

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14 of  
Schedule 1 to the Act

BETWEEN PPG1 LIMITED

(ENV-2010-WLG-000047)

Appellant

AND WELLINGTON CITY COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge CJ Thompson sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

#### CONSENT ORDER

##### *Introduction*

[1] The Court has read and considered the appeal and the parties' memorandum received 1 February 2012.

[2] No person gave notice of an intention to become a party under s274.

[3] The Court is making this order under section 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for the present purposes that:

(a) All parties to the proceedings have executed the memorandum requesting this order; and

(b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and provisions of the Act, the relevant particular Part 2



*Order*

[4] The Court orders, by consent, that the respondent's decision declining Proposed Plan Change 67 (rezoning of 43 Spenmoor Street), dated 30 March 2010, be amended as set out in Appendix 1.

[5] The appeal is otherwise dismissed.

[6] There is no order as to costs.

DATED at Wellington this 7<sup>th</sup> day of March 2012

  
\_\_\_\_\_  
Thompson  
Environment Judge



THE SEAL OF THE  
ENVIRONMENT COURT OF NEW ZEALAND

Appendix 1



WELLINGTON CITY DISTRICT PLAN

PROPOSED DISTRICT PLAN CHANGE 67 – REZONING OF  
LAND AT 43 SPENMOOR STREET, NEWLANDS FROM RURAL  
AREA TO RESIDENTIAL (OUTER) AREA

ALTERATIONS TO THE WELLINGTON CITY DISTRICT PLAN

Detailed below is a revised private plan change as a result of a Consent Order Environment Court Decision no. [2011] xxxxx dated xxxxx in respect of Prime Property Group Limited (PPGL) vs Wellington City Council (WCC).

A. ALTERATIONS TO VOLUME TWO, RESIDENTIAL AREA

Chapter 5, 'RESIDENTIAL AREAS'.

1. **Insert** reference to new Appendix 29 into the Schedule of Appendices after Chapter 5 'Guide to Rules' and before the start of Chapter 5:

Number	Appendix
29	43 Spenmoor Street, Newlands

2. **Insert** the following explanatory note into the margin adjacent to Rule 5.1.3, 5.2.5, 5.3.3, 5.3.4 and 5.3.14:

*"For residential buildings and subdivision at 43 Spenmoor Street, Newlands (lots 8-10, 24-30 and 33 DP 403079) refer to Appendix 29."*

3. **Insert** the following new Appendix 29 in to Chapter 5:

**Appendix 29. Residential buildings and subdivision of 43 Spenmoor Street, Newlands (Lots 8-10, 24-30 and 33 DP 403079)**

*The following District Plan rules, Pukehuia Structure Plan and Pukehuia Design Guide apply to Lots 8-10, 24-30 and 33 DP 403079, 43 Spenmoor Street, Newlands, and result from a Consent Order ~~Environment Court Decision no. [2011] xxxxx~~ that settled the District Plan Reference ENV-2010-WLG-000047 on Plan Change 67 filed by Prime Property Group Limited on 30 April 2010.*

**Comprehensive development of the land**

*Residential buildings and subdivision shall be a discretionary (restricted) activity at 43 Spenmoor Street (Lots 8-10, 24-30 and 33 DP 403079), in accordance with the following*



### *Residential development*

21.1 **Rule 5.3.4** of the Operative District Plan shall apply to all new residential buildings at 43 Spenmoor Street, Newlands (Lots 8-10, 24-30 and 33 DP 403079) —with the following additional provisions:

**Add** a new ‘matter of discretion’ in 5.3.4a, which shall only apply to new residential buildings at 43 Spenmoor Street, Newlands (Lots 8-10, 24-30 and 33 DP 403079): F  
landscape management and maintenance

**Add** a new ‘Standard and Term’ under 5.3.4:

The number of household units shall not exceed 90 over Lots 8-10, 24-30 and 33 DP 403079 and the development must be consistent with the Pukehuia Structure Plan and the Pukehuia Design Guide.

### *Subdivision*

21.2 **Rule 5.3.14** (subdivision) shall apply to 43 Spenmoor Street (lots 8-10, 24-30 and 33 DP 403079), except that provisions relating to ‘Ridgelines and Hilltops’ shall not apply to the land ~~and~~ as long as the subdivision is consistent with the Pukehuia Structure Plan.

### *Design Statement*

21.3 In addition to the relevant information requirements of section 3.2 of the District Plan, any consent applications submitted for subdivision or residential buildings within this Appendix area shall be accompanied by a Design Statement that assesses the proposal for consistency with the Pukehuia Structure Plan and the Pukehuia Design Guide.

### *Non-notification*

21.4 Applications pursuant to the provisions contained in this Appendix need not be publicly notified (unless special circumstances exist) or limited notified.

