

DISTRICT PLAN CHANGE 32 – RENEWABLE ENERGY

BACKGROUND

Plan Change 32 Renewable Energy responds to the issue of energy efficiency and the use of energy from renewable sources. The RMA was amended in 2004 to require Councils to have particular regard to the benefits to be derived from the use and development of renewable energy when exercising functions and powers under the Act.

Section 7 of the RMA was amended to include “energy efficiency” and “the effects of climate change”; and “the benefits to be derived from the use and development of renewable energy” as matters to which local authorities must have “particular regard”.

One way to give effect to this obligation is to provide specific objectives and policies in the District Plan, which encourage the use and development of renewable energy. Provision is made for renewable energy developments in the proposed Plan Change including specific rules for assessing proposals.

GENERAL SUBMISSIONS

Support for the Plan Change came in two forms: support for renewable energy developments generally; and then specific support for wind energy facilities within the Wellington City district.

The Panel heard from many submitters who support the concept of renewable energy and acknowledges that there is broad public support for the concept of renewable energy from a wide cross section of the community. The Panel also recognises that there are many different opinions on how that support should be interpreted and addressed by the Council.

Richard Wright of Aonui Architecture (323) and Frances Robinson of Frances Robinson Architects (328) spoke of the growing awareness of the need to produce healthier sustainable buildings that incorporate renewable energy initiatives, as well as the need to integrate wind and solar initiatives into inhabited environments.

Submissions in opposition to the Plan Change focused on wind energy facilities and their possible effects.

Resource consent issues

While it is recognised that there may be broad public support for renewable energy and wind power, there are different opinions in relation to particular developments. It would appear that the majority of the public accept the need for the development of renewable energy and renewable energy facilities but many are opponents of local developments. This is a difficult issue to resolve and one which the Panel considered carefully.

The Panel fully considered all the evidence presented to it at the hearing and in written submissions with regard to the large number of site or development specific issues and in particular the concerns of the Makara residents. Their concerns included a possible Quartz Hill location, health effects, visual pollution, construction and traffic issues, effect on property values, landscape, ecology and wildlife effects and reducing natural areas used for recreation.

The Panel considers that the extensive Rural Area within Wellington City Council boundaries is an area where it might be possible to locate renewable energy facilities. However, the suitability of any particular site or location for such facilities would need to be determined through the resource consent process.

The Panel considers that the discretionary (unrestricted) activity status for wind energy facilities is appropriate. While the activity status for wind energy developments has not changed from that existing in the current District Plan, the addition of assessment criteria provides a more comprehensive framework for the consideration of the potential effects of wind energy facilities. In addition the Rural Area policies and proposed Chapter 25 policies provide a means by which a thorough and balanced assessment of the suitability of any particular site within the Rural Area can be determined, having regard to the range of potential effects and benefits created by wind energy facilities.

The Panel notes that the discretionary (unrestricted) activity status means that, as well as the criteria listed in the rule, other relevant issues may be considered in respect of an individual resource consent application. The expectation is that such applications will be publicly notified.

Other renewable energy options should be addressed

Solar:

Currently solar energy development, if part of an existing building, does not require any resource consent providing any addition to the existing building falls within bulk and location requirements (height, distance to boundary, daylight access).

The Sustainable Energy Forum (325), EECA (Energy Efficiency and Conservation Authority) (341), the NZ Photovoltaic Association (321) all support the policy basis provided by Plan Change 32 and the identification of advocacy as a method in which the Council can achieve the policies. These organisations and many individuals sought greater recognition and provision for solar based energy initiatives in the District Plan. The Panel accepts that these measures provide ways in which individuals can contribute to energy efficiency and greater self sufficiency in energy needs, but believes that Council mechanisms other than the District Plan are more appropriate to encourage the uptake of this technology. However, it was accepted that it was not within the power of Council to enforce alternative methods in respect of private developments.

