

**BEFORE THE INDEPENDENT HEARING PANEL
APPOINTED BY UPPER HUTT CITY COUNCIL**

IN THE MATTER of the Resource Management
Act 1991 (**RMA**)

AND

IN THE MATTER of a request by **MAYMORN
DEVELOPMENTS LIMITED** for
Private Plan Change 55
(Gabites Block) to the Upper
Hutt District Plan under Part
2 of Schedule 1 to the RMA

**SUMMARY AND UPDATE TO EVIDENCE OF ANDREW BROWN CUMMING
PLANNING AND STATUTORY ASSESSMENTS
17 OCTOBER 2022**

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SUMMARY OF EVIDENCE

1. PC55 seeks to rezone a 74.5 hectare site known as the Gabites Block, that is currently zoned General Rural and Rural Production, to Settlement Zone with a “Gabites Block Development Area” overlay.
2. PC55 would give effect to Upper Hutt City Council’s strategic position set out in the *Upper Hutt Land Use Strategy 2016-2043* (LUS) that the Gabites Block is appropriate for rural residential development.
3. PC55 seeks to achieve the following:
 - (a) enable additional low density and rural residential housing capacity;
 - (b) protect significant natural areas as “Gabites Block Natural Areas”;
 - (c) maintain the landscape values of the west-facing hillside and the main north-south ridgeline;
 - (d) maintain rural residential character;
 - (e) require hydraulic neutrality and water sensitive design; and
 - (f) manage flood hazards.
4. In my opinion, PC55 would provide better environmental outcomes than the blanket Settlement Zone/Rural Production Zone approach indicated in Upper Hutt City Council’s draft PC50.
5. The development of PC55 has been guided by thorough assessment in respect of:
 - (a) Transport;
 - (b) Landscape and visual amenity;
 - (c) Three waters Infrastructure, flooding and engineering;
 - (d) Geotechnical;
 - (e) Soil contamination;
 - (f) Ecology;
 - (g) Archaeology; and
 - (h) Soil and land use capability.

- 6.** Different parts of the site have different landscape characteristics and different capacity to accept built development. PC55 therefore applies a sub-area approach to setting appropriate development density by means of a “Gabites Block Development Area” overlain on a Settlement Zone. The Structure Plan that identifies the six sub-areas also identifies significant natural areas termed “Gabites Block Natural Areas” (GNBAs), a “Ridgeline Protection Overlay”, a noise buffer area adjacent to the rail corridor and an indicative shared cycling and walking trail that enhances the Remutaka Rail Trail, plus a cycling and walking connection to the Maymorn Train Station. The Structure Plan’s indicative on-site road layout is illustrated with “Gabites Block Road Typologies” that show typical allocation of space in the road corridor in different situations.
- 7.** The site’s road links to Maymorn Road are limited to three new intersections. The area’s wider road network has sufficient capacity to accept the additional traffic from development enabled by PC55.
- 8.** The site is not suited for denser, urban development because the reticulated water supply system does not have sufficient capacity to service most of the site. The nature of development proposed is also in keeping with the character of adjacent areas.
- 9.** PC55 provides for subdivision that requires landscape and visual assessment to identify the location of building platforms and access in the landscape-sensitive parts of the site. Building platforms and access must also be located outside the GBNAs. A range of other provisions including buffer planting areas reinforce the protection of visual amenity and rural residential character.
- 10.** PC55 requires hydraulic neutrality and water sensitive design to ensure that stormwater quantity and quality integrate with natural systems, address potential flooding on and beyond the site and limit discharges of sediment and other contaminants. The first subdivision is required to provide a comprehensive stormwater management plan with a system-wide design for stormwater and flood hazard management.

11. The GNBA identifies and protect significant natural areas. The first subdivision is required to complement the GNBA by providing an ecological plan that addresses the management of bats, lizards and nesting indigenous birds outside GNBA.

