to consistency with plans and proposed plans of adjacent authorities<sup>14</sup>;
  - iv. take into account any relevant planning document recognised by an iwi authority<sup>15</sup>;
  - v. not have regard to trade competition<sup>16</sup>;
  - vi. be in accordance with any regulation<sup>17</sup>;
- 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<sup>18</sup>; and
  - ii. shall have regard to any proposed regional plan on any matter of regional significance<sup>19</sup>;
- d) the District Plan must also state its objectives, policies and the rules (if any) and may state other matters<sup>20</sup>;
- e) the Council has obligations to prepare an evaluation report in accordance with section 32 and have particular regard to that report<sup>21</sup>;
- 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<sup>22</sup>;

### Provisions

- h) the policies are to implement the objectives, and the rules (if any) are to implement the policies<sup>23</sup>;
- 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:

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<sup>14</sup> s74(2)(b)-(c), RMA

<sup>15</sup> s74(2A), RMA

<sup>16</sup> s74(3), RMA

<sup>17</sup> s75(1)-(c), RMA

<sup>18</sup> s75(4), RMA

<sup>19</sup> s74(1)(f), RMA

<sup>20</sup> s75(1)-(2), RMA

<sup>21</sup> Schedule 1, Part 2, Clause 22, RMA

<sup>22</sup> s32(1)(a), RMA

<sup>23</sup> s75(1), RMA

- i. identifying other reasonably practicable options for achieving the objectives<sup>24</sup>;
- ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives<sup>25</sup>, including:
  - a. identifying and assessing the benefits and costs anticipated, including opportunities for economic growth and employment opportunities that may be provided or reduced<sup>26</sup>;
  - b. quantifying those benefits and costs where practicable<sup>27</sup>;
  - c. assessing the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions<sup>28</sup>;

#### 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<sup>29</sup>;43 and

#### Other Statutes

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

3.2 Our powers in relation to this proposal are 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 PC54 are the most appropriate way to achieve the purpose of the Act
- b) examine whether the policies, rules, standards, zoning and other methods of PC54 are the most appropriate way to achieve the existing Plan objectives and the PC54 objectives
- c) in relation to (b) above, to the extent relevant:

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<sup>24</sup> s32(1)(b)(i), RMA

<sup>25</sup> s32(1)(b)(ii), RMA

<sup>26</sup> s32(2)(a), RMA

<sup>27</sup> s32(2)(b), RMA

<sup>28</sup> s32(2)(c), RMA

<sup>29</sup> s76(3), RMA

- 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.
- 3.3 Further, in relation to matters (a) and (b) above, we note that PC54 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. PC54 proposes to rezone a portion of approximately 1.6 hectares of the Golf Course from General Recreation to General Residential, and to remove the Secondary River Corridor Overlay. The purpose of these changes is to allow the club or another future owner of this part of the site the ability to develop the land for residential purposes at a scale similar to that enabled in the adjacent residential area.
- 3.4 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.
- 3.5 Accordingly, we have considered whether the proposed plan change:
- a) has been designed to accord with, and assist the Council to carry out its functions so as to achieve the purpose of the Act;
  - b) gives effect to any relevant National Policy Statement and the New Zealand Coastal Policy Statement;
  - c) gives effect to the regional policy statement ("RPS"); and
  - d) is consistent with any regional plans.
- 3.6 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;
  - b) the submissions and further submissions received;
  - c) the Council's s42A report; and
  - d) the statements/presentations from all parties appearing before us.
- 3.7 We note for the record that no s32AA evaluations were provided over the course of, and subsequent to, the hearing as no further amendments to the plan change were being proposed.
- 3.8 It is important that all parties understand that it is not for us to introduce our own evidence on the issues that have been raised, and we have not done so – rather, our role has been to:

- a) establish that all relevant evidence is before us (or where it is not, consider whether we should commission additional reports or information); and
  - b) test the evidence of others, and to determine the most appropriate outcome based on the views we consider best achieve sustainable management.
- 3.9 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.

### **Statutory Overview**

- 3.10 As explained in the Requestor's section 32 report, section 73(2) of the RMA enables any person to request a territorial local authority to change a District Plan in the manner set out in Schedule 1 of the Act. We find that PC54 has been prepared in accordance with Schedule 1. The Council formally accepted the request (but did not adopt it) on 23 March 2021, enabling the plan change to proceed to public notification and the hearing process.
- 3.11 PC54 is subject to a number of statutory and non-statutory documents. We discuss these in this section and note that both planning experts were in agreement as to the relevance or otherwise of these documents.

### **National Statutory Documents**

#### **RMA – Part 2**

- 3.12 Part 2 (sections 5-8) of the RMA states the purpose and principles of the Act. Part 2 is overarching, and the assessments required under other sections of the Act are subject to it. In order to recommend PC54 is adopted, the Panel must be able to conclude that the plan change will promote the sustainable management of natural and physical resources (purpose of section 5 of the Act). The operative District Plan was developed under this same RMA framework, and Council is required to ensure all proposed changes to the Plan will also result in outcomes which meet this purpose.
- 3.13 We discuss our findings in more detail in the following section. However, in summary, we find that PC54 will appropriately provide for residential development on suitable land which is not prone to flooding and is fully serviceable. Once rezoned, the land could be sold by BFHGC to ensure the continued viability of the Club. Any future development could be accessed by the existing roading networks and there will be economic and employment benefits arising from the construction. Flat, fully serviceable greenfield residential land in Lower Hutt is scarce. Therefore, we find that PC54 will promote the sustainable management of a scarce land resource.
- 3.14 Section 6 sets out a number of matters of national importance to be recognised and provided for. Of these, we consider that the following are relevant:

- a) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
  - b) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga:*
- 3.15 The site does not contain any areas of significant indigenous vegetation. We acknowledge concerns of some submitters regarding the potential loss of existing trees on the golf course and will discuss these in more detail in our evaluation of issues.
- 3.16 The relationship of Māori with the area has been acknowledged through consultation by the applicant with mana whenua and no concerns were raised about the proposal.
- 3.17 The site does not contain wetlands, a lake or river and is not on the margin of any of these. It is not within or adjacent to a coastal environment. It is not identified as a Significant Natural Resource or outstanding natural landscape feature or as an historic heritage resource. The site will continue to be physically separated from the Hutt River by the stopbank (land to be transferred to GWRC ownership should PC54 be approved) and the privately owned golf course. We find there are no matters of national importance as listed under section 6 that relate to PC54.
- 3.18 Section 7 sets out other matters that must be had particular regard to. Of these, we consider the following are relevant:
- a) *the efficient use and development of natural and physical resources;*
  - b) *the maintenance and enhancement of amenity values;*
  - c) *maintenance and enhancement of the quality of the environment; and*
  - d) *any finite characteristics of natural and physical resources.*
- 3.19 We find that PC54 is consistent with this section as any future development will be required to comply with the General Residential Activity Area objectives, policies, rules and standards in the Plan. These provisions are designed to maintain and enhance the existing amenity of the local residential environment, and any adverse effects are required to be avoided, remedied or mitigated. PC54 will provide for an efficient use and development of a scarce land resource.
- 3.20 Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. We note that Te Rūnanga o Toa Rangatira, Te Rūnanganui o Te Ātiawa ki te Upoko o Te Ika a Māui, the Port Nicholson Block Settlement Trust, the Wellington Tenths Trust and the Palmerston North Māori Reserve Trust were consulted by the requestor prior to the request being accepted by Council. A letter of No Objection was received from the latter two trusts which referenced a Cultural Impact Assessment completed by Raukura Consultants for Plan Change 35 (concerning land approximately 180m to the west). They stated that this Assessment was a good record of the area. We find that this document is a good reference and contains some pertinent information; however, it has no direct application to the PC54 land, and therefore it did not influence our recommended decision.