## **2. Development not complying with Appendix 29 provisions**

2.1 ~~2.5~~—Applications for residential buildings and subdivision at 43 Spenmoor Street, Newlands (Lots 8-10, 24-30 and 33 DP 403079) not in accordance with the provisions contained in this Appendix shall be assessed as a discretionary (unrestricted) activity in accordance with Rules 5.4.5 (subdivision) and the following rules 5.4.6 (residential buildings):

2.1.1 The construction, alteration of, and addition to residential buildings, accessory buildings and residential structures at 43 Spenmoor Street, Newlands (lots 8-10, 24-30 and 33 DP 403079), which do not comply with the provisions in this Appendix (including the structure plan) are a discretionary activity (unrestricted).

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to assessment criteria 5.3.3.5 -5.3.3.13 listed under rule 5.3.3.



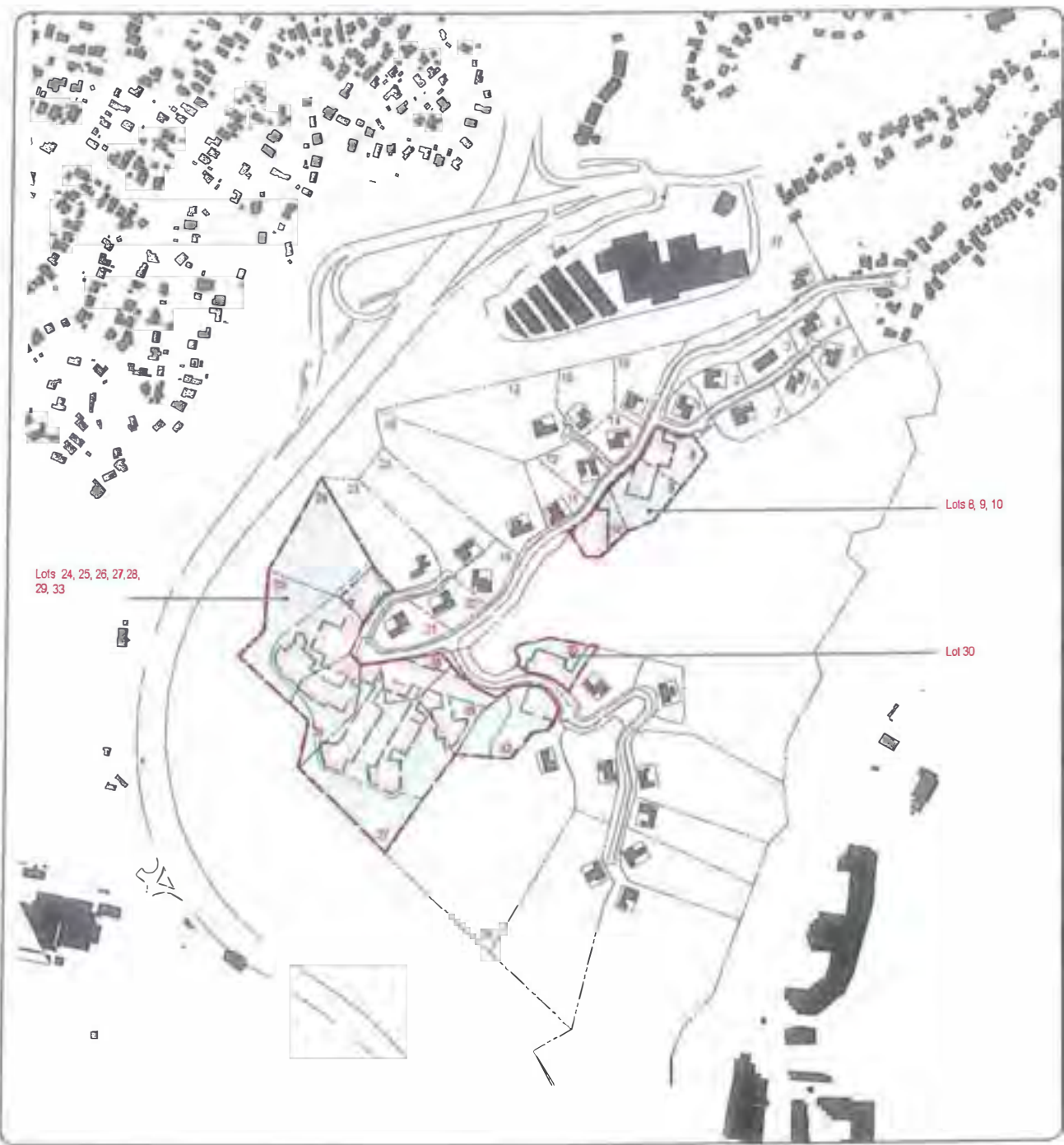
subdivision and residential development resource consents for Lots 8-10, 24-30 and 33 DP 403079 have been undertaken in accordance with the provisions contained in this Appendix. The standard District Plan provisions shall apply to subsequent subdivision and

development of the land, except that the 90 Lot limit referred to above, will not be able to be exceeded unless approved in accordance with discretionary (unrestricted) activity rules 5.4.5 (subdivision) and Rule 2.1.1 above.5.4.6 (residential buildings).

