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**REPORT 3**  
*(1215/52/IM)*

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## **PROPOSED DISTRICT PLAN CHANGE 50 - ARO VALLEY BOUNDARY ADJUSTMENTS AND PRE-1930'S DEMOLITION RULE**

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

To seek approval from the Committee to notify Proposed District Plan Change 50. Plan Change 50 proposes to make the demolition of Pre-1930's buildings in the residential areas of Aro Valley a Discretionary Activity (Restricted); remove Appendix 8 from applying to Aro Valley; alter the boundaries of Appendix 9 (Rule 5.3.10); to remove some areas from Appendix 10 and make amendments to the Multi-Unit Design Guide.

### **2. Recommendations**

It is recommended that the Committee:

- 1. Receive the information.*
- 2. Agree to publicly notify Proposed District Plan Change 50 as set out in Appendix 1 of this report in accordance with Schedule 1 of the Resource Management Act 1991.*
- 3. Agree to adopt the Section 32 report for Proposed District Plan Change 50 as included in Appendix 2 of this report.*
- 4. Delegate to the Portfolio Spokesperson for Urban Development the authority to approve minor editorial changes to the proposed Plan Change prior to notification.*

### **3. Executive Summary**

The Aro Valley Area has been identified as having a unique and special residential character and is subject to a number of existing planning requirements that recognise and provide for that character. A survey undertaken by the Council indicates that there is strong support amongst residents for a demolition rule in Aro Valley, similar to that provided in the residential areas of Thorndon, Mt Victoria and more recently Newtown, Berhampore and Mt Cook.

At present the demolition of buildings in Aro Valley is a permitted activity. District Plan Change 50 proposes to apply an amended Rule 5.3.11 to the residential areas of Aro Valley making the demolition of pre-1930's buildings a Discretionary Activity (Restricted).

Proposed District Plan Change 50 also proposes to remove Appendix 8 from the Aro Valley Inner Residential Area; amend the Appendix 9 (Rule 5.3.10) boundary to include a number of additional peripheral areas; remove two areas from Appendix 10; and change the Multi-Unit Design Guide to incorporate descriptions of the additional peripheral areas to be included in Appendix 9.

It is considered that the proposed plan change is consistent with Part II of the Resource Management Act, and the existing objectives and policies of the District Plan.

## **4. Background**

### **4.1 Legislative Requirements**

The purpose of the Resource Management Act, 1991 (RMA) is to promote the sustainable management of natural and physical resources. In relation to the residential character of Aro Valley, section 6 of the RMA requires that the Council recognises and provides for the protection of historic heritage as a matter of national importance. Section 7 requires that the Council, in achieving the purposes of the RMA, has particular regard to:

- (b) the efficient use and development of natural and physical resources:*
- (c) the maintenance and enhancement of amenity values:*
- (f) the maintenance and enhancement of the quality of the environment:*

Section 32 of the RMA requires that the Council considers alternatives, and assesses benefits and costs, before adopting any new District Plan provision. The Council must be satisfied that any proposed provision is necessary in achieving the purpose of the Act, and is the most appropriate means of achieving sustainable management.

### **4.2 Research and Consultation**

In the late 1990's the Council commissioned a series of reports which evaluated the residential character of the inner city residential areas of Thorndon, Kelburn, Aro Valley and Mt Victoria. Following these reports and consultation with local resident's groups, the Council put in place special controls for Mt Victoria and Thorndon by way of Variation 14 to the Proposed District Plan. This was followed by Plan Change 7, which addressed residential character issues in Aro Valley. More recently residential character controls have been put in place for Newtown, Berhampore and Mt Cook through Plan Change 38 and 39.

#### **4.2.1 Demolition Rule**

The issue of introducing a pre-1930's Demolition Rule for Aro Valley has previously been before this Committee. At a meeting of the Strategy and Policy Committee on 11 August 2005 a proposed plan change was presented to the Committee. It was resolved to undertake consultation with landowners on the possibility of introducing a pre-1930's demolition rule into the District Plan before going ahead with such a plan change.