### National Policy Statements

- 3.21 We concur with the Council’s consultant planner that the NPS-Freshwater Management 2020 does not apply to PC54 as it only directs regional councils, regional policy statements and regional plans. Likewise, we agree that the national policy statements covering indigenous biodiversity and highly productive land do not apply to PC54. As the land is not in a coastal environment, the NZ Coastal Policy Statement does not apply. The site is not occupied or traversed by any assets that are the subject of the NPS on Electricity Transmission or the NPS for Renewable Energy Generation. The subject site is not identified as containing any outstanding or significant natural areas and is not identified as highly productive land. We find that the only relevant national policy statement (NPS) for PC54 is the National Policy Statement on Urban Development 2020 (NPS-UD).

### NPS-UD

- 3.22 The NPS-UD identifies Lower Hutt City as being a Tier 1 Urban Environment, and the Council as being a Tier 1 Local Authority. Such authorities are required to provide sufficient development capacity to meet the demand for housing in the short, medium and long terms as well as enabling well-functioning urban environments. The NPS-UD requires that rules employed should not unnecessarily constrain growth. It is an enabling NPS as it directs actions to be taken to increase housing supply.
- 3.23 Objectives 1-8 of the NPS-UD are of relevance to PC54. The Requestor’s application details these objectives and the reasons why PC54 meets them<sup>30</sup> and we concur with these findings. The NPS-UD also requires Councils to develop and implement a Future Development Strategy (FDS). We were informed by the Council’s consultant planner that, although required to, HCC has yet to develop an FDS. Such a document is required to promote long-term strategic planning by setting out how a local authority intends to:
- a) *achieve well-functioning urban environments in its existing and future urban areas; and*
  - b) *provide at least sufficient development capacity, as required by clauses 3.2 and 3.3, over the next 30 years to meet expected demand;*<sup>31</sup>
- 3.24 As well, the FDS needs to assist the integration of planning decisions under the Act with infrastructure and funding decisions. We concur with the Council’s consultant planner that given the site is adjacent to an existing General Residential Area, and can be serviced with infrastructure, it is a likely candidate for inclusion as a future development area under an FDS.
- 3.25 Policy 1 of the NPS-UD is of particular relevance to PC54 as it requires Councils to appropriately plan for growth and ensure well-functioning urban environments are developed. It defines a well-functioning urban environment:
- Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

<sup>30</sup> Pages 13, 14 Boulcott’s Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020

<sup>31</sup> Section 3.13(1)(a) of the NPS-UD 2020



- a) *have or enable a variety of homes that:*
  - i. *meet the needs, in terms of type, price, and location, of different households; and*
  - ii. *enable Māori to express their cultural traditions and norms; and*
- b) *have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- 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; and*
- d) *support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- e) *support reductions in greenhouse gas emissions; and*
- f) *are resilient to the likely current and future effects of climate change.*<sup>32</sup>

3.26 PC54 is a land zoning request, not an actual application for a subdivision or any form of land development. The planning decision to be made is whether the rezoning is consistent with this Policy. In terms of Policy 1 above, we find that PC54 would enable a well-functioning urban environment to be created.

3.27 Policy's 2 and 7 are also considered relevant as they specify that Tier 1 and 2 local authorities need to provide at least sufficient development capacity to meet expected demand for housing, and to set housing bottom lines in District Plans. We find that PC54 will assist HCC in meeting expected demand for housing.

3.28 Policy 8 of the NPS-UD is also relevant to PC54. It states that:

*Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:*

- a) *unanticipated by RMA planning documents; or*
- b) *out-of-sequence with planned land release.*<sup>33</sup>

3.29 We find that the proposal will add to the development capacity of the City. It relates to land that, whilst not identified by the Council for future residential development (because it is currently privately owned recreational space), it would be classified as 'unanticipated'. It can be serviced by the necessary infrastructure.

3.30 Overall, we find PC54 is consistent with the NPS-UD because it is providing for a well-functioning urban environment at a time when urban development capacity is needed.

<sup>32</sup> Section 2.2, NPS-UD 2020 – Policy 1

<sup>33</sup> Section 2.2, NPS-UD 2020 – Policy 8

**Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021**

- 3.31 The purpose of this Act is to amend the RMA to rapidly accelerate the supply of housing where the demand for housing is high. This Act also has implications for the NPS-UD as it proposes bringing forward the timing as to when NPS-UD provisions must be implemented by Councils. Tier 1 local authorities must amend their residentially zoned land to incorporate specific medium density residential standards (unless such land is subject to heritage or hazard overlay). We were informed by the Council's consultant planner at the hearing that this requirement will be implemented as a plan change, which is required to be notified no later than August 2022. There are no immediate implications for PC54. If the subject land does change to be residentially zoned, it will be subject to this legal requirement in the same way as all the surrounding residentially zoned land will also be.

**Regional Statutory Documents****Regional Policy Statement**

- 3.32 A District Plan must give effect to any Regional Policy Statement (RPS). The RPS for the Wellington Region became operative on 24 April 2013 and postdates the District Plan. However, the General Residential Activity Area provisions of the District Plan were reviewed under Plan Change 43, which was notified in 2017 and made operative on 23 February 2021. As such, the General Residential Activity Area provisions have been considered against the RPS. The s42A report prepared by the Council's consultant planner provides a comprehensive list of the relevant RPS provisions to PC54<sup>34</sup> and we concur with this list. We note the planning consultant for the Requestor was in agreement and we concur with both their findings regarding how PC54 meets these RPS provisions.
- 3.33 We find that PC54 will give effect to the relevant objectives and policies of the RPS as it seeks to provide for residential development within an existing urban environment, efficiently using existing infrastructure (albeit requiring some mitigation measures for the stormwater and wastewater networks). The subject land is located in close proximity to community facilities and transport networks. Furthermore the golf course can be slightly reconfigured to enable a full course to be retained which meets the needs of existing and future club members.

**Operative and Proposed Regional Plans**

- 3.34 When preparing or changing a District Plan, a Council shall also have regard to any relevant proposed or operative regional plan.<sup>35</sup> The s42A report outlined that there are five operative regional plans and one proposed regional plan for the Wellington Region. The Proposed Regional Plan consolidates the five operative Regional Plans into one document and is at the appeal stage at the Environment Court.
- 3.35 For PC54, the only potential crossover between the function of HCC and GWRC relates to stormwater management that would be subject to the Management of Discharges to Land

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<sup>34</sup> Pages 16, 17 sec 42A Report

<sup>35</sup> Section 74(2)(b)(ii), RMA

section of the Proposed Natural Resources Regional Plan (PNRP). PC54, if accepted, would result in the General Residential Activity Area provisions of the District Plan applying to the site. We find that these provisions include stormwater management, which are provided in accordance with the PNRP.

## **Housing and Business Development – Capacity Assessment Hutt City Council**

- 3.36 The Housing and Business Development Capacity Assessment (HBDCA) for the Wellington Region was published in November 2019. This assessment was a requirement of the then in force NPS on Urban Development Capacity. The s32 Report prepared by the Requestor reproduced a section related to the Hutt City:<sup>36</sup>

*The HBA reports on the demand for, and supply of, residential and business development capacity over the 30 years to 2047. The HBA is a key source of housing development capacity information and ought to be taken into account when considering this plan change request. The report states:*

*“Moderate on-going population growth combined with a decline in average household size will significantly increase demand for dwellings over the next 30 years in Hutt City. Moderate on-going population growth combined with a decline in average household size will significantly increase demand for dwellings over the next 30 years in Hutt City. Hutt City has experienced rapid price and rent rises since about 2015 due to an emerging shortage of housing.*

*Hutt City’s constrained geography means the City has limited scope for greenfield expansion and will have to increasingly rely on the intensification of existing urban areas to accommodate population growth.”<sup>37</sup>*

*The HBA includes two growth scenarios and “under both projected growth scenarios Hutt City has insufficient development capacity to meet demand over the 30-year time frame with a projected shortfall of between 1632 and 6783 dwellings.”<sup>38</sup> The report does note that the provisions introduced by PC43 will provide increased opportunity for residential development but does not quantify the increased residential opportunities.*

*It is acknowledged that the provisions introduced by PC43 would alter the above figures as PC43 loosened provisions around infill and medium density housing. Nevertheless, the HBA clearly shows that there is a significant gap between supply and demand of housing in the Hutt City.*

<sup>36</sup> Page 18 Boulcott’s Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020.