12. PC55 considers and gives effect to national and regional direction:
 - (a) National Policy Statement – Urban Development 2020;
 - (b) National Policy Statement for Freshwater Management 2020;
 - (c) National Policy Statement for Highly Productive Land 2022;
 - (d) Exposure Draft National Policy Statement Indigenous Biodiversity 2022;
 - (e) National Planning Standards;
 - (f) Regional Policy Statement for the Wellington Region, including Proposed Change 1;
 - (g) Proposed Natural Resources Plan.

13. In terms of the NPSUD, Upper Hutt City is part of the Wellington Region Tier 1 Urban Environment. Policy 2 of the NPSUD requires UHCC to “provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term”.

14. The Regional Housing & Business Development Capacity Assessment 2022 (HBA 2022) required by the NPSUD shows that Upper Hutt needs 12,223 additional dwellings over the next 30 years. PC55 would make a useful contribution to reaching that target.

15. The NPSFM directs how freshwater must be managed in regional plans. Territorial authorities are required to cooperate with regional councils to achieve integrated management. PC55 and the operative UHDP include a range of provisions that assist with complementary management of water quality and quantity as well as natural character and ecology.

16. The NPSHPL is intended to protect highly productive land from inappropriate subdivision, use and development. The NPSHPL does not consider land that is identified for future urban development to be highly productive and it precludes regional councils from mapping such land as being highly productive. It also provides for exclusions for highly productive land that is subject to permanent or

long term constraints. For the purposes of the NPSHPL, the site is identified for future urban development through the LUS. In addition, the Landsystems assessment concluded that the site's potential areas of productive soils have undergone extensive modification over the years and any productive areas are small and fragmented and could not usefully be economically viable for highly productive uses.

- 17.** Although it is not operative, I also considered the Exposure Draft National Policy Statement - Indigenous Biodiversity 2022. PC55's approach of identifying and protecting significant natural areas as "Gabites Block Natural Areas" and requiring the first subdivision to provide an Ecological Plan that deals with bats, lizards and nesting indigenous birds is consistent with the draft NPSIB.
- 18.** UHCC had migrated the operative UHDP into National Planning Standards format. PC55 was therefore readily able to be set out using the tools and requirements of the National Planning Standards, while integrating with the operative UHDP.
- 19.** I considered the RPS including Proposed Change 1. In my view PC55 is well-aligned with RPS requirements including:

 - (a) The importance of spatial planning to identify appropriate areas for development,
 - (b) The management of water quantity through hydraulic neutrality and management of flood hazards and water quality through water sensitive design to regional standards, complemented by setbacks from waterbodies and erosion and sediment control provisions for earthworks;
 - (c) The protection of indigenous biodiversity as described above;
 - (d) Appropriate and proportional responses to climate change, including providing for active transport modes, protecting native forest and addressing potential flood hazards.
- 20.** PC55 considers and gives effect to spatial planning instruments, namely the Wellington Regional Growth Framework and the LUS.

- 21.** In my primary statement of evidence I have carefully set out and considered the matters raised by submitters and the experts advising UHCC, as well as the advice given to me by MDL’s experts. I have participated in a number of discussions that sought to identify further matters that needed to be addressed and sought to agree on appropriate plan provisions. My evidence included recommended amendments to the plan change provisions, identifying the relatively few provisions where I suggested amendments to the s42A Report version.
- 22.** Mr Whittaker and the peer reviewer Mr Wignall are satisfied the transport network has the capacity to safely accept the traffic likely to be generated from development enabled by PC55. The internal roading typologies provide for active modes and integrate with landscape, character and water sensitive design considerations. A cycle and pedestrian link is provided to Maymorn Station and enhancements to the Remutaka Rail Trail are enabled. The recommended plan provisions are agreed with Ms Tessendorf.
- 23.** Mr Blyde is satisfied that three waters and other infrastructure are able to be provided to appropriate standards. Flood modelling shows the site is able to be developed without increasing downstream flooding or exposing on-site development to unacceptable risk. I agree that development must be designed to avoid downstream effects. Through the resource consent process, if proposed development could not demonstrate that this outcome would be achieved, it would not be consentable. Accordingly, I have recommended amendments to strengthen PC55’s flood hazard provisions. Mr Wilson and Ms Tessendorf have also suggested an additional cross-reference to the flood hazards Policy DEV3-NH-P2 from subdivision Policy SUB-DEV3-P1 (see Clause 5 below) and land use Policy DEV3-P2 (see Clause 9 below) and minor amendments of clarification to Policy DEV3-NH-P2 and information requirement SUB-DEV3-IR-3, all of which I agree with.