The consultation has been undertaken and this report presents the results of that consultation.

A questionnaire, requesting feedback on the introduction of a pre-1930's Demolition Rule was sent to approximately 840 owners and occupiers within the Aro Valley Area in April of this year. The area surveyed comprised the area within the amalgamated boundaries of the existing Appendix 9 and 10 (see Appendix 3). Owners and occupiers were given 3 weeks in which to return the questionnaire.

As a result of additional discussions with the Aro Valley Community Council and the process being undertaken for the Aro Valley Boundary Adjustment Review (outlined below) a number of additional areas were identified which were considered might benefit from the introduction of a pre-1930's Demolition Rule. Consequently an additional 208 questionnaires were sent out in May to the areas identified by the Boundary Adjustment Review (see Appendix 3).

Overall there was a high response rate for a postal questionnaire indicating a high level of interest in this issue. There were a high percentage of responses that agreed with introduction of a pre-1930's Demolition Rule, for the areas within Appendix 9 & 10 this was more than three-quarters of the responses and for the additional areas more than two-thirds.

The results of the survey are summarised in the table below.

<b>Do you want a rule in the District Plan that controls the demolition of pre-1930's buildings within the Aro Valley Area?</b>				
	<b>Area within Appendix 9 and 10</b>		<b>Additional Peripheral Areas</b>	
<b>Response Rate</b>	<b>30.1%</b> (254 responses from 841)		<b>25%</b> (53 responses from 208)	
<b>Percentage of Yes's</b>	<b>76%</b>		<b>68%</b>	
	Owner Occupier	51%	Owner Occupier	55%
	Absentee Owner	27%	Absentee Owner	28%
	Occupier	22%	Occupier	17%
<b>Percentage of No's</b>	<b>24%</b>		<b>32%</b>	
	Owner Occupier	49%	Owner Occupier	35%
	Absentee Owner	43%	Absentee Owner	65%
	Occupier	8%	Occupier	0%

#### **4.2.2 Aro Valley Boundary Adjustment Review**

Issues relating to the consistency of various boundaries for Aro Valley were identified through the decision making process for Plan Change 7- Aro Valley Character controls in 2002. Specifically, in the decision on that Plan Change the Hearings Committee recommended;

*“That further consideration be given to the inclusion of houses in Durham Crescent and Mortimer Terrace within the boundary of the Aro Valley Area shown in Appendix 10 to the residential provisions on the Operative District Plan.”*

The Aro Valley Community Board lodged an appeal to the decision on Plan Change 7. As part of the Environment Court settlement of this appeal council agreed to:

*“Before the end of June 2004 prepare a report on the plan boundary issues pertaining to the Aro Valley for discussion and consultation with the referrer and the wider community.”*

There are currently three Appendix Areas (Appendix 8, 9 and 10) in the Residential Chapter of the District Plan that each apply different rules to development in the Aro Valley Area. They are;

Appendix 8 which covers areas zoned Inner Residential. Rule 5.2.4 provides for the development of two household units within the Appendix 8 Areas as a ‘controlled activity’. The generic character section of the Multi Unit Developments Design Guide is the key reference point for assessing the controlled aspects of such developments.

Appendix 9 defines an area of Aro Valley in which multi-unit development of two or more units is a Discretionary Activity (Restricted), under Rule 5.3.10. Such developments are subject to assessment against both the general Multi-Unit Developments Design Guide as well as the “special character” guidelines for Aro Valley outlined in Appendix Three to the Multi Unit Design Guide.

Appendix 10 which covers an area of Aro Valley where the applicable rules relating to site coverage, maximum building height and sunlight access planes are more stringent than those in the adjoining inner residential areas.

The need for the reconsideration of boundaries that apply to the Aro Valley arose from the significantly different boundaries that are used for applying the Multi Unit Design Guide (Rule 5.3.10, Appendix 9) and the boundaries that apply the more stringent building controls (site coverage, maximum height and sunlight access planes) to single household dwellings (Rule 5.1.3, Appendix 10).