Lots 1-7, 11-23, 31 and 32 DP 403079 (43 Spenmoor Street) are zoned Outer Residential Area but are not subject to any of the provisions in this Appendix. These allotments are subject to resource consent decision SR 14029 dated 9 June 2006, which limits each allotment to 1 dwelling in a specified location.

Where the proposals are consistent with the Pukehuia Structure Plan and the Pukehuia Design Guide applications will be assessed as discretionary (restricted) activities and will be processed on a non-notified basis without the need for affected party approval.





Key:

- Protected reserve area.
- Shared Landscape reserve areas.
- Privately owned residential building + open space.
- Indicative street layout.
- Indicative extent of building and driveway area.
- Boundary of Structure Plan.



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LANDSCAPE STRATEGY

- > Housing arranged in clusters to allow wide bands of indigenous revegetation to occur. Buildings generally located on one side of the street / driveways.
- > Existing pine shelter belt partly retained - where removed they will be replaced by indigenous revegetation.
- > Usable public open space including playground is provided at centre of clusters.



LANDSCAPE STRATEGY - SITE PLAN



-  Potential public space (playground with bbq facilities, lawn + seating)
-  Ecological corridor
-  Existing Pine shelter belt partly retained
-  Indicative proposed recreation track
-  Boundary of Structure Plan
-  Potential Hilltop lookout connected to track network





### 1. Terrace House

- Terrace house typology - 2/3 bedroom, 80m<sup>2</sup>-120m<sup>2</sup>
- Higher density housing model
- Built form established minor gateways and threshold conditions
- Positioned on existing areas of flat land below defined hilltops
- Supports quality safe well maintained publicly accessible car parking and open space
- Works to road edge to ensure confident use of existing modified landform resulting from its construction
- Provide the ability for the site to make best use of prime flat land with well planned medium density housing in closest proximity to growthspine of local shopping & business centres

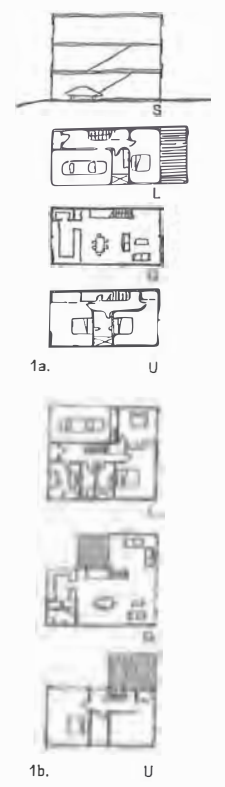
#### Precedents + Sketch Perspectives of Scheme