<u>SUB-DEV3-P1</u>	<u>Creation of Allotments</u>
<u>Gabites Block Development Area</u>	<p><u>Require subdivision to result in allotments that:</u></p> <p>1. <u>Give effect to the Gabites Block Development Area Structure Plan in DEV3-APPENDIX1;</u></p> <p>2. <u>Are of a size and shape that are sufficient to accommodate the anticipated use and development form for the applicable Area;</u></p>

	<p>3. Are serviced by reticulated network utilities or on-site servicing <u>including adequate provision and access to a firefighting water supply; and</u></p> <p>4. <u>Achieve the requirements for Gabites Block Natural Areas set out in DEV3-ECO-P2, DEV3-ECO-P3 and DEV3-ECO-P4;</u></p> <p>5. <u>Achieve the requirements for subdivision in relation to Flood Hazards set out in DEV3-NH-P2.</u></p> <p>4. Minimise the fragmentation of Gabites Block Natural Areas; and</p> <p>5. Provide for buildings to be located outside any Gabites Block Natural Areas.</p>
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DEV3-P2	Low Density Residential and Rural Residential Use and Development
<p>Provide for low density residential and rural residential use and development that achieves the following:</p>	
<p>1. Site design, layout and scale of the activity that are compatible with the character and amenity values anticipated in the applicable Area;</p>	
<p>2. Site design and implementation that:</p>	
<p>a. Avoid built development that has significant unacceptable adverse visual effects on the skyline of the main north-south ridge shown on the Gabites Block Development Area Structure Plan in DEV3-APPENDIX1, when viewed from Maymorn Road or Parkes Line Road;</p>	
<p>3. Building design and implementation that achieves:</p>	
<p>a. Recessive built forms and finishes;</p>	
<p>b. Attenuation of external noise for sleeping rooms locating in the Gabites Block Rail Corridor Buffer Area of the Gabites Block Development Area Structure Plan in DEV3-APPENDIX1.</p>	
<p>4. Landscape design and implementation that:</p>	
<p>a. Maintain and enhance the vegetated hillside backdrop to Maymorn;</p>	
<p>b. Avoid visually-impermeable boundary fencing, including avoid close-boarded and solid panel fencing, and avoid front boundary fences of higher than 1.2m;</p>	
<p>c. Ensure outdoor living spaces are well located, accessible and have access to sunlight;</p>	
<p>d. Use planting to achieve visual amenity, safety and functionality;</p>	
<p>e. Ensure driveways, manoeuvring and parking areas are visually unobtrusive;</p>	
<p>f. <u>Screen water tanks from views from public places with timber lattice or planting;</u></p>	
<p>fg. <u>Provide a visually-permeable, planted buffer along Maymorn Road.</u></p>	
<p>5. Lighting that enhances safety and security without adversely affecting the amenity of other sites.</p>	
<p>6. Private vehicle crossings that do not connect directly to Maymorn Road.</p>	
<p>7. Transport networks that:</p>	
<p>a. avoid significant unacceptable adverse effects on the rural character or landscape values of the Gabites Block and Maymorn context; and</p>	
<p>b. <u>Achieve the management of stormwater quality and quantity set out in DEV3-P1, DEV3-SW-P1 and DEV3-SW-P2.</u></p>	
<p>8. <u>Site design, layout and implementation that achieves the management of stormwater quality and quantity set out in DEV3-P1, DEV3-SW-P1 and DEV3-SW-P2.</u></p>	
<p>9. <u>Site design, layout and implementation that achieves the requirements of DEV3-NH-P2.</u></p>	

