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## **APPROVAL OF PROPOSED DISTRICT PLAN CHANGE NO. 44 – GENERAL MINOR AMENDMENTS TO DISTRICT PLAN TEXT AND MAPS II**

## **APPROVAL OF PROPOSED DISTRICT PLAN VARIATION 1 - ADDITIONS TO PROPOSED DISTRICT PLAN CHANGE 33 (RIDGELINES & HILLTOPS (VISUAL AMENITY) & RURAL AREA)**

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

To report to Council the recommendations of the District Plan Hearing Committee concerning District Plan Change 44 - *General Minor Amendments to District Plan Text and Maps II* and District Plan Variation 1 - *Additions to Proposed District Plan Change 33 (Ridgelines & Hilltops (Visual Amenity) & Rural Area)*.

### **2. Recommendation**

- 1) *That Council approves the recommendations of the District Plan Hearing Committee in respect of District Plan Change 44 – General Minor Amendments to District Plan Text and Maps II as set out in Appendices One & Two of this report.*
- 2) *That Council approves the recommendations of the District Plan Hearing Committee in respect of District Plan Variation 1 - Additions to Proposed District Plan Change 33 (Ridgelines & Hilltops (Visual Amenity) & Rural Area) as set out in Appendix Three.*

### **3. Background**

Proposed District Plan Change 44 (DPC44) and Proposed District Plan Variation 1(DPV1) were publicly notified on 23 September 2006.

The DPC44 proposals are part of a series of changes that are initiated from time to time to make minor amendments to the District Plan. Variation 1 provides for the possible rural/residential subdivision of additional land in the hills to the west of Tawa.

All owners and occupiers of affected properties were notified of the plan change and variation. Additionally, individuals and organisations that were deemed as potentially-affected parties were also notified of the proposals.

The hearing was held in the Council Chambers on the morning of 27 March 2007.

#### **4. District Plan Change 44**

Nine submissions were received on DPC44. While the plan change itself proposed more than a dozen individual amendments to the District Plan, only three matters were submitted on. Further, only one of these was discussed by submitters at the hearing.

Three submitters (Simon Frank, L. Fraser Jackson on behalf of Friends of Tawa Bush, and Ian Leary on behalf of West Tawa Development Partnership) appeared at the hearing. The matter to which they all spoke was the rezoning of Lot 1 DP 67858 in the western hills of Tawa.

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations.

Mr. Frank and Mr. Jackson expressed opposition to the Plan Change, seeking to maintain the land in its 'natural' state for amenity, ecological, and environmental reasons.

Mr. Leary expressed support of the Plan Change, citing that the Officer's report adequately justified the proposed rezoning.

All of the above submissions (as well as the issues not discussed at the hearing) are considered in detail in the Hearing Committee's report attached as Appendix 1.

In summary, the Hearing Committee endorsed DPC 44 as notified, subject to the recommended amendments as shown in the annotated copy of the Plan Change document attached as Appendix 2.

#### **5. District Plan Variation 1**

Although seven submissions were originally received on DPV1, only two submitters appeared at the hearing - Laurence Fraser Jackson on behalf of the Friends of Tawa Bush Reserves and Ian Leary, planning consultant, representing the West Tawa Development Partnership.

The arguments presented against the variation by the Friends of Tawa Bush Reserves were largely bound within their submissions to Plan Change 44 concerning the zoning of the land. No specific evidence was presented on Rule 15.4.6, which was the subject of the variation.

West Tawa Development Partnership reiterated the company's support for Variation 1. Further, the submitter sought the inclusion of a further 'triangle' of land owned by the Partnership to the east of Ohariu Valley Road to be included within the area covered by Rule 15.4.6.

The Committee sought legal advice on whether this request was within the scope of Variation 1 and, therefore, capable of acceptance. On the particular facts applying in this case, the advice was positive and supported the inclusion of the triangle under rule 15.4.6 as sought by the submitter. The Committee was satisfied that the relatively small area was integral to the larger West Tawa land holding and should therefore be included.

In summary, the Hearing Committee recommends that Council endorse DPV1 as notified, subject to the amendments that arose from the submission of West Tawa Development Partnership. A copy of the amended map is included within the Hearing Committee's Report, attached as Appendix 3.

## **6. Conclusion**

Once approved by Council, the decisions will be publicly notified and served on the submitters. Submitters then have the option of appealing the matter to the Environment Court within 30 working days. If no appeals are made, the plan change and variation will become operative.

***Report from: Alick Shaw***

*Chair of the District Plan Hearings Committee*

*Plan Change 44 – General Minor Amendments to District Plan Text and Maps II*

*Variation 1 - Additions to Proposed District Plan Change 33 (Ridgelines & Hilltops (Visual Amenity) & Rural Area).*

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WELLINGTON CITY COUNCIL  
REPORT OF THE HEARING COMMITTEE

**SUBJECT:** DISTRICT PLAN CHANGE No. 44 –  
GENERAL MINOR AMENDMENTS TO  
DISTRICT PLAN TEXT AND MAPS II

**COMMITTEE MEMBERS:** COUNCILLORS SHAW AND WAIN

**DATE OF HEARING:** 27 March 2007

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## 1. RECOMMENDATIONS

It is recommended that Council:

1. Approves Proposed District Plan Change 44 as set out in the Public Notice on 23 September 2006, subject to the following amendments resulting from the determination of submissions:
  - i. that submission 4 from the West Tawa Development Partnership supporting the Plan Change be accepted and that it be made clear that the rezoning of lot 1 DP 67858 be shown on District Plan Map 28; and
  - ii. that submission 5 from Telecom New Zealand Limited and submission 6 from New Zealand Police be accepted to the extent that:
    - the definitions for “antenna” and “utility structure” are retained as currently written in the Operative District Plan; and
    - Rule 23.1.13.2 be amended to read:

*“The antenna shall not exceed 0.6m<sup>2</sup> in area or 800mm diameter. Where the antenna is attached to a building or structure (excluding a mast) and the antenna mounting elevates the antenna above the building or structure, the part of the mounting that elevates the antenna shall not exceed 150mm in width or diameter and no guy wires are permitted. If the antenna is attached to a building or structure (excluding a mast) so that the antenna does not protrude above that part of the buildings or structure to which it is attached, the antenna shall not exceed 1m<sup>2</sup> in area or 1m diameter.”*
    - Rule 23.1.14.2 be amended to read:

*“The antenna shall not exceed 0.6m<sup>2</sup> in area or 800mm diameter except if 23.1.14.3, 23.1.14.4 or 23.1.14.5 below applies. Where the antenna is attached to a building or structure (excluding a mast) and the antenna mounting elevates the antenna above the building or*

*structure, the part of the mounting that elevates the antenna shall not exceed 150mm in width or diameter and no guy wires are permitted.”*

2. *Accepts or rejects all submissions to the extent that they accord with Recommendation 1 above.*

## 2. INTRODUCTION

This decision relates to proposed District Plan Change 44 which is one of a series of changes for updating and amending the District Plan following regular maintenance and monitoring work.

As notified the Plan Change provided for the following:

- **The rezoning or the part-rezoning of sites at:**
  - Glover Park between Ghuznee and Garrett Streets
  - Playground at 113-115 Wadestown Road, Wadestown
  - 66 Salford Street, Newlands
  - Land owned by West Tawa Development Partnership (Lot 1 DP 67858) in the hills above Peterhouse Street, Tawa
- **The deletion or definition of non-cadastral zone boundaries and consequential rezoning relating to properties at:**
  - 233 Happy Valley Road, Owhiro Bay
  - 118 – 132 The Parade, Island Bay
  - 38-54 Cleveland Street, Brooklyn
- **The definition of non-cadastral zone boundaries at:**
  - 109-115 Main Road, Tawa
  - 300 Evans Bay Parade
  - 36-54, 62, & 69 Kaiwharawhara Road
  - 124 Churchill Drive, Crofton Downs
  - 86-94 Upland Road, Kelburn
- **The amendment of the definitions of “antenna” and the “utility structure” in Chapter 3.10**

The amendments are to make it clear that poles or similar structures that support antennae or other utilities are assessed as “Utility Structures.”