<sup>37</sup> Page 114, HBDCA

<sup>38</sup> Page 114 HBDCA

## District Statutory Documents

### Operative District Plan

- 3.37 PC54 proposes to rezone the site from General Recreation Activity Area to General Residential Activity Area. We reiterate PC54 proposes no changes to the objectives, policies, rules or standards of the General Residential Activity Area. The existing objectives and policies of the Operative District Plan relating to the General Residential Activity Area are therefore relevant, as are the relevant objectives and policies of the Earthworks and Transport chapters.
- 3.38 The s42A report contained a summary of the relevant Objectives and Policies<sup>39</sup>. We concur with the summary of provisions and reproduce it here for completeness:

#### ***General Residential Activity Area***

- *Housing capacity and variety is increased, at a pattern consistent with a low to medium density built environment;*
- *The built environment provides high quality on-site amenity for residents and high quality residential amenity for adjoining properties and the street;*
- *Built development is adequately serviced by network infrastructure or addresses any network infrastructure constraints on the site; and*
- *Built development is located and designed to manage significant risk from natural hazards.*

#### ***Transport***

- *The transport network is integrated with land-use patterns, and facilitates and enables urban growth;*
- *Adverse effects from the transport network on the adjacent environment are managed; and*
- *The transport network is safe and efficient, and provides for all transport modes.*

#### ***Earthworks***

- *Earthworks maintain natural features, and do not adversely affect visual amenity, cultural or historical site values; and*
- *Earthworks do not adversely affect flood protection structures.*

- 3.39 We find, for reasons more fully explained in the following section, that PC54 is appropriate for a General Residential Activity Area zoning.

## Non-Statutory Documents

- 3.40 We find that there are four non-statutory documents which are relevant to PC54. These are the Urban Growth Strategy 2012-2032 (UGS), the Environmental Sustainability Strategy 2015-2045

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<sup>39</sup> Page 18, Sec42A Report - a full list is contained in Appendix 3 to the s42A report

(ESS), the Walk and Cycle The Hutt Strategy 2014-2019 and the Reserves Strategic Directions 2016-2026.

#### **Urban Growth Strategy 2012-2032**

- 3.41 We were advised by the Council's consultant planner that this document was prepared under the Local Government Act 2002 and reflects the Council's strategy for directing growth and development within the city to 2032. It was adopted by council in March 2014. The UGS will only be given statutory weight through future District Plan changes.
- 3.42 The s42A report provides a good commentary on the UGS<sup>40</sup>. We concur with this commentary, especially with regard to the intention to increase the supply of land available for greenfield development. We note the UGS identified greenfields land at Kelson and Wainuiomata only, and that that would only potentially meet half of the City's housing growth to 2032. We also note that the population of the city appears to be increasing faster than was anticipated by the UGS.<sup>41</sup>

#### **Environmental Sustainability Strategy 2015-2045**

- 3.43 This Strategy was prepared to provide guidance for Council decision-making, outlining an increased focus on good environmental management. Focus Area 3 of the Strategy is Transport. It identified that walking and cycling links can assist in the reduction of emissions, and like the UGS, notes that Council intends to develop comprehensive cycling networks linking key population centres in the city and providing access through the City. Focus Area 4 is concerned with land-use, including housing. Focus Area 4 acknowledges that all development has an impact on the environment and focuses on urban form and development to minimise environmental effects. The overall Strategy also states the City's environmental amenity is aided by a range of outdoor public open space, including the river, and acknowledges that they are important for the community's wellbeing, particularly in providing recreational opportunities. Access and proximity to nature is seen as a key element in defining the 'liveability' of the city.
- 3.44 We find that PC54 will enable future development of the subject land to be undertaken in accordance with this Strategy. The development of the site will enable the continued viability of the Golf Club, which, although not a public asset, nevertheless provides amenity and recreation for the city. The objectives, policies, rules and standards relating to the General Residential Activity Area, and the Transport and Earthworks Chapters include provisions in line with this Strategy.

#### **Walk and Cycle The Hutt 2014-2019**

- 3.45 This document was prepared to inform Council decision-making to achieve a safe and integrated transport system that prioritises active travel. Objective 5.1 is of particular relevance: Safe and Integrated networks for commuting and recreational purposes. We find that PC54 enables the

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<sup>40</sup> Paragraphs 95-100, s42A report

<sup>41</sup> Paragraph 97, s42A Report

relevant purposes of this Strategy to be fulfilled, through adherence to the relevant General Residential Activity Area and Transport Chapters.

## 4 EVALUATION OF ISSUES

### Overview

- 4.1 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 to which they relate – rather than assessing each issue on a submitter-by-submitter basis.
- 4.2 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.
- 4.3 We reiterate that PC54 is a private plan change request to rezone a piece of land. It is not an application for a subdivision of the land or for any form of development on the land. Such an occurrence would require a new application to Council. We note the s32 report provided two possible scenarios for development of the land, which assisted expert witnesses to analyse possible effects of a proposed development. These two scenarios were a low-density development of 29 dwellings (under existing District Plan General Residential rules), and a comprehensive development of up to 63 dwellings (under existing District Plan General Residential rules). In both these scenarios, vehicular access to the proposed developments would be provided from both Allen Street and Kingston Street.

### Issue 1. Traffic Effects

- 4.4 The proposed plan change was accompanied by a Transportation Impact Assessment (TIA) prepared by Ms Laura Skilton from Cardno (NZ) Ltd. It provided an assessment of the existing roading environment, a description of the traffic environment, an analysis of crash history of the area and an impact assessment relating to the proposal based on an indicative concept of the two subdivision scenarios: one of 29 dwellings and one of 63 dwellings. After an analysis of the submissions received, Ms Skilton revisited her assessment, as her initial analysis had been undertaken during a Covid-19 lockdown and could not be considered to be ‘typical’. Her subsequent evaluation confirmed her initial conservative analysis and utilised data from HCC traffic counts outside Boulcott Hospital on High Street. She concluded that the March 2021 hourly traffic flow pattern represented a typical hour traffic flow on High Street, and that November hourly flows were a good representation of a typical day during the year.<sup>42</sup> We have considered Ms Skilton’s evidence and concur with her statistical findings regarding traffic flows and wait times at intersections, and that her analyses of these could be considered conservative.