An additional issue identified through the proposed plan change process was the overlap of Appendix 8 which requires a Controlled Activity resource consent for two or more household units under Rule 5.2.4, with Appendix 9 which requires a resource consent for Discretionary Activity (Restricted) for the same thing.

Council commissioned Deyana Popova of Urban Perspectives Ltd to look at the Urban Design aspects of the “Boundary Adjustment Review”.

The purpose and scope of the review is outlined in her report and was five-fold:

- Review the boundaries of Appendix 10 – identify whether there is a reason to either exclude certain areas currently covered by this appendix or alternatively include others, presently outside the boundaries of this appendix.
- Review the boundaries of Appendix 9 – comment on whether the additional sub areas suggested by the Aro Valley Community Council or any other areas should be included in Appendix 9.
- Assess the relevance of Appendix 8 – comment on the relevance of Appendix 8 following the review of the other Appendices.
- Outline possible changes to the relevant Design Guides – outline the scope of possible changes to the relevant Design Guides following the boundary review of Appendix 9 and 10
- Comment on the extent of applying the “demolition rule” – comment on whether the identified sub-areas currently outside Appendix 9 should also be covered by the proposed demolition rule.

The report makes the following Recommendations:

1. Revise Appendix 9 to include the areas of Upper Durham St; Mortimer Tce; Adams Tce; Landcross St; Palmer St/Abel Smith St/Johns St; and Ohiro Rd/Brooklyn Rd and make reference to these areas in the Aro Valley Design Guide.
2. Remove Aro Valley from Appendix 8.
3. Remove Upper Durham Street and the Council housing area to the east of Ohiro Rd from Appendix 10.
4. Consider applying the “Appendix 10” provisions (i.e. the more stringent height, site coverage and sunlight access plane provisions) within the revised Appendix 9 area but only to multi unit development of two units or more.
5. Consider applying the demolition rule consistently within the boundaries of the revised Appendix 9.
6. Amend the Multi Unit Design Guide and the associated Aro Valley Design Guide to reflect the suggested boundary adjustments of Appendix 9.
7. Rename Appendix 10 Appendix 9A

Discussions have been undertaken with representatives from the Aro Valley Community Council about the potential amendments to the Appendix Area boundaries. Further local consideration on this matter is desirable. During the public notification process comprehensive explanatory material will be sent to owners that are affected by any proposed changes.

## **5. Discussion**

The purpose of this plan change is to provide an additional level of protection for the high number of original character houses that remain in the suburb of Aro Valley, through the application of a pre 1930's building demolition rule and provision of more rational and cohesive boundaries for the existing rules that apply within the Aro Valley residential area. Additional changes to the Multi Unit Design Guide are required to provide for the peripheral areas that have been included into the redefined Appendix 9.

### **5.1 Comprehensive approach to residential character**

From a District Plan perspective there are two aspects to providing character protection:

1. Protecting those buildings, spaces and other features that contribute to the existing character in each street and neighbourhood; and
2. Ensuring that new buildings and developments recognise and enhance the character of the street and neighbourhood.

In recognition of the level of public concern about the ability to demolish residential buildings within Aro Valley as permitted activity, it is proposed to notify a plan change relating to the demolition of pre-1930's dwellings.

It is also proposed to amend the provisions relating to new multi-unit developments in the vicinity of Aro Valley to help ensure the suburbs unique character is protected.

## **5.2 Proposed Plan Change**

### **5.2.1 Pre-1930's Demolition Rule**

Proposed District Plan Change 50 will apply Rule 5.3.11 (relating to the demolition of pre-1930's residential buildings) to the areas zoned Inner Residential Area within a modified Appendix 9 Aro Valley area. The rule will provide a degree of protection for pre-1930 character dwellings, and will allow the Council to assess (by way of Discretionary Activity (Restricted resource consent) the contribution made by the existing dwelling to the streetscape character of the surrounding area.

Plan Change 50 proposes to apply the rule as it is presently applied in Thorndon and Mt Victoria, with one significant amendment.