- **The inclusion of the ‘standard’ Non-Notification Statement in Rule 7.3.10 – Kiwi Point Quarry**

This change is to bring the Rule 7.3.10 into line with all other equivalent rules in the Plan. The non-notification statements were introduced under Plan Change 28 but Rule 7.3.10 was not included at the time because it formed part of another Plan Change (Change 25) that had not been completed.

The details of the Plan Change as notified are attached as Appendix 1 to this report.

The Committee heard that most of Plan Change 44 had not been subject to submissions. However, nine submissions were received relating to three issues. These are identified below:

<b>Issue</b>	<b>Submitter</b>
1. Requested Rezoning at 124-128 The Parade, Island Bay	Eleftheria Mouroukis David Lyth
2. Rezoning of LOT 1 DP 67858, Tawa From Open Space B To Rural	Simon Frank Friends of Tawa Bush Reserves Richard Herbert Tawa Community Board West Tawa Development Partnership
3. Amendments to Utility Definitions	Telecom New Zealand Ltd New Zealand Police

### **3. SUBMISSIONS AND DISCUSSION**

#### **3.1. UNCHALLENGED PROPOSALS**

As all of proposed Plan Change 44 (apart from the issues identified above) had not been the subject of submissions, the Committee accepted that the proposals, as notified, should be adopted without amendment.

#### **3.2. REQUESTED REZONING AT 124-128 THE PARADE, ISLAND BAY**

The submitters, E Mouroukis and D Lyth requested that the suburban centre zoning of the properties at 124-128 The Parade be extended to cover the entire site area but did not appear at the hearing. In their written submissions, both commented that the rezoning would create a uniform zoning for the sites, and would align the new boundary with that of 130 and 132 The Parade.

The Committee was advised that the proposals for The Parade originated from the desirability of clarifying the non-cadastral zone boundaries that applied to various properties. The opportunity was also taken under the Plan Change to “square-up” the zone boundaries to provide a more practical alignment should commercial redevelopment be proposed in future.

After considering the situation, the Committee was satisfied that the Plan Change 44 proposals were appropriate. The minor zoning extensions would incorporate a terraced area at the rear of 124 The Parade that would have some potential for use should commercial redevelopment be undertaken in future - and in respect of 126 and 128 The Parade the new zone boundary would create a sensible alignment with 124.

The Committee noted that, as the remaining land at the rear of 124-128 The Parade is very steep, a suburban centre zoning would not be suitable. A rezoning could raise

development expectations that might impact adversely on adjacent residential properties through excavation and the erection of high buildings.

The retention of a residential 'buffer' between the suburban centre zoning and adjacent residential properties would be more likely to protect the amenities for adjacent owners. Some residential development might be possible on the steep rear land but its impact would be far less than permitted suburban centre development.

The Committee therefore recommends that that the submissions from E Mouroukis and D Lyth not be accepted and the rezoning of 124-128 The Parade remains as proposed under Plan Change 44.

### **3.3. REZONING OF LOT 1 DP 67858, TAWA FROM OPEN SPACE B TO RURAL**

Three submitters opposed the proposed rezoning of the Tawa land, Friends of Tawa Bush Reserves, S Frank and R Herbert. At the hearing the Friends of Tawa Bush Reserves were represented by Laurence Fraser Jackson and S Frank appeared on his own behalf. R Herbert did not appear. A submission was also made by the Tawa Community Board expressing various concerns about the possible future development of the land but the Board did not appear.

The owners, West Tawa Development Partnership were in support of the rezoning and were represented by Ian Leary, planning consultant.

The Committee heard from both the officers and Mr Leary about the recent planning history of the land and how a series of misunderstandings had resulted in an open space zoning that was not accepted by the owners. These misunderstandings eventually led to the Council initiating a rezoning for rural purposes to provide the opportunity for the owners to make reasonable use of their land.

The submitters in opposition supported the retention of an Open Space B zoning and requested that the land be maintained in its 'natural' state for amenity, ecological and water retention reasons. It was suggested that the southern portion of the land in regenerating native vegetation could be linked to the existing Redwood Reserve.

Both Mr Jackson and Frank argued strongly for retaining the western hills of Tawa as public open space. The Committee acknowledged their enthusiasm and support for protecting the undeveloped backdrop of bush-covered hills, but it was agreed that in this case an open space zoning of private land, to achieve this end, could not be sustained. The Committee was concerned that what the submitters were requesting, was in effect, a de facto public purchase of the land through the retention of an open space zoning.

The Committee was made aware that through other processes, the Council has had the opportunity to initiate the acquisition of the land, but this has not been pursued. The land has not been seen as being integral to achieving wider open space or reserves objectives. In particular, the Outer Green Belt Management Plan of 2004 made no special reference to the land in terms of furthering the Outer Green Belt vision and

highlighted the importance of working with the owners of private land to promote the Outer Green Belt concept.

Also there was no evidence presented to show that the land had such outstanding open space values that it could justify an open space zoning contrary to the wishes of the owners. In this regard, the Committee acknowledged the general principle, established under case law on the matter that land should not be zoned for reserve or open space purposes unless it is already reserved for such purposes, the landowner agrees, or it is incapable of being used for other purposes.

The Committee also noted that under Proposed District Plan Change 33, controls are now in place to promote appropriate development on sensitive hillside sites. The required resource consent processes would enable consideration to be given to important issues such as the protection of areas of regenerating native bush and the sighting of buildings below the skyline. It is also possible that significant areas of bush might be vested in the Council as part of the reserves contribution that would be payable upon development.

With regard to the comments from the Tawa Community Board, it was acknowledged that valid points had been raised about the possible future development of the land but that they were not matters that could be addressed directly through the Plan Change 44 process. It was accepted that site development issues would have to be dealt with under resource consent applications that would now be required under the rural zoning.

The Committee also noted the support for the Plan Change from the land owners and their particular submission requesting the referencing of District Plan Map 28 in the Plan Change documentation. This technical correction was supported with a recommendation that that the rezoning of lot 1 DP 67858 be shown on District Plan Map 28.

### **3.4. AMENDMENTS TO UTILITY DEFINITIONS**

The committee heard that the Plan Change (as notified) proposed to change the definitions of 'antenna' and utility structure' in Chapter 3.10 of the Plan. The changes were initiated in response to an issue that arose in the Khandallah shopping centre – whereby the definition of a 'mast' (when used in elevating antennas) fell under scrutiny. In this case, it was determined by the Environment Court that a mast attached to a building could have unlimited height. The Council had applied to the Environment Court for a Declaration on the matter, with the result that the Court agreed with the utility company that the structure is not a 'mast' as defined.

Two submissions had been received in opposition to the plan change proposal - from Telecom NZ and NZ Police. These organisations were concerned that the proposed new definitions would change the mountings that attach small antennas onto buildings into 'utility structures' and require additional resource consents.

The Committee was advised that prior to the hearing, various solutions to the unanticipated problem with the antenna rules had been explored with Telecom and NZ Police. The favoured solution was to return the definitions of ‘antenna’ and ‘utility structure’ to their previous meaning and to amend Rules 23.1.13.2 and 23.1.14.2 to restrict the width or diameter of the antenna mounting to 150mm. This size was considered to be large enough to support the sort of small antennas that Telecom and Police normally use but too thin to support larger masts such as that approved in the Khandallah case. 150mm is also considered to be thin enough not to have a significant visual effect.

The submitters did not appear at the hearing as they were happy that if the above-mentioned changes were made, their submissions would have been addressed satisfactorily. Legal advice had confirmed that changes could be made within the scope of the submissions.

In light of the above, the Committee agreed that the relevant District Plan provisions should be amended as detailed in recommendation 1 (ii).