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<sup>42</sup> Paragraph 27 of Ms Skilton’s Statement of Evidence

- 4.5 The s42A report prepared by the Council included a review of Ms Skilton's TIA. This was carried out by Council's traffic consultant Ms Harriet Fraser of Harriet Fraser Traffic Engineering and Transportation Planning. Ms Fraser also carried out traffic counts, which verified the 2015 numbers in Ms Skilton's TIA that were modified to estimate typical peak hour traffic flows for 2020.
- 4.6 At the hearing, we heard from these two traffic expert witnesses. We appreciated the flexibility of Ms Skilton and Ms Fraser to accommodate our request for hearing from both witnesses at one time on-line at the hearing and note the high level of agreement between them.
- 4.7 Both expert witnesses agreed that there were no encumbrances that would restrict a proposed development of the land from complying with District Plan subdivision and roading rules and standards. They both acknowledged the narrow neighbourhood street width and advised that narrow streets also resulted in slower traffic speeds, acting as an enforced speed calming measure. The experts concluded the roads have capacity to cope with additional load should PC54 proceed and the zoning change to General Residential Activity Area. The witnesses agreed as to the potential residential trip generation numbers from any proposed development of the land.
- 4.8 Ms Fraser, however, recommended an extension of the No Stopping Lines on High Street at the Kingston Street/High Street intersection to protect sightlines, and a widening of the flush median (to improve safety for right turning vehicles).<sup>43</sup> We return to these recommendations later in our decision.
- 4.9 We thank Ms Skilton for her detailed analysis and photographs of the existing neighbourhood street network. These photographs confirmed our observations during our site/locality visit and the relatively narrow carriageway width of most of these streets compared to the actual road reserve width (as observed by the wide berm widths).
- 4.10 Ms Skilton's evidence provided analysis of the crash history, using Waka Kotahi (NZTA) Crash Analysis System of data up to 2019, the most recent available at that time. This analysis concluded that there were few crashes in the area, and most were non-injury.
- 4.11 In her review on behalf of the Council, Ms Fraser checked the Waka Kotahi crash database for any crashes in 2020 and to date in 2021 for the intersections of High Street/ Kingston Street and Taita Drive/ Fairway Drive. She found there have been three reported non-injury crashes at or close to the High Street/ Kingston Street intersection. Of these one involved a vehicle turning right into Kingston Street being hit by a northbound vehicle on High Street. Based on this local crash data, Ms Fraser concluded that there is a possibility that increased traffic flows on High Street are beginning to result in crashes occurring at or near to the Kingston Street intersection with High Street.
- 4.12 Ms Fraser also noted that there had been a serious injury and a non-injury crash reported at the Fairway Drive/ Taita Drive intersection. Both crashes involved vehicles turning from the northern approach on Taita Drive.

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<sup>43</sup> Paragraph 64 Statement of Evidence of Laura Skilton; Paragraph 38 of the Brief of Evidence of Harriet Fraser

- 4.13 A number of submitters gave their first-hand accounts of traffic movements in the area. We heard the submitters' concerns that increased traffic volumes would be difficult to manage, and increased flows on Kingston Street and St James Avenue would be too great for streets to cope. Access to High Street from Kingston Street was already difficult especially at peak times and access to SH2 via Taita Drive (from St James and Kingston) was also difficult. Submitters declared that the use of the 2015 traffic numbers was out of date, and that improvements to Kingston/High Street intersection were required at the developers' expense. They also raised a concern that the expert's figures relating to wait times at intersections were incorrect.
- 4.14 In regard to the issue of the local roads being over capacity now, we acknowledge the evidence of Ms Skilton and Ms Fraser. Both traffic experts advised that should the land be rezoned, there was a possibility of increased traffic flows within the neighbourhood and onto High Street, especially at the intersection with Kingston Street. Submitters told us of increased wait times at the intersection, and of the inability to turn left from Kingston Street into High Street when there is traffic waiting to turn right into High Street, due to the layout of the road and kerbing. Our site visit confirmed this situation.
- 4.15 We heard from submitters that some utilise the route along Stellin Street to Taita Drive and thence Fairway Drive to gain access to SH2, rather than negotiate High Street and the Melling interchange. Some submitters were concerned at the additional impact of traffic from the proposed PC54 land on the High Street/Fairway Drive intersection (roundabout) at peak times. We agree with Ms Fraser that a portion of trips from any development of the proposed rezoned land will also take this route. Given that there are a number of ways to access SH2 from the proposed PC54 land and having given consideration to the evidence from the expert witnesses (who were in agreement), we consider the proposed PC54 will not result in significant additional traffic on the existing roundabout.
- 4.16 We learnt of the situation of "rat running" which submitters maintained exacerbated traffic congestion issues in the neighbourhood streets. Both expert witnesses also agreed that this phenomenon occurred, especially in peak traffic times, to avoid congestion on the main traffic routes. We find that Ms Fraser's suggested mitigation measures should help to alleviate this issue.
- 4.17 We agree that the wait times at the Kingston/High Streets intersection will increase (but on average will not exceed 1 minute) which may result in increased driver frustration and greater risk taking regarding turning into traffic flow. To aid in mitigating this potential risk, we agree with Ms Fraser about the need to enhance sight lines and investigate installing a flush median on High Street.
- 4.18 To this end, we recommend the Council's traffic division investigate the extension of the no stopping lines along the High Street frontage from Kingston Street towards the south to provide the Minimum Gap Sight Distance (MGSD) of 69m and ideally to accommodate the Safe Intersection Sight Distance (SISD) of 97m.<sup>44</sup> We concur with Ms Fraser's findings that such action will assist in providing longer sight lines for vehicles attempting to turn right from Kingston Street into High Street. We further recommend that the Council investigate widening the flush median

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<sup>44</sup> Paragraphs 25 and 26 of the brief of Evidence of Harriet Fraser



through the Kingston/High Streets intersection to permit<sup>45</sup> left turning traffic to complete their manoeuvre when a vehicle is waiting to turn right into High Street. We acknowledge that such mitigation measures may well be dealt with at subdivision design/application stage (with the requirement for a TIA), but nevertheless we believe there could be improvements made now which would improve existing traffic flows, whether or not the subject land is developed for a residential subdivision.

- 4.19 Submitters raised concerns with the existing width of the neighbourhood streets, and that additional traffic flows will create congestion. Our site visit confirmed the streets are narrow; however, there is always sufficient width for at least one vehicle to proceed. Ms Fraser's evidence concluded that additional traffic flows will require vehicles to give way to each other more frequently, and that this will also force vehicles to travel more slowly.<sup>46</sup>
- 4.20 We note that, should any future development take place on the land, it may be subject to a TIA – any proposed subdivision exceeding 60 lots or a comprehensive residential development of over 60 dwellings is required to provide such an assessment. We were informed the High Trip Generator Threshold is 60 dwellings. A TIA is required to assess the traffic impacts of a development on the wider neighbourhood and transport networks. The recommended mitigation measures would typically occur as part of the engineering approval stage during a resource consent process. The s42A report detailed the Transport Asset and Planning Lead's response to such measures<sup>47</sup>, and we concur. If traffic improvement measures are conditioned on any future resource consent application, they are the responsibility of the developer and not the ratepayer.
- 4.21 There was a concern expressed by some submitters that no detailed analysis had occurred of the impact of the proposal on the Taita Drive/Fairway Drive intersection. If more traffic did use this access route to SH2, we concur with the expert witnesses that the potential impact on the Kingston/High Street intersection would lessen. We also concur with the expert witnesses that the figures used in their calculations were conservative, and that given the variety of routes available to access SH2, and with the mitigation measures suggested (lengthened yellow line markings and a reconfigured Kingston/High Street intersection), traffic effects can be mitigated.
- 4.22 Overall, we accept the evidence presented by the expert traffic witnesses and find that although there may be adverse traffic effects arising from a residential development of the subject land, these adverse effects can be mitigated or remedied. We note that both traffic experts agreed that traffic flows in the neighbourhood will most likely increase, regardless of the future use of the subject land.

## Issue 2. Trees and Vegetation

- 4.23 We were presented with well researched information from the submitters regarding the trees located within the subject land and we thank those people responsible. We analysed all the maps and aerial photography submitted either as evidence or during the hearing and are

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<sup>45</sup> Paragraph 34 of the brief of Evidence of Harriet Fraser

<sup>46</sup> Paragraph 37 of the brief of Evidence of Harriet Fraser

<sup>47</sup> Paragraphs 140-141 of the s42A report

satisfied that all the trees under discussion (approximately 60) are within the PC54 site. We note these trees would all have been planted by the golf course itself since the course's inception in 1909 (a full 18-hole golf course was established by 1921) for the amenity of players, to mark fairway boundaries and, as an unintended consequence, to provide a visually pleasing backdrop for adjoining residential areas. We further note that all the trees are on privately owned land (belonging to the BFHGC).