24. I have also discussed and reached agreement with Ms Tessendorf on recommended amendments to the hydraulic neutrality provisions to reflect where responsibility for hydraulic neutrality would sit for individual allotments created by subdivision. As Mr Blyde has explained, the subdivision process would

address hydraulic neutrality for shared impervious surfaces in the road corridors. Hydraulic neutrality on individual allotments would be addressed by allotment owners at the time of construction of buildings and structures that create impervious surfaces. I understand that Mr Wilson supports the provisions. The recommended amendments to DEV3-SW-P2 and DEV3-S12 are shown below.

DEV3-SW-P2	Hydraulic Neutrality
<p>Require all subdivision, use and development to achieve hydraulic neutrality as follows:</p> <p>1. Require any increase in impervious surfaces above the Area standard for individual sites to address any impact on hydraulic neutrality by demonstrating that existing hydraulic neutrality facilities have sufficient capacity or by providing sufficient water storage for hydraulic neutrality on the site;</p> <p>1. Require sites to achieve hydraulic neutrality either through on-site design and storage or through communal measures and facilities that provide for hydraulic neutrality across multiple sites. Where the hydraulic neutrality requirement is provided by an authorised off-site stormwater management device or system, the system must be designed, constructed and operated to receive and manage stormwater from the site.</p> <p>2. Provide hydraulic neutrality facilities for roads, footpaths and other impervious surfaces within the road corridor;</p> <p>3. Provide for hydraulic neutrality facilities that are appropriately located and designed to ensure continued access for device inspection, maintenance and upgrade; and</p> <p>4. Design hydraulic neutrality facilities so that they are sized in accordance with the Wellington Water Limited Regional Standard for Water Services (2019/2021).</p>	

DEV3-S12	Impervious Surfaces Hydraulic Neutrality	
<p>North West Area Gabites Block Development Area</p>	<p>The total area of impervious surfaces must not exceed 70% of the site area.</p> <p>1. Any construction of buildings, structures or other impervious surfaces must achieve hydraulic neutrality.</p> <p>2. A design certificate from a suitably qualified engineer must be provided to Upper Hutt City Council prior to the construction of any building, structure or other impervious surfaces certifying that hydraulic neutrality will be achieved.</p>	<p>Matters of discretion are restricted to:</p> <p>M1. The measures used to achieve hydraulic neutrality;</p> <p>M2. Location, design, ownership and access for maintenance, including any necessary easements; and</p> <p>M3. Whether there are any constraints or opportunities that mean that hydraulic neutrality is not required.</p>
<p>Valley Flats Area, Station Flats Area, Hilltops Area, Hilltop Basin Area, Hillside Area</p>	<p>The total area of impervious surfaces must not exceed 50% of the site area</p>	

25. I accept Mr Hudson’s advice that the site has the capacity to absorb the density proposed by PC55, provided it is managed in specific areas of the site by the

development area overlay and planning provisions managing visual impacts and rural residential character.

- 26.** Mr Hudson has considered the visual and character issues raised by submitters and Ms Annan, and in discussion with Ms Annan, Ms Tessendorf and me, suggested amendments to strengthen PC55's protection of the main north-south ridgeline and the character of the Hilltops Area. I understand the recommended amendments, including those set out in my evidence, are accepted by Ms Annan and Ms Tessendorf.
- 27.** As noted above, indigenous biodiversity has been comprehensively addressed. Ms Coates has discussed the plan provisions with Mr Goldwater and reached agreement on all matters. I understand the relevant PC55 provisions are accepted by Ms Tessendorf.
- 28.** In my opinion PC55, including the amendments recommended in my evidence, is the most appropriate way to achieve the sustainable management purpose of the Act.

Andrew Cumming

17 October 2022