Alick Shaw

**Committee Chair**

**Proposed District Plan Change 44**

**General Minor Amendments to District Plan Maps and Text II**

## PLAN CHANGE DOCUMENT WITH ANNOTATED CHANGES

### WELLINGTON CITY DISTRICT PLAN

### PROPOSED DISTRICT PLAN CHANGE 44 – GENERAL MINOR AMENDMENTS TO DISTRICT PLAN MAPS AND TEXT II

#### Key to Changes:

<del>Abcdefghijklmnop</del>	Text proposed to be deleted following consideration of submissions
<u>ABCDEFGHIJKLMNPO</u>	Text proposed to be added following consideration of submissions

#### ~~A. ALTERATIONS TO VOLUME ONE, DEFINITIONS (3.10)~~

- ~~1. Add the following text to the last line in the definition of ‘Antenna’, after the word ‘mast’:~~

~~“pole or similar structure”~~

- ~~2. Add the following text to the second line in the definition of ‘Utility Structure,’ after the word ‘includes’:~~

~~“poles or similar support structures on buildings”~~

#### ~~A. ALTERATIONS TO VOLUME ONE, UTILITY RULES (CHAPTER 23)~~

- ~~1. Add the following text to the Utility Rules such that:~~

~~- Rule 23.1.13.2 be amended to read:~~

~~“The antenna shall not exceed 0.6m<sup>2</sup> in area or 800mm diameter. Where the antenna is attached to a building or structure (excluding a mast) and the antenna mounting elevates the antenna above the building or structure, the part of the mounting that elevates the antenna shall not exceed 150mm in width or diameter and no guy wires are permitted. If the antenna is attached to a building or structure (excluding a mast) so that the antenna does not protrude above that part of the buildings or structure to which it is attached, the antenna shall not exceed 1m<sup>2</sup> in area or 1m diameter.”~~

~~- Rule 23.1.14.2 be amended to read:~~

*“The antenna shall not exceed 0.6m<sup>2</sup> in area or 800mm diameter except if 23.1.14.3, 23.1.14.4 or 23.1.14.5 below applies. Where the antenna is attached to a building or structure (excluding a mast) and the antenna mounting elevates the antenna above the building or structure, the part of the mounting that elevates the antenna shall not exceed 150mm in width or diameter and no guy wires are permitted.”*

**B. ALTERATIONS TO VOLUME ONE, RESIDENTIAL CHAPTER  
(RULE 7.3.10 – KIWI POINT QUARRY)**

**2. Amend** the non-notification statement to read:

*“The written approval of affected persons will not be necessary in respect of item 7.3.10. Notice of applications need not be served on affected persons and applications need not be notified.”*

**C. ALTERATIONS TO VOLUME THREE- MAPS 4, 6, 11, 12, 15, 16,  
20, 23, 28 & 30**

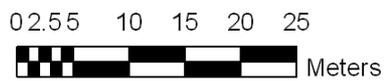
**3. Provide for the rezoning or part rezoning** of sites as shown on maps A, B, C, and D attached.

**4. Provide for the deletion or definition** of non-cadastral zone boundaries and the consequential **rezoning** of land as shown on maps E, F, and G attached.

**5. Provide for the definition** of non-cadastral zone boundaries as shown on maps H, I, J, K, L, and M attached.

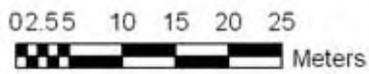
Proposed Plan Change 44:  
Rezoning of Glover Park - DP Map 16

Appendix 1 - Map A



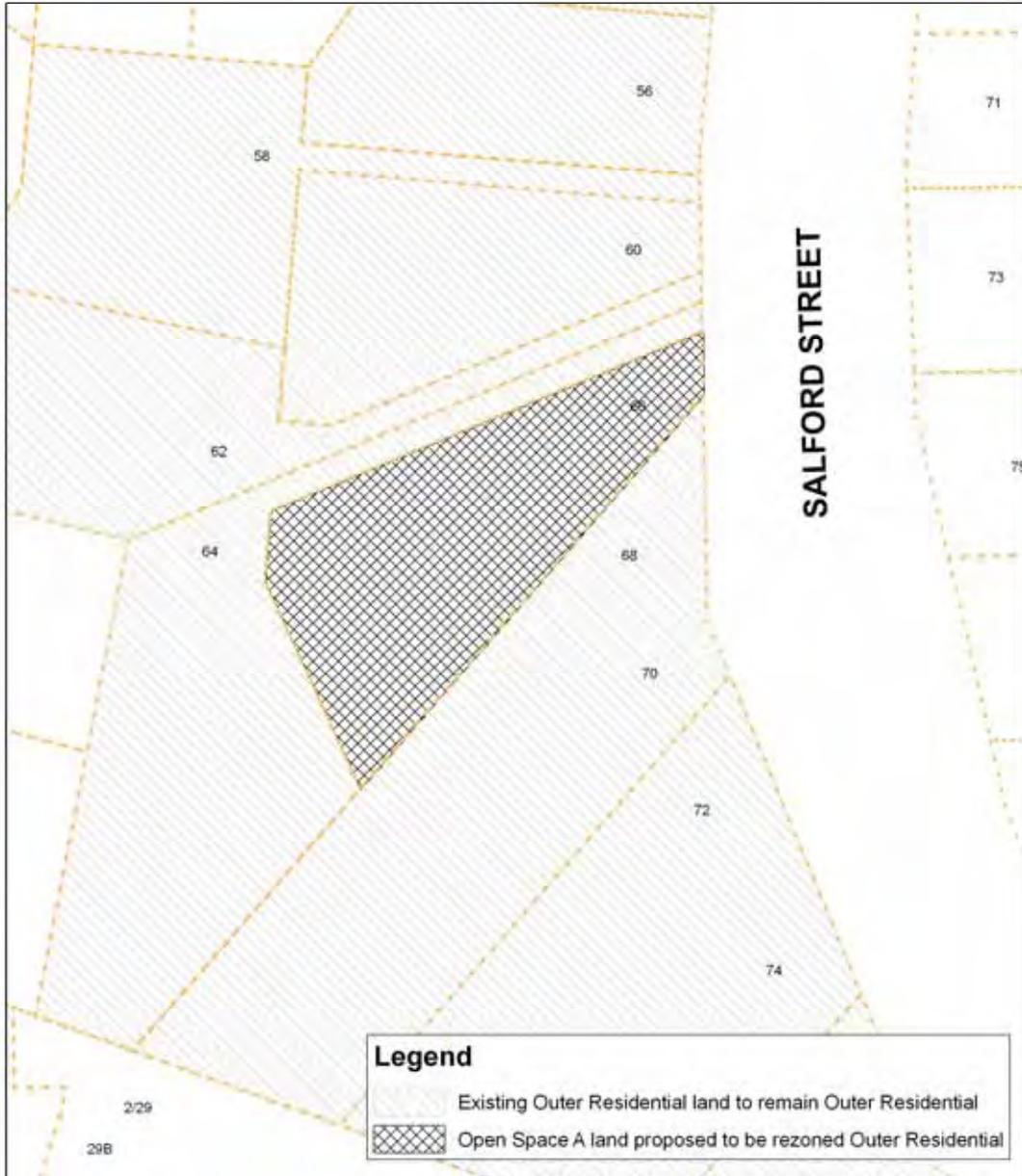
Proposed Zoning Change  
113, 115 Wadestown Road - DP Map 15