- 4.24 The further submission received from Mr Robert Chisholm believed the HCC Urban Forest Plan 2010 applied to the site. However, we concur with the applicant's planning consultant that this Plan relates to trees on public open space only, and therefore it is not applicable to PC54.
- 4.25 Mr Chisholm highlighted the Totara tree avenue at the south end of the PC54 site that appears to have been planted in the 1920/30's. Whilst no documentation exists as to reasons why this avenue was planted, we accept it was probably planted as a memorial to victims and survivors of WWI.
- 4.26 The current zoning of the land is General Recreation Activity Area which allows for recreation activities and ancillary activities as permitted activities. It contains no rules that relate specifically to vegetation removal or protection. We therefore acknowledge that the trees on the subject land could be felled at any stage by the current owner of the land.
- 4.27 Mr Chisholm requested that a qualified arborist report on all the trees within the PC54 parcel of land, including input from Tangata Whenua. We note Tangata Whenua were consulted as part of the process of PC54 and they expressed no concerns regarding the trees on the land. As noted earlier, the trees are all on privately owned land, not public open space, and there is currently no jurisdiction to require an arborist report. We note also that no tree has undergone a STEM assessment and none are identified as Notable Trees in the District Plan.
- 4.28 The proposed zoning of General Residential Activity Area has a Rule relating to vegetation removal (Rule 4A 4.1.11), which has come into effect since the plan change request was lodged.<sup>48</sup> This Rule provides greater protection to vegetation on the subject land than what currently applies under its General Recreation zoning. We understand this Rule does not apply to any Notable Trees – such trees having been identified in the District Plan are subject to different rules in Chapter 14G. We were informed at the hearing that the Council is currently conducting a Notable Trees review as part of its District Plan Review process and we encourage all submitters to become involved with this.
- 4.29 Under the General Residential zoning, while the removal of exotic vegetation is a permitted activity under Rule 4A 4.1.11 (b), the removal of indigenous vegetation likely to require resource consent under Rule 4A 4.1.11(e) as a Restricted Discretionary activity.<sup>49</sup> The matters of discretion are limited to amenity values, site stability, and the indigenous biodiversity and intrinsic values of ecosystems.
- 4.30 We note that several submitters were concerned that removal of trees could have an undermining effect on the stopbank. GWRC were consulted, and as a consequence of comments

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<sup>48</sup> Plan Change 36, operative 23 February 2021

<sup>49</sup> City of Lower Hutt Operative District Plan Rule 4A 4.1.11

from them, the boundary of the PC54 area was shifted to be setback 5.0m from the bottom of the stopbank. GWRC subsequently did not make a submission on the plan change. We concur with the Council's planning consultant that, should any tree be removed, it will not compromise the stopbank.

- 4.31 We do acknowledge that residential development of some form is likely to result in an application for tree removal in the future, and that such an application will need to be assessed on its own merits. We also acknowledge that the loss of trees can result in changes to visual amenity and ecological values, and that it would be positive to see any future development take the trees into consideration. We note the golf course land contains an abundance of trees, all of which currently sustain wildlife and contribute to a green corridor.
- 4.32 On balance, we find that the trees on the subject land are offered greater protection under the proposed rezoning than at present, and that any potential loss of trees can be adequately managed by the existing District Plan provisions.

### **Issue 3. Appropriateness of Rezoning**

- 4.33 Submissions both in support of and against PC54 were received with regard to the appropriateness of the proposed rezoning. James Brodie believed that more land for residential development was required within the city, and that PC54 would enable more people to enjoy living and raising families in the area. He noted the close proximity of schools, playgrounds and recreational areas.<sup>50</sup> Henry Clayton and Margaret Waghorn also supported the proposed rezoning<sup>51</sup>, acknowledging the current housing crisis in the City and believed that the land was a suitable location for residential development, being close to public transport routes and existing facilities.
- 4.34 Other submitters were concerned that PC54 was not driven by the NPS-UD and that the future residential land development would not consist of affordable housing options. They asserted that there was no strong national direction to push residential subdivisions onto green recreational space and believed that the Council had an obligation to ensure green spaces were preserved for future generations. They stated that if granted, any future development should be subject to caveats limiting the scale and style of development and maximising the provision of green space.
- 4.35 The planning consultant for the Requestor noted that rezoning to General Residential would supply additional residential land consistent with the requirements of the NPS-UD; would enable CRDs to occur; would be consistent with the provisions for residential developments that apply to the adjoining residential lots; and would implement section 5 of the RMA by enabling the efficient utilisation of the site in a way that would best meet the wellbeing of the people of the City and wider region.
- 4.36 Council adopted its UGS2012-2032 in 2014. We concur with the Council's planning consultant that this UGS does establish a need for land to be rezoned for residential purposes in Hutt City.

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<sup>50</sup> Submission DPC54/001

<sup>51</sup> Submission DPC54/011

Combined with the HBDCA, it is evident that Lower Hutt City faces a shortage of land for residential development. The NPS-UD has identified Lower Hutt City as a Tier 1 authority, and as such, the City must provide for additional housing within the City, preferably close to transport and commercial hubs and local facilities. Both expert planners were in agreement as to the relevance of the UGS, HBDCA and NPS-UD. We were directed to Policy 8 of the NPS-UD, which states:

*Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well functioning urban environments, even if the development capacity is:*

- (a) unanticipated by RMA planning documents; or*
- (b) out-of-sequence with planned land release.<sup>52</sup>*

- 4.37 We note Tier 1 authorities are required to be responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments. PC54 could cater for potentially 63 dwellings, albeit at a slightly higher density than the existing residential development pattern (such a pattern having been developed under previous District Plan rules which specified 500m<sup>2</sup> minimum lot sizes). The subject land is also close to local amenities.
- 4.38 Changing the land to a General Residential Activity Area means development can be appropriately accommodated within the existing infrastructural network, albeit with some mitigation measures required to the wastewater and stormwater networks. The District Plan provisions would be the same as those of the adjoining residential area. We find this represents an efficient utilisation of a land resource in a way that will meet the wellbeing of the people of the City and future residents.
- 4.39 We accept that there is a housing crisis in the City and also that the residential development of this land is unlikely to contribute to the affordable housing market. Whether the housing provided within a new subdivision is affordable is not something the RMA has jurisdiction over. However, we find that the development of this land for general residential purposes could produce flow-on effects within the housing markets, whereby people “upgrade” to a new house in a new subdivision, vacating their existing dwelling for new owners.
- 4.40 Despite the current General Recreation zoning, this piece of land is privately owned and does not benefit as wide a range of people as public open space does. BFHGC is open only to members, their guests and green-fee paying golfers and is not open to the general public and the golf course can be modified to accommodate the loss of the PC54 land. The amount of General Recreation Activity Area land that the public can access will not be diminished. We acknowledge the public’s visual outlook across the green open space will alter, should the land be developed for residential purposes, but their current use of the application land is severely restricted, unless they are golf club members.