Section Locater Plan



Indicative Typology Plans



#### Sections Indicating Landscape Strategy

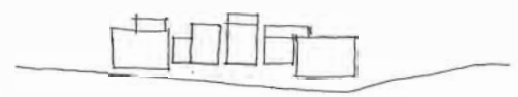
Section 1A-A

Section through square terrace housing



Section 1B-B

Section through square terrace housing



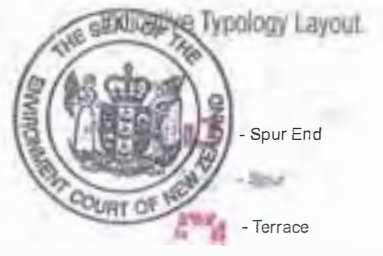
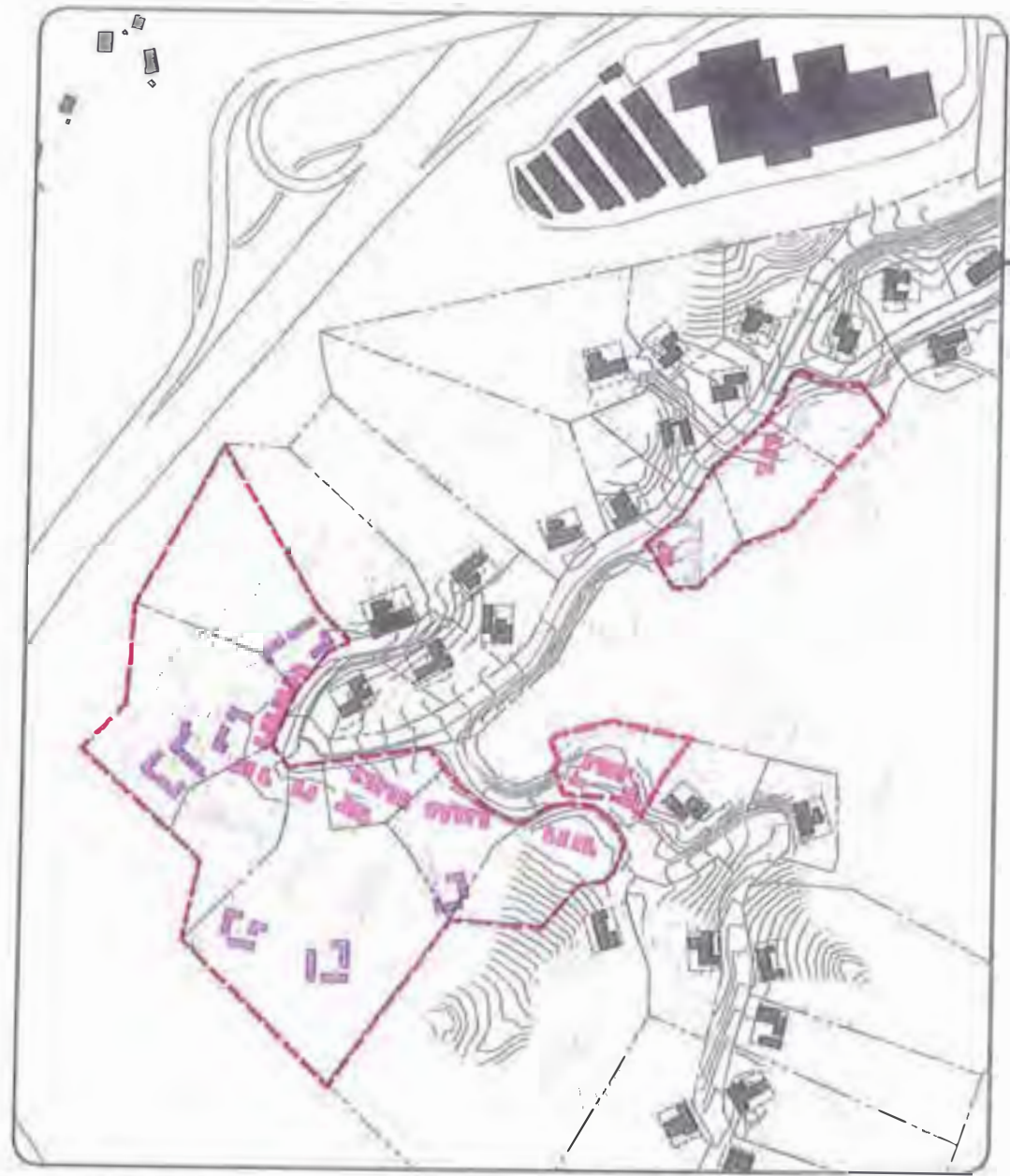
Section 1C-C

Section through central terrace housing



Section 1D-D

Section through central terrace housing



## 2. Spur House

- Spur house typology - 3/4 bedroom, 150m<sup>2</sup>-170m<sup>2</sup>
- House type associated with minor spurlines. Not directly aligned with a spur but sit just off the ridge allowing the natural landform to remain intact, be vegetated and be defined by builtform leaving tree covered spurs extending into valleys
- Houses traverse terrain allowing opportunity for bush to infiltrate the built 'edge'
- Houses are potentially obscured by the spur and further obscured by encouraged regenerated vegetation
- South sides of nodes are generally favoured to ensure maximum shelter and harbour views
- Position relative to spur ensures extended sunlight hours to western faces
- South side occupation of spur together with regeneration designed to minimise or eliminate visual impact from any neighboring hilltops or suburbs.

### Precedents + Sketch Perspectives of Scheme

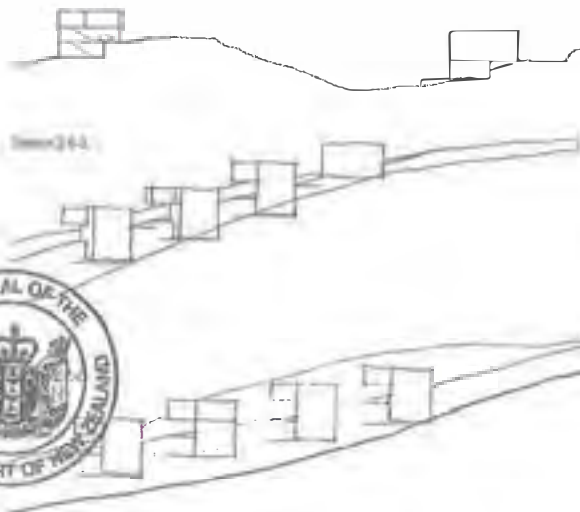


Section Locator Plan

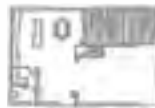


### Sections Indicating Landscape Strategy

Section 2A-A  
Section through developed spur



### Indicative Typology Plans



2a.



2b.

- Rural / Cul-de-sac model - 4/5 bedroom, 200m<sup>2</sup> +
- Larger houses in small clusters that occupy the sides of spurs at the end of selected spurlines
- These houses are fewer in number and occupy the most secluded and valuable extremities of the site to the south and also in selected north facing areas adjacent to rural sections owned by others
- These are intended to compare favourably and help to integrate with the types of housing that will be encouraged by the existing situation
- These dwellings cluster in groups of 1 - 3 around the descending slopes of spurs just above the established tree line and covenant. This is intended to ensure that only 1 - 2 houses are seen on each spur from neighboring residential areas.
- Spur houses are intended to be able to be the most distinctive and an inspirational face to the development
- They are few in numbers with large spaces of bush between and this will tend to define an occupation consistent with bushclad 'rural' hillside probably more consistent with low density high quality housing in conservation or reserve areas such as Coromandel, Abel Tasman and Point Howard to Eastbourne.