Appendix 1 - Map B



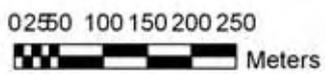
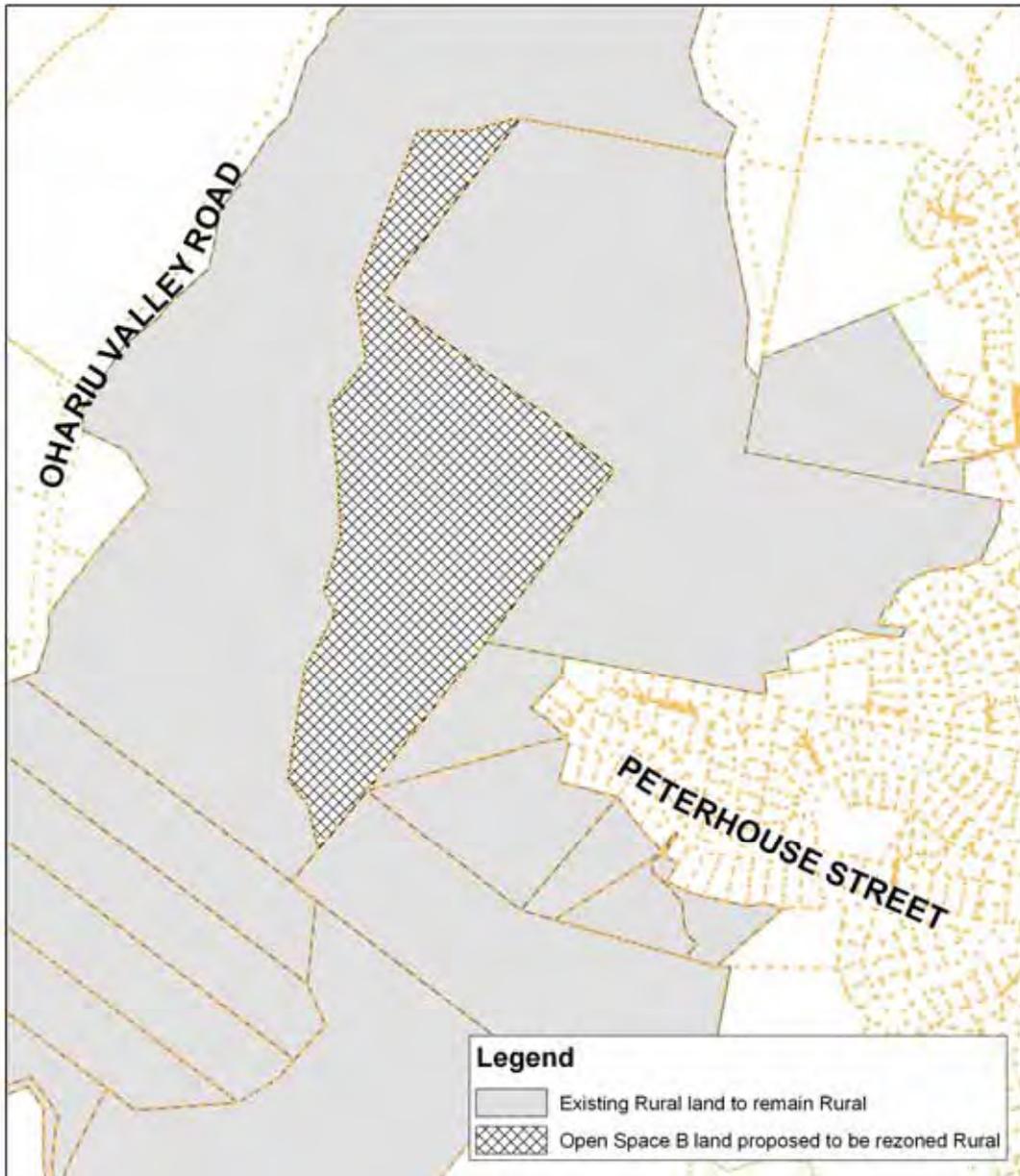
Proposed Zoning Change  
66 Salford Street, Newlands - DP Map 23

Appendix 1 - Map C



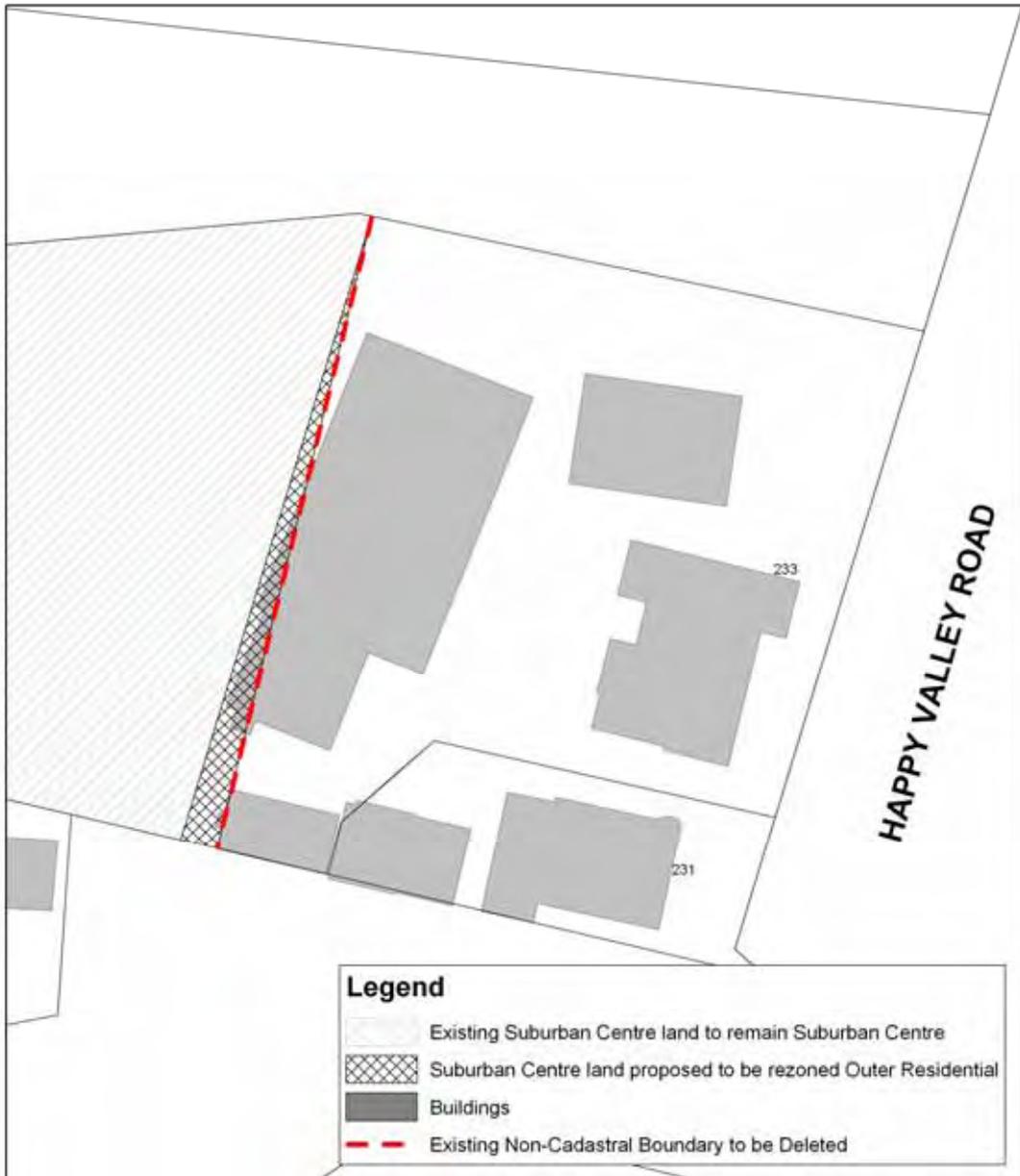
Proposed Zoning Change  
Lot 1 DP 67858, Tawa - DP Map 15