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<sup>52</sup> Policy 8, National Policy Statement – Urban Development

- 4.41 With regard to why the land should not stay zoned General Recreation, we heard that the golf course can be adequately reconfigured to accommodate the loss of the land.<sup>53</sup> The HCC Parks and Recreation Division submitted a neutral submission to the proposed plan change. They recommended the matters of control or discretion for subdivision consent relating to the PC54 land, be altered to allow for the ability to create a cohesive network of paths and linkages from the river (Te Awa Kairangi) to the surrounding residential area and to maintain access to and from the stopbank.
- 4.42 We agree that connectivity of open spaces and recreational areas is an important issue and find that such an action would more appropriately be addressed at subdivision design and application stage and would be in alliance with the Reserves Strategic Directions 2016-2026 document. We note there is currently no public access to the stopbank through the subject private land. There is public access between Connolly Street and Boulcott Street; however, this access is not owned by BFHGC and is some 700m to the west. Retaining the recreational zoning would incur social and community costs by contributing to the City's identified lack of adequate amounts of suitably zoned land for residential purposes.
- 4.43 We understand that currently the stopbank is owned by BFHGC and were informed by the Requestor, that the Title of the land requires that ownership of the stopbank be passed from BFHGC to GWRC should the use of the land be altered, or the land sold. This encumbrance does not require public linkages to be formed to the stopbank and is not bound by the land having a specific zoning.
- 4.44 Several submitters stated that if the land is to be rezoned for residential purposes, it should be for low density development with possibly restrictive caveats placed upon any new lots. We note the current zoning of the surrounding residential neighbourhood is General Residential, which provides for minimum lot sizes of 400m<sup>2</sup>. We acknowledge current lot sizes in the vicinity are slightly more than this minimum size (at just over 500m<sup>2</sup>); however, we were not presented with any evidence as to why the subject land should be treated any differently to the surrounding residential neighbourhood. It is a relatively narrow strip of basically flat land, immediately adjacent to similar land zoned General Residential. We find the existing quiet residential neighbourhood with pleasant streetscape and berm plantings has evolved under the current and previous residential zoning. We note that this existing zoning also provides for CRDs as Restricted Discretionary Activities.
- 4.45 We observe that the subject land is not currently a residential area with special residential attributes. If a low density zoning were implemented it would be at odds with the zoning of the surrounding area, and would yield a small amount of residential lots which would be contrary to the requirements of the NPS-UD. The planning experts were in agreement that there was nothing in terms of bulk and location attributes of adjacent sites, or of sites in the wider neighbourhood, that would indicate that specific bulk and location requirements were justifiable for the PC54 area. We find that a low-density zoning would not be an efficient use of the land resource.

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<sup>53</sup> Section 1 'The Site', Boulcott's Farm's Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd. 2020

- 4.46 We also assessed whether a more intensive residential zoning could be applied to the land. We were persuaded that the existing residential form of development was such that a more intensive development would be out of character (by the submitters and planning consultants). We repeat that General Residential zoning provides for CRDs to occur as Restricted Discretionary Activities, with a series of rules and standards that would need to be met. Such requirements are designed to ensure residential amenity is maintained and enhanced.
- 4.47 We acknowledge that a medium density zoning would likely provide higher numbers of residential lots and dwellings, thereby increasing revenue for a developer and the Council (in rates payments). However, such an intensive land use would be contrary to the character and scale of the existing surrounding residential area, would result in a vastly altered vista and could have adverse effects on the infrastructure capabilities of the area.
- 4.48 We find that PC54 will add to the housing development capacity of the City, and is consistent with the NPS-UD, the HBDCA and the UGS. Furthermore, we find that residential activity is compatible with existing surrounding residential activity.

#### **Issue 4. Amenity Effects**

- 4.49 Several submitters raised their concerns with the potential loss of amenity that may occur should PC54 proceed. We acknowledge a change from a golf course to residential housing will result in an altered vista from the surrounding neighbourhood. Most of the adjoining residential properties have large backyards (with the exception of 34 Allen Street and 35 Kingston Street), with dwellings located several metres from the common boundary. Submitters were also concerned at the loss of community amenity, with the proposed change of Kingston and Allen Streets from dead end streets to potential thoroughfares.
- 4.50 We are mindful of Policy 6 of NPS-UD which acknowledges changes to existing urban environments may occur:
- ....changes to urban environments may detract from amenity values appreciated by some people, but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types, and are not, of themselves, an adverse effect.<sup>54</sup>*
- 4.51 We are also cognisant of section 7 of the RMA, which requires particular regard be had to the maintenance and enhancement of amenity values. We concur with the Council's planning consultant, that in combination, these two requirements recognise that change in urban environments is to be expected, but that it must occur in such a way that amenity values are maintained and enhanced. We have read the General Residential Activity Area objectives, policies, rules and standards and find that these will provide for development within the General Residential Activity Area that achieves high quality on-site amenity for residents and surrounding areas.
- 4.52 We acknowledge a change in residential amenity may occur, should a residential development occur on the subject land. We heard from Mr Clayton that the residents have, in the past, used

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<sup>54</sup> Policy 6, NPS-UD 2020

the dead-end streets to host community get-togethers and that such occurrences will not be able to take place should the streets become thoroughfares. However we note that new community events may be able to be developed, involving the new residents, and a different community spirit may evolve.

- 4.53 Some submitters requested that the Council assist BFHGC in finding additional funding so as to prevent the necessity of selling the land. We note it is outside of the jurisdiction of the RMA to require Councils to investigate funding sources for privately owned enterprises.
- 4.54 We find that whilst the amenity of the area may change if the land is developed for residential purposes, the requirements of the General Residential Activity Area will ensure high quality residential amenity values will be protected.

### **Issue 5. Infrastructural Effects**

- 4.55 The PC54 Request documents contained an assessment of the infrastructural capacity of the surrounding area, and its ability to cope with any additional load that a residential development could place upon it. As a result of the submissions that were received to the plan change, additional testing was carried out in relation to stormwater disposal issues. Initially, it had been proposed that stormwater could be directed to an existing Golf Club stormwater detention pond and then released to the Hutt River. Concerns were raised (by both the consultant engineers and submitters) as to the capacity of the pond on the golf course. The additional testing (undertaken by Cuttriss Consultants Ltd) found that on-site stormwater disposal (such as soak pits) would be possible for individual lots, and that the use of the existing detention ponds would not be required.
- 4.56 The Council's engineering consultant did not raise concerns with this suggested method of stormwater disposal. At the hearing, he advised that individual lot testing would be required at subdivision stage to ascertain exact soak pit locations, and that this was standard procedure when dealing with subdivision applications. He acknowledged soak pits have not been widely used within Hutt City, but that for many local authorities in New Zealand, they are the preferred stormwater disposal method for example Upper Hutt City Council.
- 4.57 Advice the Requestor received from Wellington Water Ltd was that stormwater neutrality would be required for any development of the site, due to capacity issues with the stormwater networks downstream. We were informed by Mr Rose, Council's Land Development Engineer Consultant, at the hearing that there are engineering solutions readily available and frequently used throughout New Zealand to achieve stormwater neutrality.
- 4.58 The infrastructure assessment that accompanied the Application raised concerns regarding the ability of the receiving wastewater system to cope with any additional load. Information from Wellington Water Ltd advised that mitigation works would be required. The Application suggested an acceptable engineering solution could be individual wastewater storage tanks and pump systems. We were informed that such systems are widely used throughout New Zealand and were an acceptable and workable solution to wastewater capacity issues.
- 4.59 We find that specific infrastructural requirements are best dealt with at subdivision design and application stage. Indeed Rule 11.2.2.1(b) requires that an engineering assessment of the three

waters provisions for any subdivision is undertaken. We consider this provides adequate provision to assess the suitability of the land for residential purposes from an engineering point of view.