### Precedents + Sketch Perspectives of Scheme

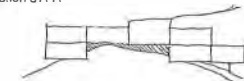


Section Locator Plan

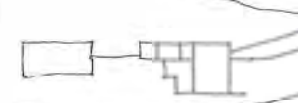


### Sections Indicating Landscape Strategy

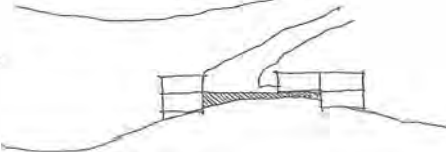
Section 3A-A



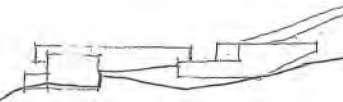
Section 3B-B



Section 3C-C



Section 3D-D



Indicative Typology Plans



3a.

G



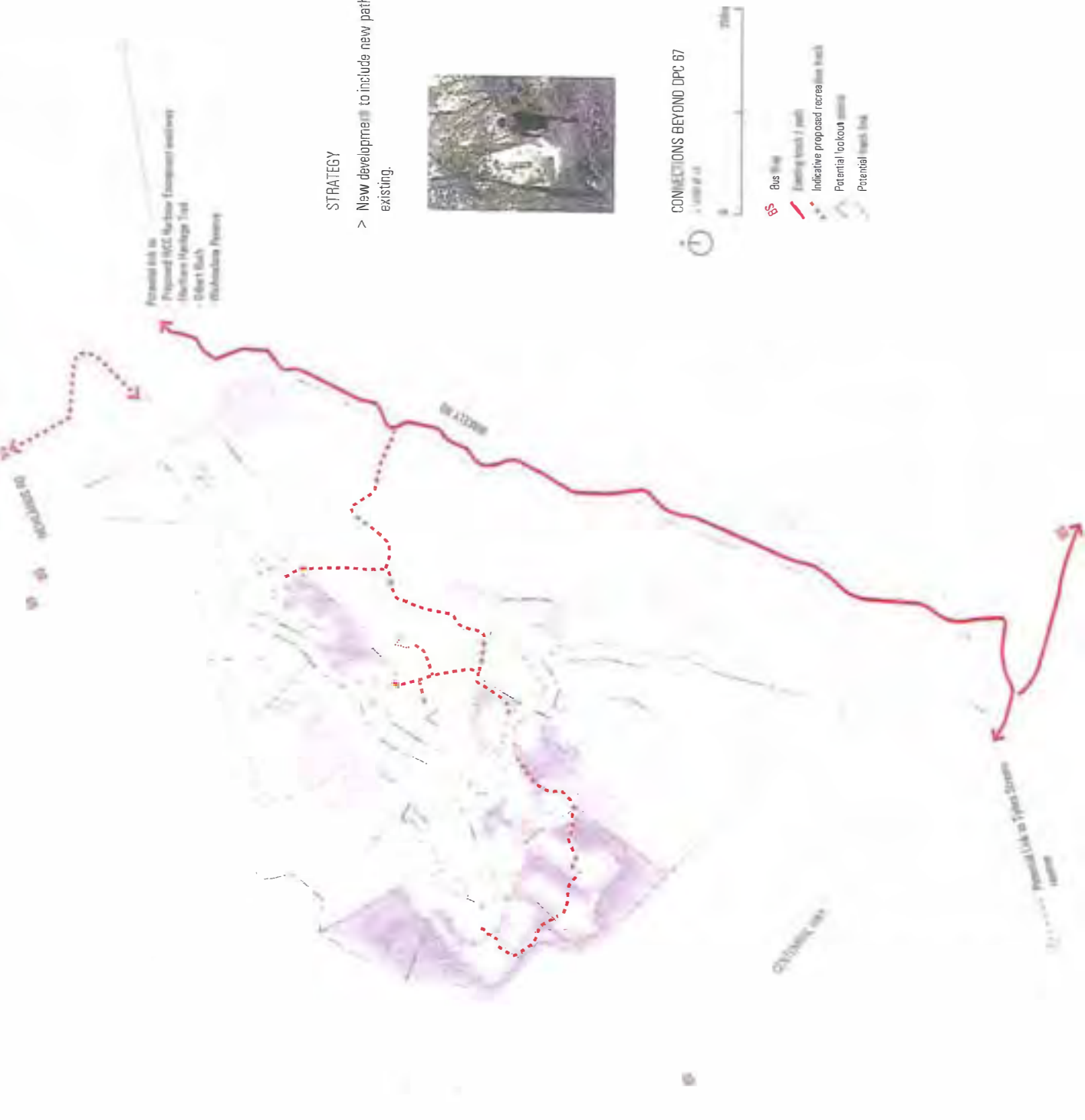
L



3b.

