



## SECTION 32 REPORT PROPOSED DISTRICT PLAN VARIATION 2

# **SECTION 32 REPORT**

## **PROPOSED DISTRICT PLAN VARIATION 2 AMENDMENTS AND DELETIONS TO PROPOSED DISTRICT CHANGE 33 (RIDGELINES AND HILLTOPS (VISUAL AMENITY) AND RURAL AREA) – TEXT AND MAPS**

### **Introduction**

Before a proposed District Plan variation is publicly notified the Council is required under section 32 of the Resource Management Act 1991 (the Act) to carry out an evaluation of the proposed variation and prepare a report. As prescribed in section 32 of the Act:

*An evaluation must examine:*

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

*An evaluation must also take into account:*

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

*Benefits and costs are defined as including benefits and costs of any kind, whether monetary or non-monetary.*

*A report must be prepared summarising the evaluation and giving reasons for the evaluation. The report must be available for public inspection at the time the proposed change is publicly notified.*

### **Background**

The current proposal to introduce Proposed District Plan Change 45 (DPC45) to rezone land in the northern suburbs of the city to facilitate new urban development has generated the need to make various consequential amendments to the existing Rural Area provisions in the District Plan. The required amendments to the Rural Chapter form part of Plan Change 45.

However, the existing rural provisions have also been subject to review. Following an extensive rural community planning exercise commencing in 2001, a targeted review of the Rural Chapter of the District Plan was undertaken between May 2004 and April 2005. This review focused on the management of important ridgelines and hilltops, rural subdivisions, and the erection of houses in the landscape. The proposed changes were covered in District Plan Change 33 (Ridgelines and Hilltops (Visual Amenity) and Rural Area), (DPC 33). The plan change was decided by the Council in April 2005 but was subject to various appeals to the Environmental Court. As DPC 33 is still not operative any further changes or amendments arising from the decision to introduce DPC 45 will require a variation to DPC33.

In response to the DPC 45 proposals there are three aspects of DPC 33 requiring deletion or amendment. These are:

- The policy provision relating to the establishment of a road connection between Mark Avenue and Jamaica Drive with a link to the Granada Interchange and the related notation on District Plan Maps 26 and 27.
- The provisions relating to the subdivision of land in the Woodridge Estate between Ladbrooke Drive and Horokiwi illustrated in Appendix 3 to the Rural Rules. (Note: This is the land subject to an Environment Court Consent Order (RMA 595/96) dated 18/10/99).
- The realignment of the boundary between the Horokiwi Area and Lincolnshire Farms included as Appendix 9 to the Rural Rules. Appendix 9 illustrates the area to which the rule applying to the subdivision of land in Horokiwi relates. (Rule 15.4.5).

### **The Road Connection between Mark Avenue and Jamaica Drive and Link to Granada Interchange**

When the proposed District Plan was notified in 1994 a policy statement was included in the Rural Chapter relating to the desirability of creating a number of roading connections in the city including a connection between Mark Avenue and Jamaica Drive (Policy 14.2.9.3). This was illustrated by pecked lines on District Plan Maps 26 and 27. At this time a policy approach was taken because the Council did not wish to designate the road connections as public works. In the case of the Mark Ave/Jamaica Dr/Granada Interchange link it was envisaged that this would be constructed, in some form, as the subdivision and urbanisation of the surrounding land progressed.

When the review of the Rural Chapter was initiated in 2004 the Policy 14.2.9.3 and related map notations were carried over as part of DPC 33.

As the proposed structure plan for Lincolnshire Farm under DPC 45 now addresses the intended roading connections in the area, it is no longer necessary to retain a separate policy provision in the Rural Chapter of the Plan. It is therefore proposed that the reference to the Mark Ave/Jamaica Dr/ Granada Interchange connection in Policy 14.2.9.3 and the related map notation be deleted under DPC 33.

## **The Woodridge Estate Land**

The special provisions that apply to the Woodridge Estate arose from the settlement of an Environment Court appeal from the owners, Woodridge Estate Limited in 1999. The settlement recognised that the land is suitable for rural/residential subdivision provided that the effects are appropriately managed. To this end, additional provisions were imposed relating to the permitted number of household units, subdivision, and the visual effects of building development and earthworks.

A resource consent was subsequently granted for a rural/residential subdivision of the land in accordance with the special provisions but has not yet been implemented. This consent expires in 2009.

Notwithstanding the resource consent approval, the special Appendix 3 provisions were carried over into DPC 33 when the change was notified in May 2004.

