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**REPORT 4**  
*(1215/53/IM)*

## **DISTRICT PLAN CHANGE 33 - RIDGELINES AND HILLTOPS - BEST FARMS LTD - APPEAL MEDIATION**

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### **1. Purpose of Report**

To seek a mandate from the Committee to settle the appeal from Best Farms Ltd by consent.

### **2. Recommendations**

Officers recommend that the Committee:

- 1. Receives the information.*
- 2. Agrees to settle the appeal from Best Farms Limited by delineating the ridgeline and hilltop overlay lines on the appellant's property in lower Stebbings Valley, as shown on Map 1 appended to this report.*
- 3. Agrees to include appropriate wording in the consent order to the effect that in respect of Marshall Ridge, the land owner, and/or the Council will consult with the Glenside Progressive Association regarding any work or activity on land above the ridgeline and hilltop overlay line prior to the land being vested in the Council as reserve.*

### **3 Background**

District Plan Change 33 was notified in 2004 and focussed on the review of the rural chapter of the Plan and the introduction of provisions for managing development within identified ridgeline and hilltop areas.

The Plan Change was subject to numerous submissions and following the hearing of submissions in 2005 and the subsequent release of Council's decisions a total of 9 Environment Court appeals were lodged. The Environment Court hearings in December last year dealt with all outstanding ridgeline and hilltop appeals except for the appeal from Best Farms Ltd. This appeal was dealt with separately because it did not challenge substantive aspects of the provisions and sought site specific relief.

Best Farms Ltd own land in lower Stebbings Valley which has a long history of zoning to provide for future urban development. The proposed future development will provide for a northern extension of the existing Churton Park subdivision. The defined ridgeline and hilltop overlay lines under Plan Change 33 were included over much of the high ground in lower Stebbings Valley not intended for development. Initially Best Farms Ltd opposed the application ridgeline and hilltop provisions on any part of their land.

The Council's decision on Plan Change 33 made no recommendation for the removal of the ridgeline and hilltop overlay line on the Best Farm land and an appeal was subsequently lodged. In the appeal papers the appellant sought the following modified relief:

*That the overlay be either amended or removed from the appellant's land so as to reflect extensive reserve areas to be set aside as part of a reserves agreement being negotiated between the Wellington City Council and the appellant.*

In this regard it is noted that the planning and development of the lower Stebbings Valley for new urban development has been ongoing and as part of this process the Council officers have been negotiating a reserves agreement for the area as a whole. This agreement identifies the land that will eventually be vested in the Council as public open space.

The draft reserves agreement which has been negotiated includes most of the high ground that the Council officers believe would provide a useful addition to the City's open space network. These areas generally equate to land within the proposed ridgeline and hilltops overly. Best Farms Ltd now seek to resolve their District Plan appeal by relating the overlay line to the boundaries of the proposed reserves.

The resolution of the appeal on this basis has been generally endorsed by the Glenside Progressive Association Inc who are involved in the appeal as a section 274 party. The agreement of the Committee is now required to enable this matter to be resolved by consent.

#### **4. Discussion**

Map 1 attached to this report shows the original overlay line on the Lower Stebbings Vally land and the line now proposed to reflect the proposed reserves agreement.

On Marshall Ridge to the east it can be seen that there is a very close alignment of the overlay lines. In two places the line is proposed to been taken slightly further down the hillside, but near the centre, the line has been pulled back around a knob of land that has been proposed for future subdivision. Given the close alignment and the 'overs and unders' situation on the east side it is considered appropriate to relate the overlay line to the proposed reserves boundary. This will ensure that future residential properties are not affected by the ridgeline and hilltop provisions. In other areas of the city the overlay line has been deliberately drawn to exclude

residential zones so this approach would remain consistent with the established methodology for setting the overlay lines.

The Glenside Progressive Association expressed concern about Marshall Ridge and the possibility of earthworks and other development encroaching beyond the intended reserves boundary and related ridgeline and hilltop overlay line. They were also concerned about the need to secure suitable access to Marshall Ridge from the future residential areas. A meeting was held with representatives of the Association where it was explained that issues relating to land development and access were not directly related to the current appeal and could not realistically be addressed through the appeal process. It was noted that the ultimate aim was for the reserve land above the ridgeline and hilltop overlay line to be rezoned as open space to reflect eventual public ownership and protection. Future subdivision processes would determine the precise location of accessways to the reserve.

To provide some comfort to the Association that nothing inappropriate would happen in the proposed Marshall Ridge reserve above the ridgeline and hilltop overlay line until the land is vested in Council ownership, it has been suggested that an appropriate statement could be included in the consent order. This would be to the effect that the land owner and/or the Council will consult with the Association on any work or activity that might be proposed above the ridgeline and hilltop overlay line. A recommendation has been proposed in this regard. It is noted that the appellant is of the view that any work should be covered by the requirements of the existing zoning and preferably there should be no statement in the consent order involving the Glenside Progressive Association.

On the west side a more substantial amendment is proposed to the overlay lines. This is a result of the earthworks consent that has been granted and the intention of the owner to develop the earthworked areas for residential purposes. As the planning of the residential areas on the west side of the valley has reached an advanced stage it is believed that it would also be appropriate in this area to align the ridgeline and hilltop overlay lines with the boundaries of the proposed reserves. The reserves will protect the most elevated land in this locality which will add to the amenity of the future subdivision. Little would be gained by retaining areas of future residential development within the ridgeline and hilltop overlay areas.

Finally it must be mentioned that as the land within the current Stebbings Valley overlay areas is zoned rural, a further District Plan change will be required to reflect the full extent of future residential development and to rezone proposed reserves land as open space. This would most likely be actioned as part of a future package of minor amendments to the Plan. No rezoning can be given effect to under the current appeal proceedings.

## **5. Conclusion**

To achieve a settlement of the appeal from Best Farms Ltd to District Plan Change 33 it is considered that the proposals in this report provide a

reasonable basis for consent between the parties and are recommended for adoption.

Contact Officer: *Brett McKay, Chief Planner*

## **Supporting Information**

**1) Strategic Fit / Strategic Outcome:**

**The resolution of the appeal supports the outcomes of the Urban Development Strategy and the District Plan.**

**2) LTCCP/Annual Plan reference and long term financial impact:**

**Project C533 – District Plan**

**3) Treaty of Waitangi considerations:**

**All District Plan matters are required to take into account the principles of the Treaty of Waitangi (refer to section 8 of the Resource Management Act 1991).**

**4) Decision-Making:**

**This is not a significant decision. The report is seeking to resolve an Environment Court appeal on matters previously considered by Council.**

**5) Consultation:**

**Not applicable. Negotiations and mediation are being held with the parties to the appeal.**

**6) Legal Implications:**

**The Council's lawyers have been consulted during the development of this report and are involved in the appeal process.**

**7) Consistency with existing policy:**

**Any appeal resolved through negotiation or mediation will be within approved Council policy.**