G

l i m i t e  
a t h f i e l  
a r c h i t e c t  
l i m i t e  
a t h f i e l



STRATEGY

- > New developments to include new path network to link with existing.



**PUKEHIA STRUCTURE PLAN**

# Pukehuia Design Guide

## Design Objectives / Guiding Principles

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### STRUCTURE PLAN INTENTION [REFER DRAWING1]

#### Site planning

- *Create a comprehensive development with a strong sense of community that is tailored to the site-specific conditions of the landscape*

#### Integrity of landscape

- *Recognise and provide for areas of high landscape value [pine tree shelter belts, hilltops]*

#### Relationship between built and natural form

- *Promote a sensitive relationship between built and natural form by:*
  - *siting roads and buildings in a way that minimises earthworks; and*
  - *clustering buildings between bands of regenerative natural landscape*

#### Open space network/pedestrian connectivity

- *Create a place with a strong sense of community that derives its identity from the natural character of the landscape*
- *Create a network of pedestrian connections and quality open spaces (public and private)*
- *Create a diverse typology of landscape spaces both natural and constructed that is responsive to site specific conditions*

#### Landscape strategy

- *Develop and implement a comprehensive landscape strategy that maintains and enhances the natural character of the site*

#### House design/typology

- *Provide diversity of house types designed in response to the variation of topographical conditions*
- *Site houses to optimise solar access and views and mitigate wind exposure*

#### Sustainability

- *Promote environmental sustainability by adopting low impact urban design, low impact subdivision and energy efficient building design*





## Design Guide Objectives & Guiding Principles

### 1. SITE PLANNING

#### Comprehensive Integrated Site Planning

**Objective 1:** Create a site layout that responds to the existing physical context and clearly identifies features of landscape value that should be maintained as well as areas suitable for development [refer Drawing 2]

**Objective 2:** Locate driveways, dwellings and open space as a coherent whole and in a way that complements the specific character of the landform, optimises amenity and liveability, and reflects the best aspects/precedents of Wellington's residential hill-side development.

*P: Locate streets and buildings as generally indicated on the Structure Plan [refer Drawing 1].*

*P: Create identifiable residential clusters comprised of house types designed to fit in with the site specific topographical conditions [refer Drawings 3 and 4].*

*P: Create pedestrian links and develop driveways [as shared spaces for cars and pedestrians] to maximise pedestrian connectivity and foster a sense of community.*

*P: The location and layout of driveways should follow the contours of the land to ensure ease of access and to create driveways with acceptable gradients and minimal earthworks. Driveway retaining structures should be avoided or minimised where practicable by integrating as part of a building structure.*

*P: Create public and private open spaces that provide for a diverse array of recreation and amenity.*

### 2. INTEGRITY OF LANDSCAPE

**Objective 3:** Maintain the integrity of the underlying land form and its characteristic ridgelines, hill tops and significant vegetation/tree clusters/shelter belts.

**Objective 4:** Ensure the street network and any built structures relate to the existing landform in a sensitive manner.

*P: Protect ridge lines from development.*

*P: Introduce significant areas of indigenous planting to help integrate structures into the landscape as part of a long-term revegetation strategy*

*P: Recognise and provide for existing pine shelter belts for wind shelter and visual screening from surrounding areas. Locate buildings at a sufficient distance from the existing pine shelter belts, except in relation to the 'spur end' houses where some encroachment may occur (refer Drawing 2 for general locations). In these cases it will*





*need to be demonstrated that the quality of the built form will enhance the overall setting without compromising the integrity (visual or structural) of the remaining stand of trees.*

*P: Minimise street width in response to steepness of the site to avoid extensive earthworks.*

*P: Incorporate diverse native shrub and tree planting into the detailed design of the driveways' edges as a means of achieving a well integrated outcome.*

*P: The design and construction of any driveways or built structures should minimise earthworks. Earthworks should be:*

- small scale and self supporting by natural batter and able to be planted; or*
- be retained and concealed by housing as an integral part of the overall building structure*

### **3. BUILT FORM**

**Objective 5:** Ensure that the collective built form of the development is complementary to the existing landscape setting, while making reference to the general scale and visual character of the adjacent Residential Areas.