More recently, work has been undertaken on the preparation of a structure plan for the Lincolnshire Farm area and adjacent land including the as yet undeveloped portions of the Woodridge Estate. The structure plan forms part of proposed DPC 45.

The proposed structure plan still envisages that the Woodridge Land subject to the special provisions should be developed for rural/residential purposes. However, development would be subject to a Discretionary (Restricted) consent for subdivision, earthworks and the siting of new dwellings.

The inclusion of the Woodridge land under the DPC 45 requires that all references to the special Appendix 3 provisions under DPC 33 be deleted. Specifically, this involves amendments to Rules 15.4.5, 15.4.7, 15.4.8 and the deletion of Appendix 3 to the rules.

## **The Horokiwi Area Boundary**

One of the primary aims of DPC 33 was to introduce new rules for the control of subdivision in rural areas. The 'blanket' area-wide rules that previously applied were replaced by rules tailored for different rural localities.

In response to the outcomes of the extensive community planning process that preceded DPC 33 and the hearing of submissions on the plan change it was determined that the Horokiwi area should retain restrictive subdivision rules to assist in maintaining the existing rural character of this area. The specific control provisions were set out in Rule 15.4.5.

In one submission to DPC 33 it was identified that although rule 15.4.5 was to be subject to more stringent requirements, the area to which the rule was to apply was not defined spatially. The Council subsequently agreed that a new Appendix be included in the rule showing the boundary of the Horokiwi area to which Rule 15.4.5 would apply. A map was included in the decision report that replicated the boundary of the Horokiwi area from the Horokiwi Community Plan.

Since the decision on DPC 33 was released, it has been revealed that the community plan boundary includes extensive areas of the adjacent Lincolnshire Farms which has been ear-marked for future urban growth under both the Operative District Plan and the Northern Growth Management Framework.

The more recent development of DPC 45 including a structure plan illustrating the intended future development of Lincolnshire Farm and adjacent land also confirms the intended urbanisation of land within the Horokiwi boundary area.

For land use planning reasons, it is considered that the boundary defining the application of Rule 15.4.5 should not include land that is integral to the future expansion of urban growth in the northern suburbs. Accordingly, it is proposed that by way of a variation to DPC 33 the boundary of the Horokiwi area be realigned to exclude the Lincolnshire Farm land.

### **Consultation**

The consultation relevant to proposed Variation 2 was encompassed by the extensive consultative process for the development of a structure plan for the Lincolnshire Farm area. This entailed:

- A leaflet drop in all suburbs surrounding Lincolnshire Farm including Horokiwi.
- Media articles.
- The posting of information on the Council website.
- Drop-in sessions, public meetings and stakeholder discussions including the Horokiwi Community Association and major land owners.

The statutory consultation as required under Clause 3 of Schedule 1 of the Resource Management Act 1991 has also been undertaken.

### **Key Documents**

Wellington City District Plan – Operative 27 July 2000  
Northern Growth Management Framework – October 2003  
Northern Growth Management Framework Implementation Programme – 2003  
Horokiwi Community Plan  
Lincolnshire Farm Structure Plan 2005

### **Evaluations**

#### **Appropriateness of objective to achieve the purpose of the Act**

As required, an evaluation under section 32 must examine the extent to which each objective is the most appropriate way to achieve the purpose of the Act.

In respect of Variation 2 no change is proposed to any of the Rural Area objectives so no evaluation need be made.

## **Efficiency/effectiveness – benefits/costs of policies, rules or other methods**

In considering whether having regard to their efficiency and effectiveness, the rule amendments under proposed Variation 2 are the most appropriate for achieving the objectives of the Plan, the Council evaluated two main options. These were

Option 1. – Do nothing, retain existing provisions.

Option 2. – Delete or amend relevant aspects of DPC 33.

### **Option 1 – Do Nothing**

#### *Explanation*

Under Option 1 the following provisions in Proposed District Plan Change 33 would remain unaltered:

- The policy provision relating to the establishment of a road connection between Mark Avenue and Jamaica Drive with a link to the Grenada Interchange (Policy 14.2.9.3) and the related notation on District Plan Maps 26 and 27.
- The provisions relating to the subdivision of land in the Woodridge Estate between Ladbrooke Drive and Horokiwi illustrated in Appendix 3 to the Rural Rules.
- The alignment of the boundary between the Horokiwi Area and Lincolnshire Farms included as Appendix 9 to the Rural Rules. Appendix 9 illustrates the area to which the rule applying to the subdivision of land in Horokiwi relates. (Rule 15.4.5).