Appendix 1 - Map D



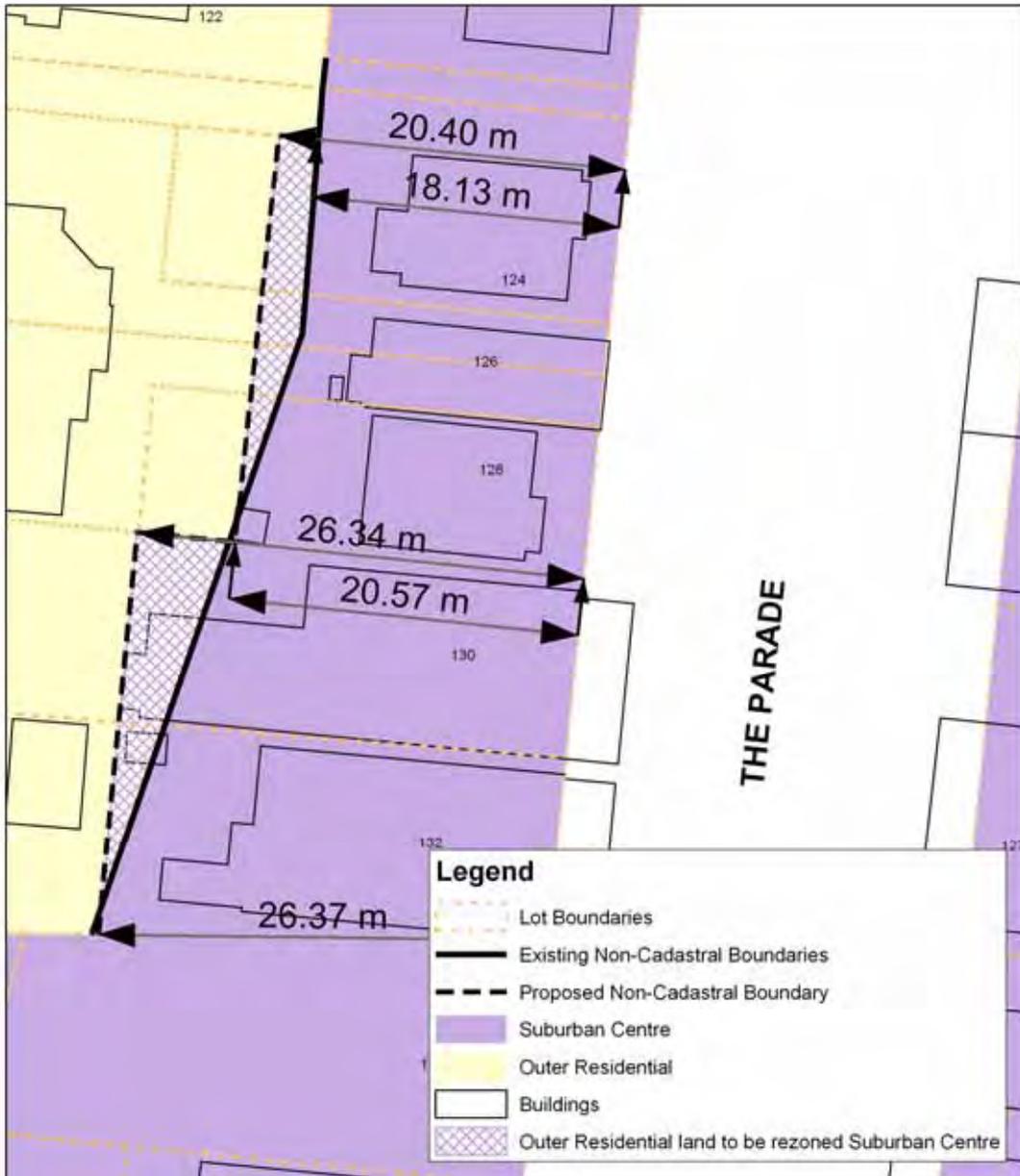
Deletion of Existing Non-Cadastral Boundary  
and Proposed Zoning Change  
233 Happy Valley Road - DP Map 4

Appendix 1 - Map E



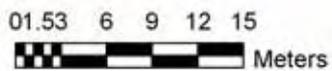
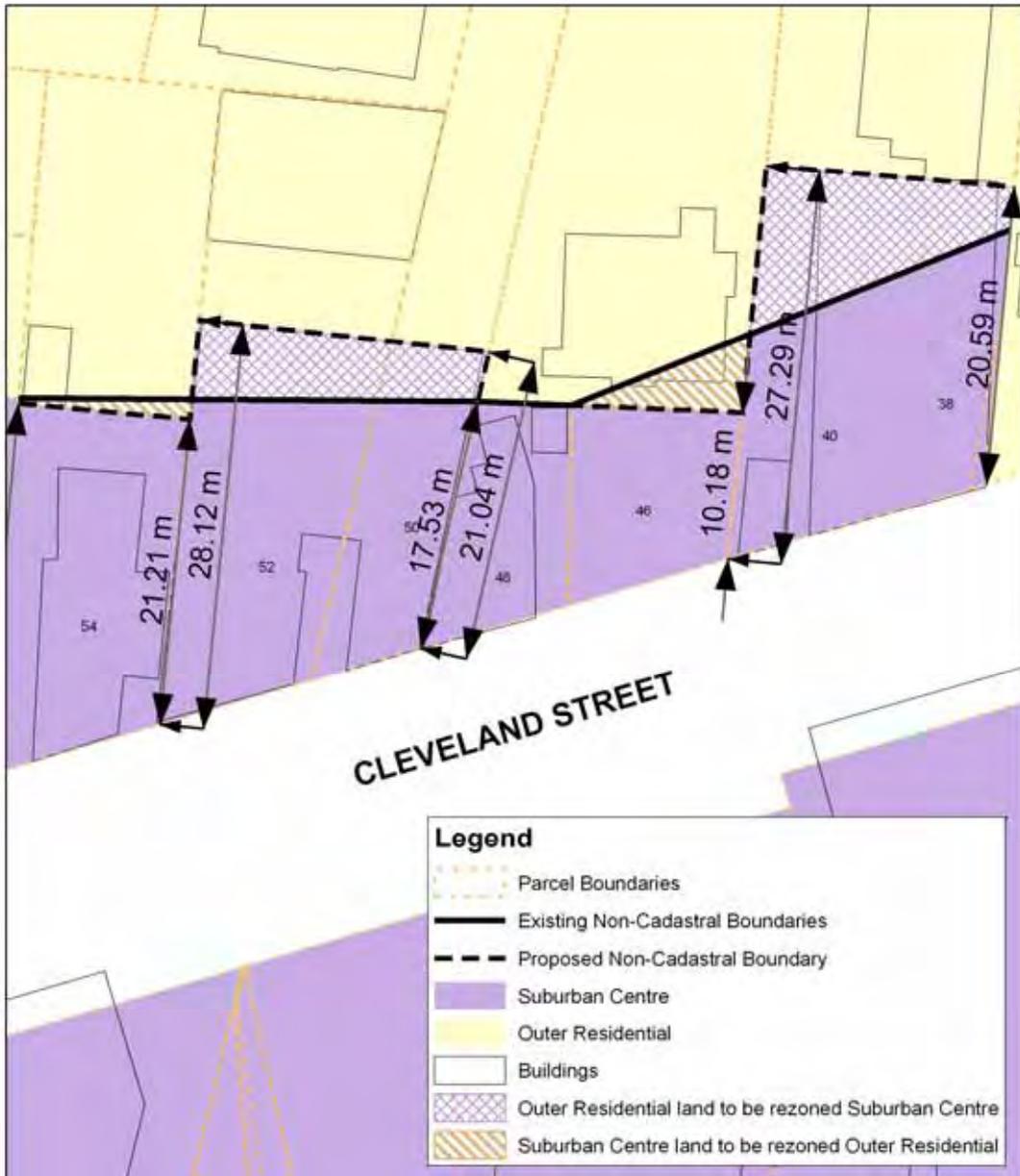
Realignment of Non-Cadastral Zone Boundary and Proposed Rezoning  
 124-132 The Parade, Island Bay - DP Map 4

Appendix 1 - Map F



Realignment of Non-Cadastral Zone Boundary and Proposed Rezoning  
 38-54 Cleveland St, Brooklyn - DP Map 6