*P: Ensure an appropriate balance between built/developed areas and open space areas in which the natural character (landform and vegetation) of the site remains its dominating feature.*

*P: Introduce building typologies tailored to fit the three distinct topographical conditions of the land identified as suitable for development, namely spur, spur ends, and essentially flat land or terraces [refer to Drawings 3 and 4].*

*P: Arrange buildings in identifiable groupings/clusters separated by areas of open space forming a distinct green network surrounding the clusters. The location of the building clusters should be positioned around the flatter parts of the site except on spurs where clusters will follow the landform with minimal earthworks and gradients.*

*P: Design houses as individual free-standing buildings. The separation distances between the individual buildings within the clusters should be sufficient to:*

- allow and support some areas of amenity planting to assist integration with the landscape setting; and*
- enhance the individual scale/presence of each building in close-up and mid range views and provide amenity and visual privacy. As a general guidance, the separation distances should have some variation and provide opportunity to park a car at some locations.*

*P: To achieve a good level of integration between built and natural form and enhance the character and amenity of the development, the following should be incorporated into the detailed planning and design of the residential clusters:*

- provide amenity planting in the spaces between building clusters and/or individual buildings to enhance their visual separation and provide a sense*



of scale. Select and plant species that will attain sufficient height to provide vertical scale and reduce visual impact of buildings.

- introduce variation in driveway width to reduce any linear effect and variation of length by allowing for landscape treatment at edges.
- vary frontage setbacks, building orientation and size/shape of building footprints, as well as building height and roof form (as appropriate per the house typology) to create diversity and visual interest.

#### 4. OPEN SPACE NETWORK/PEDESTRIAN CONNECTIVITY

**Objective 6:** Create a well connected community through a network of pedestrian connections and quality open spaces (both public and private).

*P:* Provide public open space including lookout points, play areas and unprogrammed spaces of varying size and topography to facilitate informal gatherings of the community. These should be provided in the approximate locations indicated on the Structure Plan [refer Drawing 4]. Ensure the majority of the most prominent open space areas are centrally located and publicly accessible via well defined pedestrian links or driveways and overlooked by houses to facilitate informal surveillance.

*P:* Provide private open space for each dwelling which is of high quality, with a pleasant outlook, and creates a visually attractive setting. Individual private open space should be:

- usable, well integrated into the dwelling and appropriate to its type; and
- directly connected to the main living area of the unit.

*P:* Private open spaces will be developed in the form of a defined area incorporating both hard and soft landscape elements. This may include decks and/or natural ground depending on the land form and the house type. The use of predominantly indigenous planting is encouraged. Generally an area of 50m<sup>2</sup> will be provided for each unit.

**Objective 7:** Develop a clear network of pedestrian connections throughout the development that link to existing walkways.

*P:* Develop cross-site pedestrian walkways linking to the footpaths along the existing streets and intended driveways to ensure the different parts of the development and the intended areas of open space for shared use are well connected. [refer Drawing 2 for the location/layout of the intended pedestrian links].

#### 5. LANDSCAPE STRATEGY

**Objective 9:** Develop and implement a comprehensive landscape strategy that derives its identity from the natural character of the site.

*P:* The landscape strategy should

- be visible in all areas that are outside the intended areas for development with indigenous planting appropriate to the site
- provide a landscape concept for the treatment of private open spaces to ensure it has a positive effect on the local street scene and its quality is consistent throughout the development



- *provide a management regime of all planted and public spaces that ensures long term viability, protection and enhancement of landscape values*
- *use planting as a predominant boundary marker or exterior walls that are designed as an integral part of the dwelling, avoiding the need for fences.. If fences are required they should be generally low (e.g. 1.2m high) and temporary while planting is established.*
- *develop a low level lighting strategy as an integral part of the landscape strategy to minimise effects on views from the wider Residential Areas*

## 6. HOUSE DESIGN / TYPOLOGY

### Building Character and Identity

**Objective 10:** Deliver diversity of housing types designed to fit in with the topographical conditions and to foster a closer sense of community.

*P: Intended house typologies include [refer Drawings 3 and 4]*

- *'spur' house*
- *'spur end' house*
- *'terrace' house*

*P: The distribution of the three house types is indicated on the Structure Plan [refer 'Indicative Typology Layout', Drawing 3]. Variations within each house typology are intended to provide a sense of diversity, allow for personalisation and enhance the individual sense of address for each residential unit. Any such variations are to be developed and achieved as part of an integrated and coherent design framework.*

**Objective 11:** Ensure that the design of the main building frontages contribute to the safety, amenity and character of the local streetscape.

*P: Incorporate design detail on the main building frontage to provide a sense of human scale and expressive three-dimensional facade modelling.*

*P: Create legible entrance areas to each house enhanced via design features and detail*

*P: Integrate garages into the bulk of the dwelling and use planting and hard landscape elements to reduce their visual impact*

**Objective 12:** Ensure that the collective roofscape of the separate housing clusters provides a sense of variation that enhances the identity and visual character of the development in views from within the surrounding Residential Areas while making reference to the scale and character of the wider residential environment.

*P: Introduce a combination of sloping roof forms with variable pitch and orientation interspersed with some flat roofs.*



**Objective 13:** Ensure the orientation of each dwelling, as well as the location and design openings optimise amenity, and maximise solar access and views, as well as shelter from the wind.

## 7. SUSTAINABILITY

**Objective 14:** Promote environmental sustainability through low impact urban design, low impact subdivision and energy efficient building design.

