
DECISION ON DISTRICT PLAN CHANGE 81 - REZONING OF 320 THE TERRACE AND DELISTING OF THE GORDON WILSON FLATS

Purpose

1. To report to Council the recommendations of the Hearing Panel on Proposed Plan Change 81 of the Wellington City District Plan

Summary

2. The Hearing Panel has considered all written and oral submissions on private Plan Change 81 and made its recommendations. Several changes have been recommended for clarity and to improve implementation of the proposed provisions. The fundamental approach adopted in the notified plan change remains intact. That is, the rezoning of 320 The Terrace from Inner Residential Area to Institutional Precinct, and the heritage delisting of the Gordon Wilson Flats. This plan change would facilitate the demolition of this building and the development of the site by Victoria University of Wellington (VUW) for university purposes.
3. If Council adopts the recommendations of the Panel, then their report will become the Council decision on the proposal. If the Council rejects one or more of the proposed recommendations, the hearing process would need to be re-commenced and determined by the whole of Council.

Recommendation/s

That the Council:

1. Receive the information.
2. Approve the recommendations of the District Plan Hearing Panel in respect of District Plan Change 81 (Rezoning of 320 The Terrace and de-listing of Gordon Wilson Flats) as outlined in the attached recommendation report.
3. Note the range of non-statutory suggestions made by the Hearing Panel and that Officers are to consider these as part of their ongoing work programme.

Background

4. Proposed Plan Change 81 is a privately initiated plan change by VUW. The notified plan change proposed a number of amendments to the District Plan, which can be summarised as follows:
 - rezoning of the site from Inner Residential to Institutional Precinct;
 - site-specific amendments to the Institutional Precinct Zone rules relating to the demolition of existing buildings and development of new buildings, structures, open space and landscaping;
 - amendments to the Victoria University Design Guide to facilitate well-designed development of the site in the future; and

- removal of the existing building on the site – Gordon Wilson Flats – from the District Plan list of heritage buildings.
5. The plan change was publically notified on 27 August 2015. A total of 33 submissions and 6 further submissions were received on the proposed plan change. The hearing commenced on 15 December 2015, and nine submitters attended over three sitting days.
 6. The Hearing Panel comprised Councillors Andy Foster (Chair) and Mark Peck, and independent commissioner David McMahon. The Panel held several formal deliberation sessions between December 2015 and March 2016, having sought additional information from the Council and University in the interim. The Panel formally closed the hearing on 17 March 2016.
 7. Council has the ultimate decision-making power in respect of District Plan Changes, and the Panel's role is limited to that of a 'recommender'. The conclusions and recommendations contained in the recommendation report are those of the Panel and are not binding upon the Council. If Council adopts the recommendations of the Panel, then their report will become the Council decision. If, however, the Council rejects one or more of the proposed changes and recommendations, the hearing process would need to be re-commenced and determined by the whole of Council.

Discussion

8. A range of submissions were received in both support and opposition to the Plan Change. Submitters appearing at the hearing largely fell into one of two groups:
 - local residents concerned about increased anti-social behaviour and nuisance effects arising from an expansion of the University campus, and in particular through new student accommodation facilities in the area; and
 - those who value the heritage and architectural values of the Gordon Wilson Flats and are opposed to the building's demolition.
9. All expert witnesses attending the hearing (including Council Officers) were of the view that the site is suitable for the proposed rezoning and that the building's de-listing is appropriate. There was, however, some disagreement at the expert level about the most appropriate methods the plan change should adopt to manage effects associated with future development of the site. These matters of expert disagreement were almost entirely resolved by the time the hearing was closed on the 17 March 2016.
10. The Panel identified 7 broad issue topics to be addressed in its consideration of the proposal. These issues are discussed in more detail below, and include:
 - positive effects;
 - historic heritage;
 - activity effects on local amenity;
 - built form – streetscape, townscape and effects on neighbours;
 - demolition management;
 - access and connectivity; and
 - other miscellaneous matters.

Positive effects

11. The Panel accepted the uncontested evidence from the VUW that the University is a significant economic, cultural and social asset to the City and the wider region, and that the expansion of the campus to the application site will be of benefit to the University in that capacity.

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12. The Panel also agreed the design-led discretionary assessment approach for redevelopment of the site will have benefits to the local environment. New development will be assessed against a revamped design guide to ensure a high-quality outcome. Unlike the current operative plan provisions in the Institutional Precinct the proposal enables future applications to be subject to conditions or declined where design is substandard or neighbouring amenity is not protected.

Historic Heritage

13. The Panel accepted the evidence from the University and Council's heritage experts that the heritage significance of the Gordon Wilson Flats is moderate.
14. It was also found that the University had undertaken a comprehensive assessment of alternatives to demolition, and that the assessment found that no reasonable alternatives exist. Even if adaptive re-use was deemed to be viable, the expert evidence before the Panel was that such works would have significant effects on the building's heritage value.
15. In the absence of any expert evidence confirming that the heritage values of the building were more than moderate, or that there are any reasonable alternatives to demolition, the Panel agreed with the University and Council's experts that de-listing of the Gordon Wilson Flats is appropriate.