- 4.60 We heard that should a CRD be proposed (a Restricted Discretionary Activity) on the subject land, such an application would be subject to achieving stormwater neutrality.
- 4.61 The Requestor provided evidence that electrical, telecommunications and gas could be provided to the site. We note Wellington Electricity Lines Ltd advised the existing network can cater for up to 50 more dwellings, and that an upgrade to the network would be required should more than that number be proposed. We regard this to be an item a developer of the site would need to consider at subdivision design and application stage.
- 4.62 The subject land abuts both Allen and Kingston Streets and the Requestor advised that there are currently “isolation strips” at the end of each of these streets preventing legal access to the subject land. We were advised that this matter would be addressed at subdivision design/application stage, in association with the appropriate Council officers. The consultant engineers advised there were no impediments to the provision of roading (either public or private) within the subject land, and that detailed design of such roading would be undertaken at subdivision design/application stage.
- 4.63 Our site visit confirmed that the land is gently undulating, with a slight fall from north to south. We agree with the Requestor’s consultant engineers that some earthworks would be required upon development of the site, and that such earthworks would be addressed at resource consent stage, under the relevant rules and standards.
- 4.64 We find that the site can be adequately serviced through a mix of existing and new infrastructure and that any potential adverse effects can be adequately mitigated.

### **Issue 6. Flooding and Removing the Secondary Flood Overlay**

- 4.65 Several submissions questioned the removal of the flooding overlay highlighting there remains some low points within the plan change area.
- 4.66 Email correspondence from GWRC Flood Protection Department (submitted as part of the Application<sup>55</sup>) advised that the PC54 land should not be shown as being inundated during a 1 in 440 year return period flood event, due to the construction of the new stopbank which has improved flood protection to the Boulcott area.<sup>56</sup> The realigned stopbank and associated works to the golf course mean that the subject land is now on the city side of the stopbank and is protected from flooding of the Hutt River / Te Awa Kairangi. As we understand it, this would indicate that the existing Secondary Flood Overlay is redundant. We note GWRC raised no issues with potential flooding of the area, or indeed made a submission to PC54.

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<sup>55</sup> Appendix 1, Infrastructure Report for Proposed Plan Change Boulcott Farm Heritage Golf Club Lower Hutt, Prepared by Cuttriss September 2020

<sup>56</sup> Appendix 3 to the Boulcott’s Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020



- 4.67 We concur with the two planning experts in finding that removing the Secondary River Corridor Overlay from the site is appropriate, and to retain it would be inefficient and create unnecessary planning restrictions when assessing any future resource consents for the land.
- 4.68 The NPS-UD(f) requires that (as a minimum) urban environments are resilient to the likely current and future effects of climate change. We heard that the land subject to PC54 is protected from flooding by the improved stopbank. We acknowledge there may still be extreme weather events which may cause the improved stopbank to be compromised, however, should such an occurrence eventuate more than just this subject land would be at risk.
- 4.69 We also acknowledge that in times of heavy rainfall, there may be areas within the neighbourhood where temporary ponding does occur. Mr Paul Gillan told us of his concern that water ponds in the vicinity of his property in times of heavy rain, sometimes taking days to dissipate.
- 4.70 We heard from the Requestor's engineer that any new road carriageways are required to achieve stormwater neutrality, discharging into soak pits. He explained that on-going maintenance of such soak pits is the responsibility of the asset owner. He advised that on site testing on the subject land had discovered the soil consisted of free draining river gravels, that are conducive to quick discharging of water.
- 4.71 We find that, with adherence to the existing requirements regarding stormwater, any potential flooding adverse effects can be adequately mitigated.

## Issue 7. Contaminated Land

- 4.72 The Requestor has stated that the area of PC54 has not been used for bulk pesticide storage and has only ever been used for a fairway and not a putting green. Historic aerial photographs appear to confirm this, and we understand that the use of pesticides on a fairway is far less intensive than on putting or bowling greens. We concur with the Requestor when they state:<sup>57</sup>

*The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 is a regulation that comes into effect when a site's use is changing, earthworks are occurring, soil is sampled or subdivision is occurring. All district and City Councils are required to observe and enforce the requirements of the NESCS. There is no link in the NESCS to the plan change process but contamination is a relevant matter to consider when considering a plan change application. The NESCS does not include any policy direction.*

*The NESCS references the Hazardous Industries and Activities List (HAIL) which identifies activities and industries that are likely to cause land contamination resulting from hazardous substance use, storage or disposal.*

*Part A (10) of the HAIL (October 2011) lists 'Persistent pesticide bulk storage or use including sports turfs, market gardens, orchards, glass houses or spray sheds' as being a hazardous activity.*

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<sup>57</sup> Section 6.4, Boulcott's Farm Heritage Golf Course District Plan Change Request, prepared by Urban Perspectives Ltd 2020

*The expert advice from Pattle Delamore Partners Limited concludes that “the land is not considered to fall within HAIL category A10 and therefore the NESCS will not apply during future subdivision and change of use of the land. Sampling is not required.” The expert advice in appendix 9 should be read in full for the reasoning behind this conclusion.*

- 4.73 As an aside, we note the NESCS does not apply to plan changes but does apply to actual land use changes and at subdivision stage.
- 4.74 Mr Chisholm raised concerns that historic illegal dumping of rubbish has occurred at the rear of his property. He was concerned that this historic practice could have a detrimental effect on the quality of the soil on the PC54 land. We heard that the subject site is not listed with GWRC as a potentially contaminated site, and historic photographs do not reveal any information about where household rubbish may have been dumped. The Council’s consultant engineer (Mr Rose) gave evidence that soak pit testing for individual sites will be required as a condition of subdivision consent, and that this would indicate if any portion of the subject land was unsuitable for stormwater disposal. We understand individual lot testing for dwelling construction would be undertaken at building consent stage.
- 4.75 We find that whilst the plan change is not subject to the requirements of the NESCS, expert advice received stated the land was not considered to fall within Hail category A10. We find that the suitability of individual land parcels for residential development will be controlled at subdivision design/application stage.

### **Issue 8. Cultural**

- 4.76 BFHGC consulted with Port Nicholson Block Settlement Trust, Te Rūnanga o Toa Rangatira, Te Rūnanganui o Te Āti Awa ki te Upoko o Te Ika a Māui and Wellington Tenth Trust and Palmerston North Māori Reserve Trust. A written response was received from the latter two entities and indicated there were no objections to the proposal. No responses were received from the other three entities.
- 4.77 Wellington Tenth Trust response referenced a Cultural Impact Assessment that had been prepared by Raukura Consultants in association with Plan Change 35, on land approximately 180m to the west. That Assessment would seem to indicate that the historic “Battle of Boulcott” occurred on land further to the west of the subject site. Our comments recorded above in paragraph 3.20 apply here.
- 4.78 We find that, as no Māori entity that was consulted with, raised any cultural issues relating to the PC54 land or the proposal to change the zoning, there will be no adverse cultural effects arising from PC54.

### **Issue 9. Strategic Overview**

- 4.79 Mr Langstraat was concerned that there appeared to be no strategic overview of the developments that are occurring or potentially occurring in the City. He questioned whether there was any one entity that assessed the cumulative effects of developments.

- 4.80 We find that, regarding water (drinking water, stormwater and wastewater), Wellington Water Ltd has the strategic overview for the Hutt Valley (and indeed for the wider Wellington area). Regarding roading, HCC has authority over the City's roads, whilst GWRC looks after the regionally significant roading network and Waka Kotahi (NZTA) looks after the state highways. HCC is responsible for assessing land use within the City, including the legal requirement to identify and provide land for future development. GWRC is responsible for assessing the regional aspects of growth. Overall, we find that the above mentioned bodies do provide a strategic overview of development in the City.

### **Issue 10. Gifting of Land**

- 4.81 Through the course of the hearing, we heard that BFHGC had approached the owners of the two closest dwellings to the subject land: 34 Allen Street and 35 Kingston Street. These dwellings have been located on site whereby they completely face the subject land or are built basically on the boundary with no separation (34 Allen Street). 35 Kingston Street includes an outdoor patio area that is designed to take advantage of the golf course vista. We understand that the BFHGC had offered to gift a 1.0m strip of land along these two property boundaries, albeit dependent on PC54 being approved. We heard that negotiations were ongoing and find that these are private matters between the three private landowners. We further find that the outcome of these negotiations has no bearing on our recommended decision.