Appendix 1 - Map G



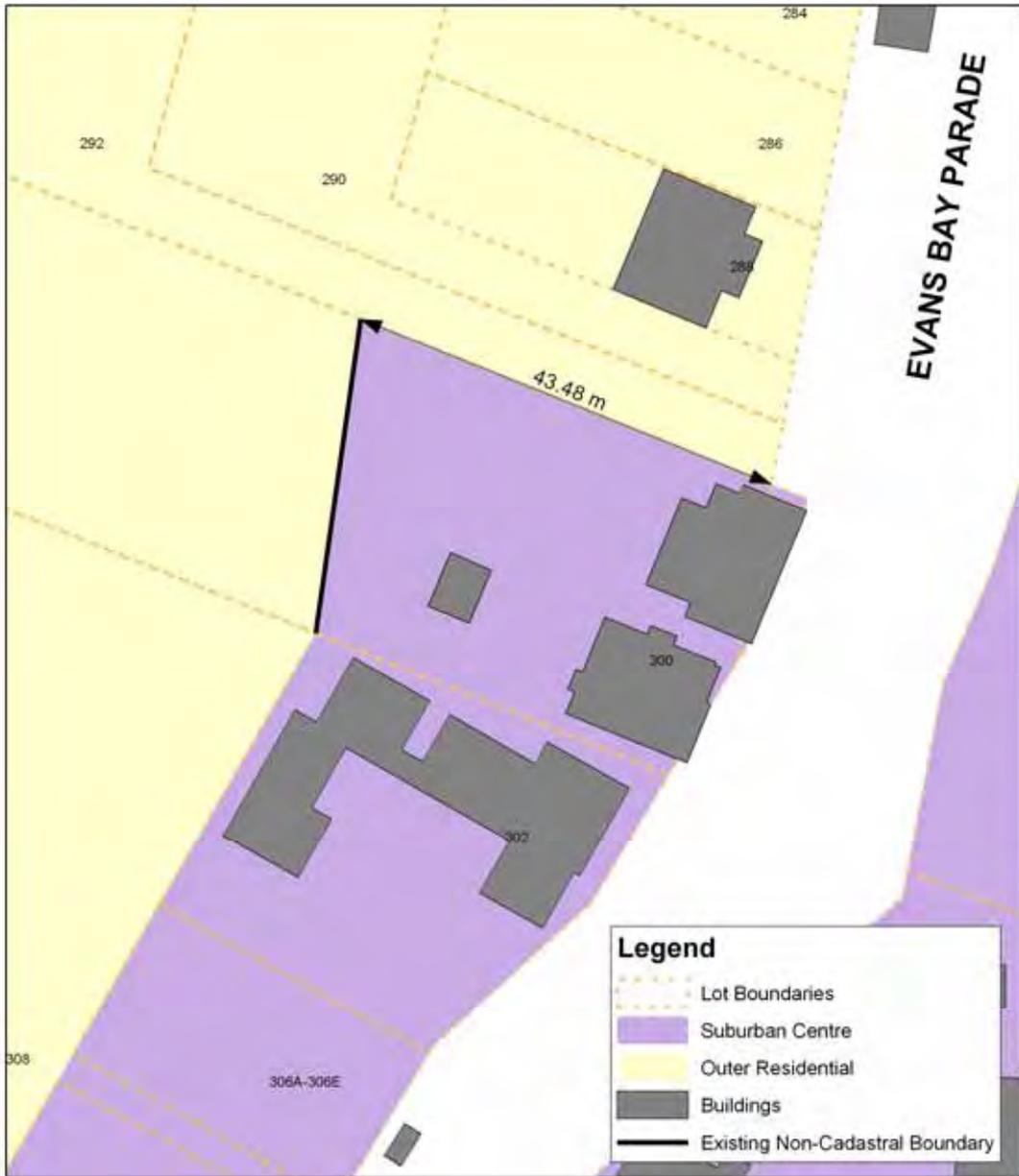
Definition of Non-Cadastral Zone Boundary  
109-115 Main Road Tawa - DP map 30

Appendix 1 - Map H



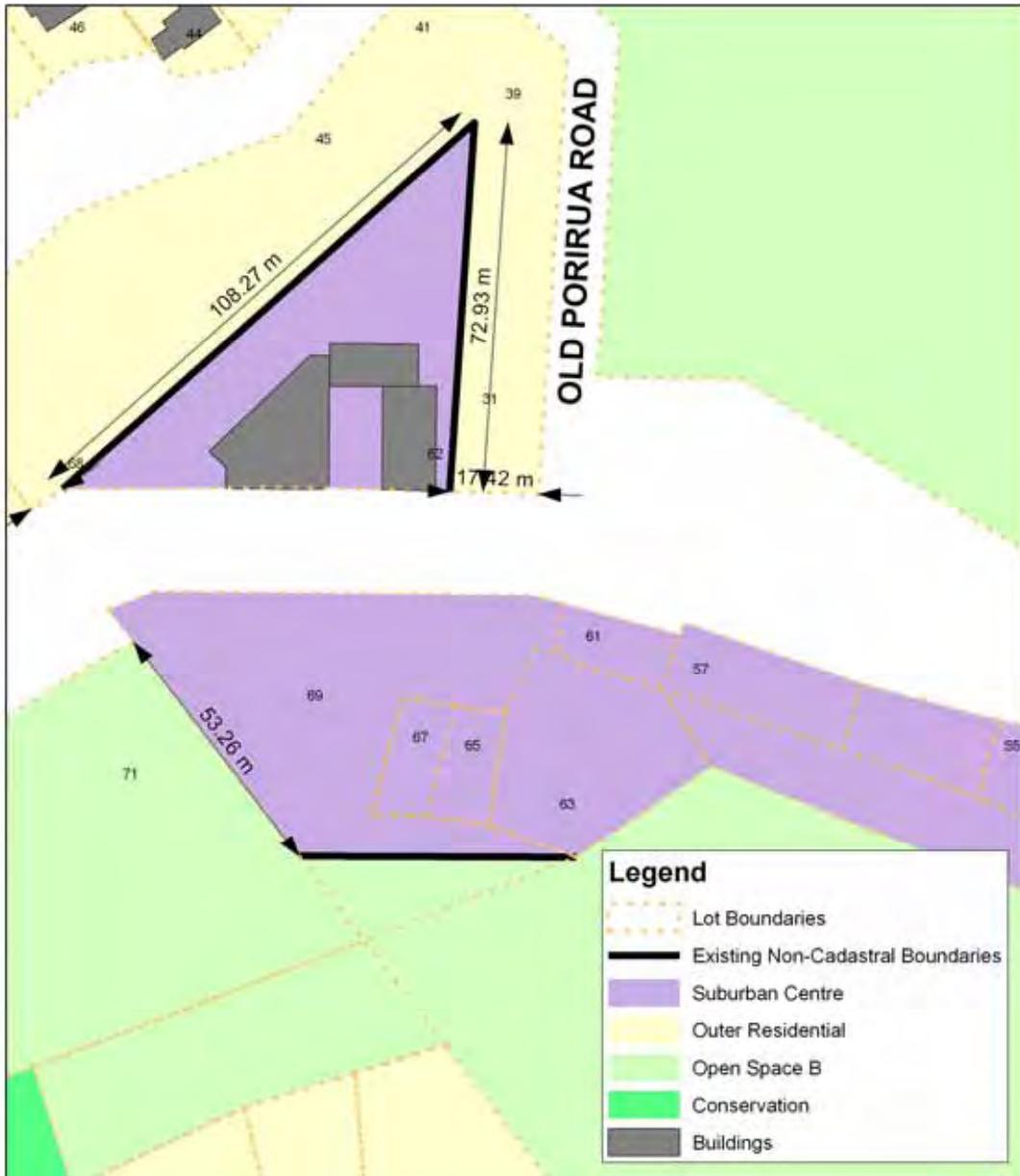
Definition of Non-Cadastral Zone Boundary  
300 Evans Bay Parade - DP Map 12