*P: Employ designs that promote:*

- *passive heating and natural ventilation*
- *the use of renewable/recyclable materials*
- *the use of products which minimise transport requirements*

**Objective 15:** Minimise extent of site services reticulation.

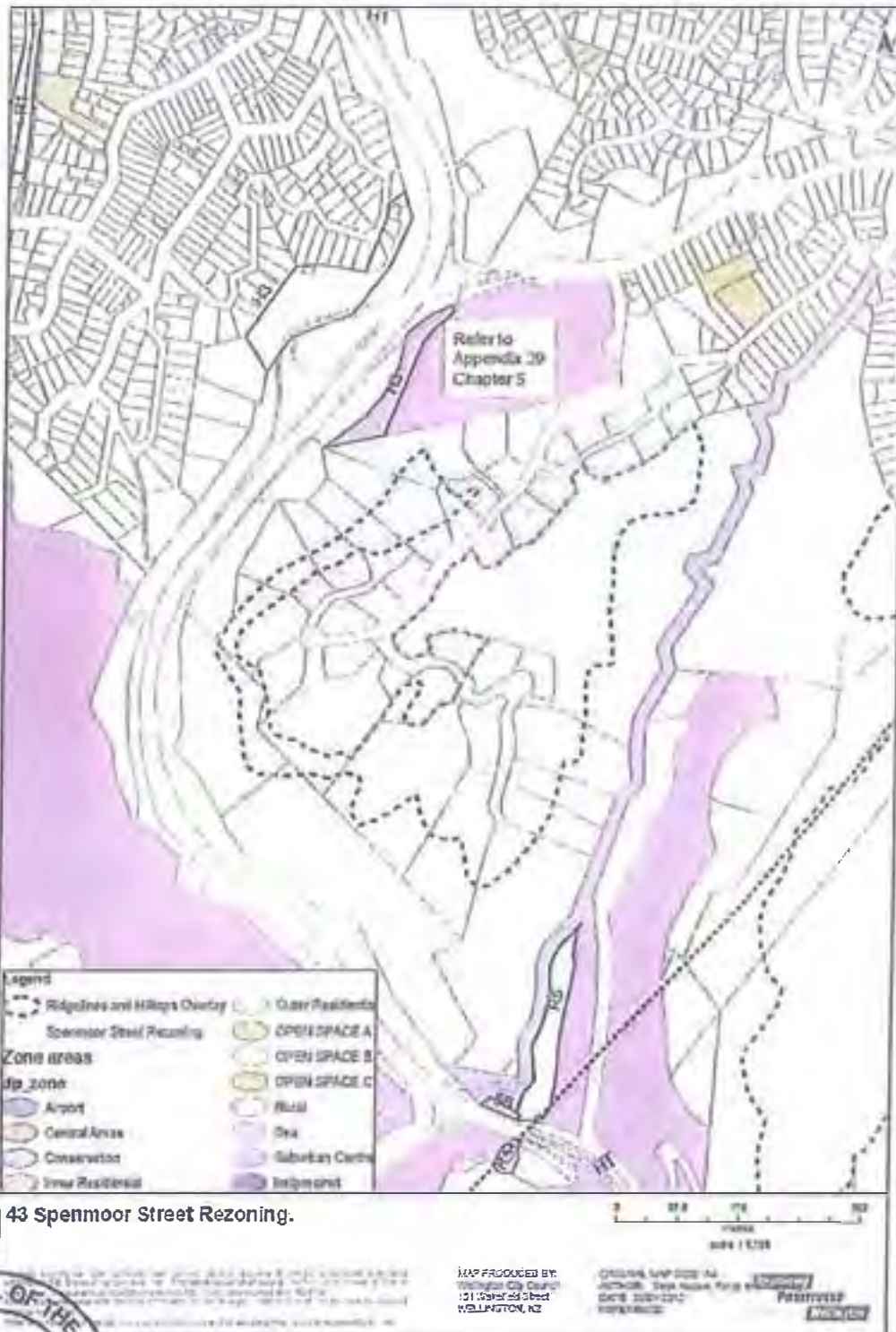
*P: This can be achieved through*

- *clustering of units so that service requirements can be localised and agglomerated*
- *minimising areas for capture of storm water, increase natural control and use of rainwater within green spaces*
- *P: Maximise infiltration of stormwater by diverting streets and roof runoff into shallow gradient swales for gradual dispersal into ground water.*



**B. ALTERATIONS TO VOLUME THREE, MAPS**

**Rezone** Lots 1-30 and Lot 33 DP 403079, at 43 Spenmoor Street (as shown on the zoning map below) from Rural Area to Outer Residential Area.



**Insert** on District Plan Maps 22 and 23 a notation which refers to the properties to be subject to Appendix 29 which reads:

“Refer to Appendix 29 – Chapter 5”

**Delete** the Ridgelines and Hilltops Overlay on Maps 22 and 23 as it applies to land at 43 Spenmoor Street, Newlands (lots 8-10, 24-30 and 33 DP 403079).