### **Issue 11. Economic**

- 4.82 Although not quantifiable, we regard the positive economic effects of a development of land for residential purposes to be a consideration. The subdivision development will ensure employment of personnel with the appropriate skill sets, and the subsequent construction of dwellings will support the construction industry. It is reasonable to assume that during the construction period, economic growth will be boosted.

### **Issue 12. Property Values**

- 4.83 Several submitters expressed concern for their property values should residential development occur on the subject land. They believed that their investment into their properties would be diminished primarily due to the loss of the 'borrowed' golf course vista.
- 4.84 We concur with the planning consultants on this matter. The potential effects on property values are not a resource management consideration. We have already made our finding on residential amenity and further assessment is not required.
- 4.85 Section 85 of the Act sets out that "*an interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act*"<sup>58</sup>. S85 then sets out the circumstances where someone may challenge provisions on the

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<sup>58</sup> S85(1) RMA

basis that the provision would render an interest in land incapable of reasonable use. The proposed plan change clearly does not render adjacent land incapable of reasonable use.<sup>59</sup>

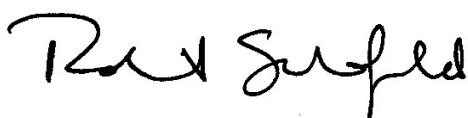
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<sup>59</sup> Paragraph 43 Dan Kellow's Statement of Evidence

## 5 OVERALL RECOMMENDATION

- 5.1 Based on our consideration of all the material before us, including the s42A report from the Council's consultants, the submissions, further submission, evidence presented at the hearing and other relevant statutory matters, and for the reasons we have set out in sections 3 and 4 above, we recommend to the Council that:
- a) The plan change be accepted as notified;
  - b) That all submissions and the further submission 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 RMA, Council gives notice of its decision on submissions to PC54.
- 5.2 Although not within the scope of the plan change, we separately recommend that the Council's transport division undertake investigations into roading improvements as detailed in paragraph 4.18 of this decision. Namely investigating the:
- a) extension of the No Stopping lines along the High Street frontage from Kingston Street towards the south to provide the Minimum Gap Sight Distance (MGSD) of 69m and ideally to accommodate the Safe Intersection Sight Distance (SISD) of 97m; and
  - b) flush median through the Kingston/High Streets intersection be widened to permit left turning traffic to complete their manoeuvre when a vehicle is waiting to turn right into High Street.

DATED AT LOWER HUTT THIS 22nd DAY OF MARCH 2022



Robert Schofield  
Panel Chair

## APPENDIX 1 – Panel Recommendations on Relief Sought by Submissions and Further Submissions

<b>DPC54/001 James Brodie</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
1.1	Whole of Plan Change	Support	Approve the Plan Change.	Accept.
<b>DPC54/002 Paul and Kerry Gillan</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
2.1	Residents Equity	Oppose	Reject the Plan Change	Reject.
2.2	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
2.3	Flooding/ Stormwater	Oppose	Reject the Plan Change	Reject.
2.4	Wastewater	Oppose	Reject the Plan Change	Reject.
2.5	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/003 Danny Langstraat</b>				
<i>[It is noted that Mr Langstraat's submission includes a list of people at a number of nearby addresses who are in support of his submission]</i>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>

3.1	Stormwater	Oppose	Reject the Plan Change	Reject.
3.2	Wastewater	Oppose	Reject the Plan Change	Reject.
3.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
3.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/004 Hutt City Council – Parks and Recreation Division (officer submission)</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
4.1	Public Access and Recreation	Neutral	If approved, recommends changes to the proposal making public access and recreation opportunities matters of control/discretion for subdivision consent at this site.	Reject. We agree that public access and recreational opportunities are valid matters for the design of any subdivision rather than this plan change. We note that there is currently no public access to the stopbank through the subject land.
<b>DPC54/005 Robert Chisholm</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
5.1	Trees	Oppose	A notable tree analysis be undertaken	Reject. Matters related to rating are not an appropriate RMA matter.
5.2	Site History	Not Stated	A thorough test of a “dump area” to clear any concerns about contaminants, paints, garden chemicals, and	Reject. The site is not listed with GWRC as a potentially contaminated site. Testing of individual sites for soakpit and residential development suitability

			building and roofing asbestos.	would occur at subdivision design/application stage.
<b>DPC54/006 Craig Burnett and Keryn Davis</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
6.1	Stormwater	Oppose	Reject the Plan Change	Reject.
6.2	Wastewater	Oppose	Reject the Plan Change	Reject.
6.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
6.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject. It is outside the jurisdiction of the RMA to require Councils to investigate funding sources for privately owned enterprises.
<b>DPC54/007 Steve Machirus</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
7.1	Stormwater	Oppose	Reject the Plan Change	Reject.
7.2	Wastewater	Oppose	Reject the Plan Change	Reject.
7.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon



7.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/008 Jennifer Butler for St James Ave Collective</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
8.1	Stormwater	Oppose	Reject the Plan Change	Reject.
8.2	Wastewater	Oppose	Reject the Plan Change	Reject.
8.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
8.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/009 Paul Laplanche</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
9.1	Stormwater	Oppose	Reject the Plan Change	Reject.
9.2	Wastewater	Oppose	Reject the Plan Change	Reject.
9.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.

9.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/010 David Cody for St James Ave Collective</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
10.1	Stormwater	Oppose	Reject the Plan Change	Reject.
10.2	Wastewater	Oppose	Reject the Plan Change	Reject.
10.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
10.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/011 Henry Clayton and Margaret Waghorn</b>				
<b>Sub. Ref.</b>	<b>Topic</b>	<b>Position</b>	<b>Decision Requested</b>	<b>Recommended Decision</b>
11.1	Whole of Plan Change	Support	Approve the Plan Change. Work with the developers of additional housing in the area to consider ways to manage traffic impacts, and to lower vehicle speeds on Kingston and Allen St to keep these as safe suburban streets.	Accept. We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
<b>DPC54/012 Wendy MacDougall</b>				

Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
12.1	Stormwater	Oppose	Reject the Plan Change	Reject.
12.2	Wastewater	Oppose	Reject the Plan Change	Reject.
12.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
12.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/013 Long Young</b>				
Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
13.1	Stormwater	Oppose	Reject the Plan Change	Reject.
13.2	Wastewater	Oppose	Reject the Plan Change	Reject.
13.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
13.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/014 Roger Harvey</b>				

Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
14.1	Stormwater	Oppose	Reject the Plan Change	Reject.
14.2	Wastewater	Oppose	Reject the Plan Change	Reject.
14.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
14.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/015 Charlie Lee</b>				
Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
15.1	Stormwater	Oppose	Reject the Plan Change	Reject.
15.2	Wastewater	Oppose	Reject the Plan Change	Reject.
15.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
15.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.
<b>DPC54/016 Amy and Alastair Sidford (late submission)</b>				

Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
16.1	Stormwater	Oppose	Reject the Plan Change	Reject.
16.2	Wastewater	Oppose	Reject the Plan Change	Reject.
16.3	Traffic	Oppose	Reject the Plan Change	Accept in part: We consider that Council should investigate conducting traffic safety measures by extending yellow no-parking line markings on High Street and reconfiguring the Kingston/High Street intersection, although our recommendation that the Plan Change be adopted is not conditional upon this.
16.4	Urban Development and Amenity	Oppose	Reject the Plan Change	Reject.

### Further Submission

#### DPC54FS1 Robert Chisholm

Sub. Ref.	Topic	Position	Decision Requested	Recommended Decision
1.	Protection of Trees	Supports Submission DPC54/006	Adherence to the Urban Forest Plan 2010 document and saving the trees on the subject land.	Reject. This document relates only to trees on public open space.