Appendix 1 - Map I



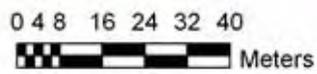
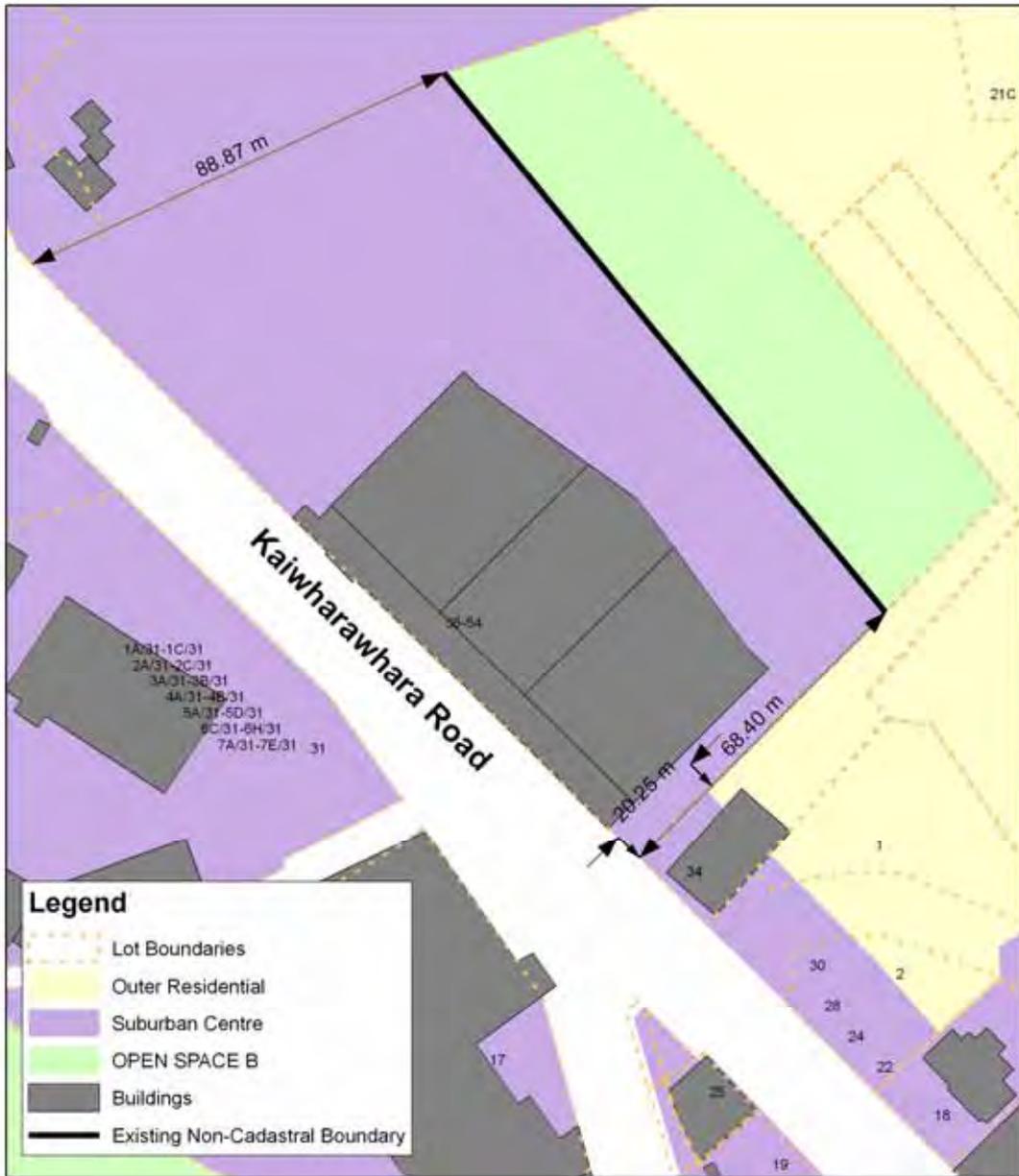
Definition of Non-Cadastral Zone Boundary  
62 & 69 Kaiwharawhara Road - DP Map 15

Appendix 1 - Map J



Definition of Non-Cadastral Zone Boundary  
36-54 Kaiwharawhara Road - DP Map 15

Appendix 1 - Map K

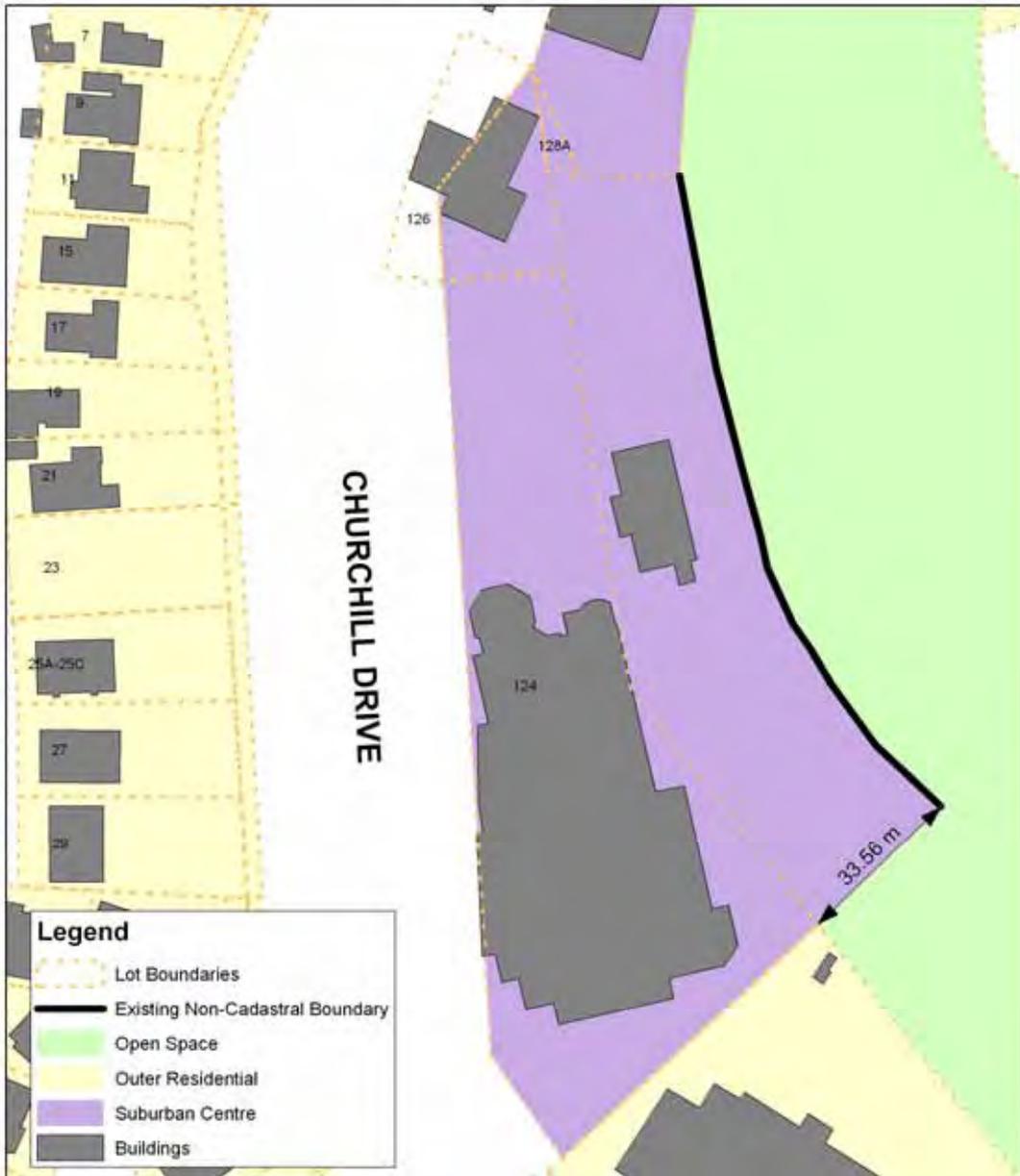


Please note that the smaller arrow refers to the measurement reference point only