In Thorndon and Mt Victoria the control of demolition applies to the primary form of the building. The primary form is defined as:

***PRIMARY FORM (FOR THE PURPOSE OF RULE 5.3.11):** means the simple form that is central to and the basis of the dwelling. It is typically the largest identifiable form or combination of relatively equal sized geometrically simple and box-like forms.*

The focus on primary form works reasonably well in situations where the character can be appreciated from a distance and the finer details of the façade become harder to distinguish. In this situation it is principally the bulk of, separation of and rooflines of buildings that determine the visual character.

As with Newtown, Berhampore and Mt Cook the suburb of Aro Valley is not 'experienced' from a distance. The special character of Aro Valley is more commonly viewed from the street or adjoining public spaces. In this situation it is considered that the architectural features and elements on individual houses are as important in determining streetscape and neighbourhood character as the primary form of the building. It is therefore proposed to extend the definition of demolition in Aro Valley to include the removal or destruction of pre-1930 architectural features and elements from a dwelling's 'primary elevation(s)'. This is the same approach as was taken in Plan Change 38 for Newtown, Berhampore and Mt Cook.

In most instances the 'primary elevation' will be the elevation that fronts onto the street, however in some instances a building's main elevation is oriented away from the street towards a view or outlook. This is usually due to the topography of the site, normally where the ground level slopes steeply away from the street frontage. In this situation it is proposed to apply Rule 5.3.11 to both the street and main elevations. A definition of 'primary elevation', specific to Aro Valley is proposed to be included in the plan change to clarify which elevation(s) on a building would be subject to the pre-1930's rule.

### **5.2.2 Boundary Adjustments and Multi-Unit Design Guide Amendments**

#### **Appendix 9, Rule 5.3.10 and Multi Unit Design Guide**

Proposed District Plan Change 50 proposes to:

- Amend the boundaries of the existing Appendix 9 (Aro Valley) to include additional peripheral areas that contribute to the overall character of Aro Valley. These areas

include Upper Durham St; Mortimer Tce; Adams Tce; Landcross St; Palmer St/Abel Smith St/Johns St; Ohiro Rd/Brooklyn Rd (Appendix 1, Attachment B).

- Amend the Multi-Unit Design Guide and the associated Aro Valley Design Guide to include descriptions and references to the peripheral areas now included in Appendix 9 (refer Appendix 1 No.34 and Attachment D).
- Add an additional matter to which Council has retained its discretion within Rule 5.3.10 to state: “*bulk and massing of buildings on site (in Aro Valley)*”
- Identify within the Multi Unit Design Guide that “stepped” form of building developments are not appropriate in Aro Valley.

Deyana Popova of Urban Perspectives recommended in her report that it may be appropriate to apply the more stringent building controls on height, site coverage and sunlight access planes that currently apply in the existing Appendix 10 areas to proposals that involve the construction of 2 or more dwellings within the additional areas of Appendix 9 that are not currently within Appendix 10. The aim of this control is to avoid “stepped” development down a slope which is considered to be out of character with existing development within Aro Valley. However, this recommendation would result in an additional layer of control within the District Plan. It is considered that the same result can be achieved by including, within the matters over which Council can retain discretion within Rule 5.3.10, the words “*bulk and massing of buildings on site*”.

In order to provide guidance in assessing “*bulk and massing of buildings on site*”, it is proposed to include references to “stepped” development being inappropriate in the Character Overview section of the Aro Valley portion of the Design Guide.

#### Appendix 8

Proposed District Plan Change 50 proposes to remove those areas of Aro Valley (that are within the amended Appendix 9), from Appendix 8 (Rule 5.2.4 - two units a Controlled Activity), therefore removing the duplication of rules applying to the construction of two household units (refer to Appendix 1 Attachment A). For the properties in Upper Durham St, Lower Mortimer Street and Adams Terrace this will result in a shift of activity status for two units from a controlled activity to discretionary activity (Restricted). For the properties in Landcross St, Palmer Street, the southern side of Palmer Street, Abel Smith Street, the northern part of St Johns Road and Ohiro Road/Brooklyn Road (bottom of Brooklyn Hill) a resource consent for a restricted discretionary activity will be required for two household units, where currently a resource consent is required for three or more household units.