Activity effects on local amenity

16. The Panel heard concerns from several parties who live in the vicinity of the plan change site that the proposal would amplify existing nuisance effects associated with student behaviour.
17. From the presentations of these parties, the Panel agreed that there is clearly a nuisance effect on local residents that is unacceptable at times, and that it is predominantly students that are to blame.
18. The Panel found it appropriate to urge the University to be a better neighbour; however, it did not agree with submitters that the proposed rezoning itself would exacerbate the existing effect. Accordingly the Panel recommended the retention of the proposed rezoning as notified.

Built Form – Streetscape, townscape and effects on neighbours

19. The view shared between the Council and University's urban design experts was that the notified provisions should be amended to improve clarity and implementation of the proposed rules and design guide. The Panel agreed with that shared view, and has recommended several changes to the notified provisions as a result, including:
- amendments to the bulk and location rules for new buildings to afford greater certainty that views of the escarpment to the west of the site will be preserved from the Terrace and from the wider CBD, and to ensure amenity effects on neighbours are managed;
 - amendments to the design guide to ensure future applications are assessed against the appropriate design criteria, having regard to the recommendations of the Council and University's urban design witnesses; and
 - consequential changes to the rule 'mechanics' to improve clarity.

Demolition management

20. The plan change proposed a new controlled activity rule to manage demolition through the resource consent process. During the hearing, the University's demolition expert

stated that a demolition management plan would be critical to the management of adverse effects on the environment and people's health, safety and amenity arising from the proposed demolition of Gordon Wilson Flats. Moreover, the demolition expert stressed the importance of consultation with neighbours on the preparation and implementation of the demolition management plan.

21. The Panel observed that the notified version of the controlled activity rule for demolition did not sufficiently address the demolition expert's recommendations in the above respects. Amendments to the rule are therefore proposed to require a demolition management plan be prepared and submitted at the time a resource consent is lodged. Among other matters, the management plan must provide a record of consultation undertaken prior to demolition, and provide for a complaints procedure.

Access, parking and connectivity

22. The Panel agreed with planning and urban design experts for the Council and University that the site will provide a new 'front door' for the University campus from the Terrace and CBD. As such, providing for safe pedestrian access and community was seen by all parties as an important outcome to be delivered by the plan change provisions.
23. The Panel found that the proposed rules and design guide amendments will ensure that connections and associated open space on the site will be developed safely and effectively. Some minor wording changes were agreed between the urban design experts at the hearing, and the Panel has adopted those in the annotated version of the proposed design guide provisions.

Other miscellaneous matters

24. Several other matters were raised by parties in their written submissions and supporting presentations. Some parties raised concern about the impact that proposed demolition and rezoning would have on housing supply. The Panel relied upon the expert views of the Council and University that the proposed changes would have a negligible effect on the City's overall land resource for housing. The Panel also noted that the Institutional Precinct provisions enable student housing to be developed in the future.
25. Other submitters raised concern about a 'precedent' effect that could arise from delisting the Gordon Wilson Flats. The Panel found that there was no compelling evidence to support those submitters' concerns, and noted that its recommendation is based upon a comprehensive suite of expert evidence, including site specific considerations about the current zoning and associated uses, the proposed zoning and associated uses, and the costs and benefits that stem from each. It will not, in the Panel's view, be a foregone conclusion that any future delisting proposals would be successful if the Gordon Wilson Flats are delisted.
26. Some submitters claimed that any demolition of the Flats should be done by a resource consent process and not via a plan change. The Panel found that there is no imperative under the RMA one way or another to suggest a plan change is inappropriate.
27. Having considered the requirements of the RMA and the issues raised in submissions, the Hearing Panel considered that the plan change was appropriate and would allow for the sustainable management of resources at 320 The Terrace for institutional purposes.

Next Actions

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28. The Hearing Panel has considered all submissions on Plan Change 81 and, where appropriate, has modified the notified provisions of the plan change in response to some submissions and based on the expert evidence given at the hearing.
29. If Council is of a mind to approve Plan Change 81 as recommended, the decisions will be notified and submitters will have the right to appeal the decision to the Environment Court. If no appeals are made, the Plan Change will become operative.

Attachments

- Attachment 1. Recommendation report of Hearing Panel
Attachment 2. Hearing Panel Recommendations by Submission
Attachment 3. Minute 1 of Hearing Panel
Attachment 4. Minute 2 of Hearing Panel
Attachment 5. Minute 3 of Hearing Panel
Attachment 6. Victoria University Private Plan Change Request
Attachment 7. Recommended Changes to District Plan Provisions
Attachment 8. Recommended Design Guide Changes
Attachment 9. Explanation of proposed changes made by Hearing Panel

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SUPPORTING INFORMATION

Consultation and Engagement

Victoria University consulted potentially affected neighbours prior to lodging this private plan change request. It was then publically notified in accordance with Schedule 1 of the Resource Management Act 1991. All submitters had the opportunity to attend the hearing in December 2015, and all submitters will be formally notified of the decision. If they are not satisfied with the decision of Council it can be appealed to the Environment Court.

Treaty of Waitangi considerations

The Hearing Panel has not identified any Treaty of Waitangi issues.

Financial implications

There are no financial implications if the Council approves the Hearing Panels recommendation report.

Policy and legislative implications

The report summarises the recommendation of the hearing panel. The private plan change has been assessed on its merits and will no have further policy implications beyond this site.

Risks / legal

The Hearing Panels recommendation has been undertaken in accordance with Resource Management Act 1991 legal processes and statutory tests.

Climate Change impact and considerations

There are no known climate change impacts or considerations.

Communications Plan

A media release has been prepared and will be released once a decision is issued.