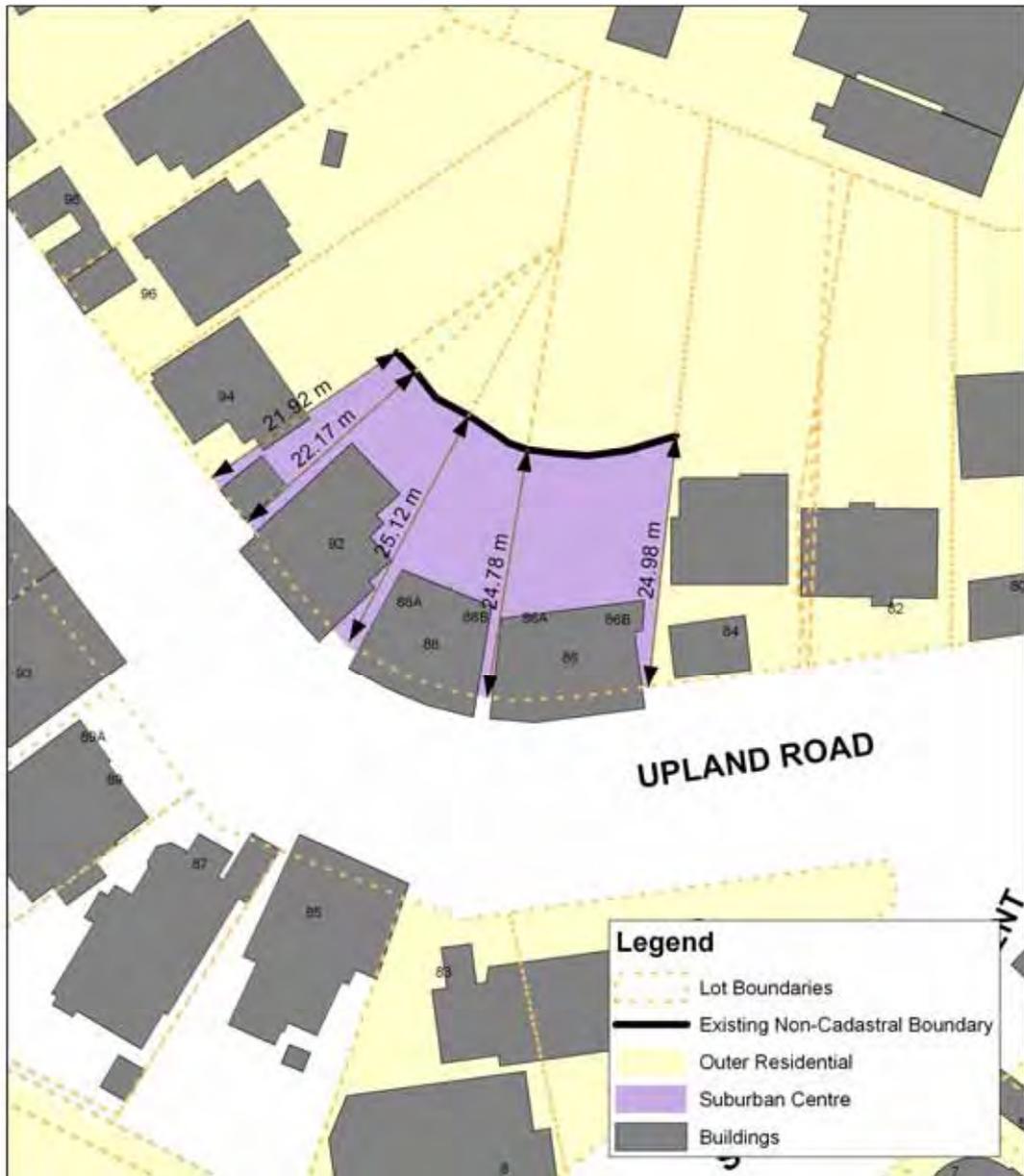
Definition of Non-Cadastral Zone Boundary  
124 Churchill Drive, Crofton Downs - DP Map 20

Appendix 1 - Map L



Definition of Non-Cadastral Zone Boundary  
86-92 Upland Road, Kelburn - DP Map 11

Appendix 1 - Map M



0 3 6 12 18 24 30  
Meters



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<b>TITLE:</b>	<b>WELLINGTON CITY COUNCIL REPORT OF THE HEARING COMMITTEE</b>
<b>SUBJECT:</b>	<b>DISTRICT PLAN VARIATION No. 1 – ADDITION TO PROPOSED DISTRICT PLAN CHANGE 33 (RIDGELINES &amp; HILLTOPS (VISUAL AMENITY) AND RURAL AREA): INCLUSION OF LOT 1 DP 67858 IN THE AREA ON THE WESTERN SLOPES OF TAWA WHERE RULE 15.4.6 APPLIES.</b>
<b>COMMITTEE MEMBERS:</b>	<b>COUNCILLORS SHAW AND WAIN</b>
<b>DATE OF HEARING:</b>	<b>27 March 2007</b>

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## **1. RECOMMENDATIONS**

It is recommended that Council:

- Approves Proposed District Plan Variation 1 as set out in the Public Notice on 23 September 2006.*
- Rejects the submissions from Grant & Lee-Ann Newton, Pauline Wilson, Phillip Andrews, Carol Andrews, Friends of Tawa Bush Reserves and the Tawa Community Board.*
- Accepts the submission from West Tawa Development Partnership supporting the Variation.*
- Accepts the submission from West Tawa Development Partnership requesting the inclusion of the part of PT lot 1 DP 9786 to the east of Ohariu Valley Road in Appendix 6 under rule 15.4.6 as shown in Appendix 1 to this report*

## **2. INTRODUCTION**

The Committee heard that Variation 1 arose as a result of District Plan Change 44 that proposed a rezoning of Lot 1 DP 67858 from Open Space B to Rural. The background and details to this rezoning is covered in the accompanying Hearings Report on Plan Change 44.

Lot 1 DP 67858 forms part of a larger land holding owned by the West Tawa Development Partnership. Through the Plan Change 33 (Rural Review) process, it was agreed that most of the West Tawa land was suitable for rural/residential subdivision and provision for this was made for this under Rule 15.4.6.

With the sale of Lot 1 DP 67858 to the West Tawa Development Partnership, the Council also agreed that this lot should be included in the area to which Rule 15.4.6 applies.

The committee was advised that as Plan Change 33 is currently under appeal (in respect of ridgeline and hilltop issues), the inclusion of additional areas to Rule 15.4.6 must be made by way of a variation to Plan Change 33.

A total of seven submissions were received to Variation 1 - from the West Tawa Development Partnership (in support) and from Grant & Lee-Ann Newton, Pauline Wilson, Phillip Andrews, Carol Andrews, Friends of Tawa Bush Reserves and the Tawa Community Board (in opposition).

The only submitters to appear at the hearing were Laurence Fraser Jackson on behalf of the Friends of Tawa Bush Reserves and Ian Leary, planning consultant, representing the West Tawa Development Partnership.

### **3. SUBMISSIONS AND DISCUSSION**

The Committee noted that of the six submissions opposing or commenting on Variation 1, only two specifically requested that Lot 1 DP 67858 not be subject to Rule 15.4.6. These were from G and L-A Newton and the Friends of Tawa Bush Reserves.

The other submissions generally opposed the proposed rezoning of the land under Plan Change 44. The Committee accepted the officer's advice that the proposed variation did not provide the opportunity to challenge the rezoning of the land and accordingly submissions in this regard could not be accepted.

With regard to the inclusion of the land for possible rural residential development under Rule 15.4.6 the Committee agreed that an appropriate assessment had been made and that the land was suitable for inclusion under the rule. Any future rural/residential development would require resource consent and the Committee was therefore satisfied that this would enable all relevant site development issues to be fully addressed.

The arguments presented against the variation by the Friends of Tawa Bush Reserves were largely bound with the submissions to Plan Change 44 concerning the zoning of the land. As commented in the decision report on the Plan Change, the Committee wished to acknowledge the enthusiasm and dedication of the Friends of Tawa Bush Reserves in their endeavours to protect the bush and green backdrop to Tawa - but in this particular case, could not agree with the Friends that the open space zoning of private land should be used as a protective measure.

Mr. Leary, on behalf of the West Tawa Development Partnership, reiterated the submitters support for Variation 1. He also elaborated on that part of the submission seeking the inclusion of a further 'triangle' of land owned by the Partnership to the east of Ohariu Valley Road within the area covered by Rule 15.4.6. Because of an

oversight, this area had not been included in the decision on proposed Plan Change 33 when the Rule 15.4.6 boundaries were identified. It was now argued that because the land was not a separate lot and formed part of the larger title it should also be subject to Rule 15.4.6.

The Committee sought legal advice on whether this request was within the scope of Variation 1 and, therefore, capable of acceptance. On the particular facts applying in this case, the advice was positive and supported the inclusion of the triangle under rule 15.4.6 as sought by the submitter. The Committee was satisfied that the relatively small area was integral to the larger West Tawa land holding and should therefore be included. The acceptance of this submission is covered in recommendation 4 above.

Alick Shaw

**Committee Chair**

**Proposed District Plan Variation 1**

**Additions to Proposed District Plan Change 33**

*(Ridgelines & Hilltops (Visual Amenity) & Rural Area)*

### Map Amendment to Proposed Variation 1 – Additional land to be included under Rule 15.4.6