#### Appendix 10

Proposed Plan Change 50 proposes to remove Upper Durham St and the Council housing area to the east of Ohiro Rd (bottom of Brooklyn Hill) from Appendix 10 (where the more stringent building height, site coverage and sunlight access planes apply to a single household unit)( refer to Appendix 1, Attachment C). The existing character of these areas is predominantly two storey and does not contain the core Aro Valley Character that requires the application of these more stringent building rules. The proposed change ensures that the existing character of the properties within these areas is reflected by the rules. In addition, Plan Change 50 proposes to rename Appendix 10, Appendix 9A to make it a subset of Appendix 9.

### **5.3 District Plan Objectives and Policies**

With regards to the proposed plan changes for the residential dwellings in Aro Valley, and to the Appendix boundaries that apply within Aro Valley the following Objectives and Policies are particularly relevant:

**Objective 4.2.1** *To promote the efficient use and development of natural and physical resources in Residential Areas*

*Policy 4.2.1.1 Encourage new urban development to locate within the established urban area.*

**Objective 4.2.2** *To maintain and enhance the amenity values of Residential Areas.*

*Policy 4.2.2.1 Control the potential adverse effects of residential activities.*

**Objective 4.2.3** *To maintain and enhance the physical character of Residential Areas and identified areas of special streetscape or townscape character.*

*Policy 4.2.3.1 Control the siting, scale and intensity of new residential buildings to reflect the differences between older and more recent suburban Residential Areas.*

*Policy 4.2.3.2 Maintain the special character of identified residential character areas.*

The District Plan policies require that a balance be struck between the promotion of residential intensification and the maintenance of the existing character and amenity of the city's residential areas.

In recent years there has been growing recognition that Wellington's inner city suburbs and their character houses are a valuable resource. This is acknowledged in both the Built Heritage Policy (2005) and the Sense of Place Strategy recently prepared by the Council. Overall it is considered that Proposed District Plan Change 50 is consistent with the objectives and policies of the District Plan and it will continue to provide for residential development and renewal in the Aro Valley area, but in a manner and of a scale that compliments and enhances Aro Valley's unique character.

## **6. Conclusion**

Consultation indicates that there is strong support within the Aro Valley community for a pre 1930's Demolition Rule to be applied to the residential area of Aro Valley, as reflected in the survey results. The proposed changes to include a demolition rule for the residential areas of Aro Valley will bring the Aro Valley area into line with other areas such as Thorndon and Mt Victoria as well as the proposed changes for Newtown, Mt Cook and Berhampore included in District Plan Changes 38 and 39.

The rationalisation of the appendices boundaries as they apply to the Aro Valley area reduces the number of provisions that apply to the Aro Valley Area; provides a unified boundary where character related provisions are consistently applied throughout the entire area; and provides an additional tool for managing the impact of multi-unit development.

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## **Supporting Information**

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

The proposed plan changes support the implementation of the Urban Development Strategy through promoting the liveable city outcomes set out in that document.

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

**Project C533 – District Plan**

### **3) Treaty of Waitangi considerations:**

All District Plan work is 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:**

The proposed changes to the District Plan are not of city-wide significance but are important to maintaining and enhancing the character of the Aro Valley.

### **5) Consultation:**

#### **a) General Consultation**

Specific consultation has been undertaken on the proposed pre 1930's building demolition rule. Full explanatory material will be sent to persons directly affected by the proposed changes as part of the public notification process.

#### **b) Consultation with Maori**

Details of the proposed changes have been sent to The Wellington Tenth Trust and Ngati Toa.

### **6) Legal Implications:**

The preparation and processing of the plan change will be in accordance with the requirements of the Resource Management Act 1991.

### **7) Consistency with existing policy:**

#### *Operative District Plan*

The proposed pre-1930's building demolition rule is consistent with provisions in other character areas of the city. Amendments to the Residential Appendix boundaries for Aro Valley are consistent with the existing District Plan approach.

#### *Urban Development Strategy*

The proposals are consistent with the Urban Development Strategy.