#### *Efficiency and Effectiveness*

It is necessary to consider the efficiency and effectiveness of Option 1 in light of the introduction of proposed District Plan Change 45.

Without DPC 45 the DPC 33 provisions could reasonably remain without change as they fulfil an appropriate role in assisting the attainment of District Plan objectives for the Rural Area. However, the boundary of the Horokiwi Area under Rule 15.4.5 in respect of Lincolnshire Farm would remain problematic. Under DPC 33 reference is made to the intended urbanisation of Lincolnshire Farm and this would potentially be frustrated by the retention of restrictive subdivision requirements under Rule 15.4.5. The resolution of this particular conflict would be required at some stage.

With the introduction of DPC 45 including the structure plan for the development of Lincolnshire Farm and adjacent land, it would no longer be tenable to retain the elements of DPC33 that conflict with the DPC 45 provisions. Overlapping provisions would compromise the operation of the Plan and hinder the efficient and effective attainment of the Plan's objectives. Legal challenges would most certainly arise if the conflicts remained unresolved.

### *Benefits and costs*

Under Option 1 the key benefits and costs may be summarized as follows:

#### Benefits

- A short term benefit of minimising administrative costs by not notifying a variation.

#### Costs

- Conflicting provisions under DPC 33 and DPC 45 open to legal challenge.
- Time and cost involved in resolving conflicts via a plan change at some future date.
- Administrative confusion and uncertainty with overlapping provisions.
- The urbanisation in Lincolnshire Farms would be hindered.

## **Option 2 – Delete or amend relevant aspects of DPC 33**

### *Explanation*

Under Option 2 the following deletions or amendments are proposed to DPC 33:

- Delete the policy provision relating to the establishment of a road connection between Mark Avenue and Jamaica Drive with a link to the Grenada Interchange (Policy 14.2.9.3) and the related notation on District Plan Maps 26 and 27.
- Delete the provisions relating to the subdivision of land in the Woodridge Estate between Ladbroke Drive and Horokiwi illustrated in Appendix 3 to the Rural Rules.
- Amend the alignment of the boundary between the Horokiwi Area and Lincolnshire Farms included as Appendix 9 to the Rural Rules. Appendix 9 illustrates the area to which the rule applying to the subdivision of land in Horokiwi relates. (Rule 15.4.5).

### *Efficiency and Effectiveness*

The primary aim of Variation 2 is to avoid the inclusion of conflicting provisions in the District Plan arising from the introduction of DPC 45.

The existing provisions under DPC 33, namely the Mark Avenue/Jamaica Dive road link and the Appendix 3 provisions applying to land in Woodridge Estates are proposed to be superseded by the structure plan provisions under DPC 45. In addition it has been found that the boundary of the Horokiwi Area for the purpose of applying Rule 15.4.5 under DPC 33 conflicts with the intention to develop the land covered by DPC 45 for new urban growth.

The proposed deletions and amendments to DPC 33 would aid the efficient and effective administration of the District Plan. One rule regime would apply to development of the Urban Development Area, thereby avoiding confusion or uncertainty.

From a wider planning perspective, the ability to manage the development of new urban growth areas under DPC 45 without conflict or confusion with other plan provisions will provide a more efficient and effective means of achieving the Council's strategic planning and resource management objectives for the northern suburbs.

### *Benefits and Costs*

Under Option 2 the key benefits and costs may be summarized as follows:

#### Benefits

- Conflicts arising from dual provisions under DPC 33 and DPC 45 would not arise
- No administrative confusion or uncertainty
- Urban development of Lincolnshire Farm facilitated.

#### Costs

- Short term cost of resolving conflicting provisions through the initiation of a variation to the District Plan.

### **The Risk of Acting or Not Acting**

The evaluation under section 32 must consider the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the proposed variation. In this case, it is considered that there is sufficient and certain information available on the variation. The primary focus is the resolution of conflicting plan change provisions and the issues are clear. It is believed that there is a very low risk of any untoward outcomes resulting from the adoption of the variation.

## **Conclusion**

The purpose of Variation 2 is to avoid the duplication of provisions under DPC 33 and DPC 45. Without the proposed deletions and amendments to DPC 33, an untenable situation would arise that would compromise the administration of the District Plan and inevitably lead to legal complications and the necessity for a plan change at some future time. Variation 2 will therefore promote the efficient and effective administration of the Plan and facilitate new urban growth in accordance with the Council's latest policy directives.