Given the current focus on energy efficiency and the use of renewable energy there is probably a place for considering requirements relating to building orientation to the sun, building location and ensuring adequate sunlight access to adjoining sites for

passive solar energy and water heating. However, specific evidence on what changes are required to the current bulk and location requirements was not provided in the written or oral submissions. Therefore the Panel believes that any changes to the District Plan to incorporate these ideas are beyond the scope of changes that can be made as a result of this decision. However, the Panel urges Council to investigate these opportunities further and has made a ‘recommendation for further work’ that the Subdivision and Multi-unit Design Guides be updated to refer to renewable energy.

The Panel heard from a number of submitters who suggested that it was possible to have more stringent energy efficiency and renewable energy requirements than the Building Act. The submitters drew attention to section 7(2) of the Building Act, which says that a District Plan can not impose restrictions which are more stringent than that required by the Building Code, unless specifically provided to the contrary in any Act. The argument put forward was that as the RMA is another Act, and as section 7 is being used to justify the wind energy rules it could also be used to justify requiring solar hot water on new housing and more stringent energy efficiency rules.

Energy Efficiency and Energy Conservation:

The Panel holds the view that the energy efficiency referred to in the Plan relates to “land use” issues, and by including energy efficiency policies in the District Plan Council has some opportunity, when considering applications for resource consents for new developments of all sizes, to have regard to aspects of energy efficiency and the use of renewable energy that might otherwise not be considered. Rather than “ignoring” energy conservation it provides another avenue through which the Council can have consideration for energy efficiency and the use of renewable energy. The rationale for the inclusion of such policies comes from the changes made to the RMA to include energy efficiency and renewable energy as matters to which Council must have regard under section 7, and from the development and implementation of the Council’s Sustainable Development Strategy.

Domestic (Small Scale) Turbines:

Turbines for domestic use are to be considered under the relevant bulk and location provisions for the appropriate zones. This is considered appropriate as they can have immediate amenity effects on adjoining properties.

The Panel felt that the word “domestic” in relation to turbines (in the definition of wind energy facility and elsewhere in the Plan) was inappropriate as it implies usage at the individual household level. While domestic use is clearly one of the applications, it is conceivable that “small scale” turbines could be applied in other places such as rural business and on top of buildings in the central city. In the absence of any compelling evidence that 5 kW was not an appropriate limit, the Panel does not consider it necessary to change this limit.

A number of submitters felt that greater use of small scale turbines could be made in built environments and that the District Plan should encourage innovation in their use and application. However, the Panel again felt that these matters were beyond the scope of changes that could be made as a result of this decision. The Panel has therefore made a “recommendation for further work” that looks at how small scale turbines may be better provided for in the District Plan.

Energy Saving:

Energy saving is something that needs to happen both at an individual and a collective level. While the Council can promote and encourage energy savings at the domestic and commercial/industrial scale through other Council processes and mechanisms, the Panel considered that energy saving per se is not an issue that can be addressed by the District Plan generally and Plan Change 32 specifically.

Insufficient recognition given to sections 6 and 7 of the RMA:

Submitters raised concerns that Plan Change 32 failed to recognise all parts of section 6 of the RMA (Matters of National Importance) and relevant parts of section 7 (Other Matters, specifically 7(b), 7 (ba), 7(c), 7(i) and (j)). The Panel comprehensively considered this issue along with the relative weighting to be given to the different parts of sections 6 and 7.

The Panel is of the opinion that Plan Change 32 must be viewed within the context of the whole District Plan and as such any application for a wind energy facility will be assessed against all the Plan's objectives and policies. Area based policies (i.e. policies relating to zones) adequately address section 6 and 7 RMA matters.

The Department of Conservation (142) considered that while the assessment criteria sufficiently address sections 6 and 7 RMA matters, the assessment criteria are not sufficiently linked to the objective and policies of Chapter 25. The Panel considers that this view sees Chapters 25 and 26 in isolation rather than as an integral part of the District Plan.

CHAPTER 1: INTRODUCTION

1.6 Significant Resource Management Issues for Wellington

The Panel heard many oral submissions on how the District Plan should “go further” in addressing other renewable energy options, including solar energy. The Panel was very conscious of the fact that the District Plan is limited to controlling the “land use” aspect of renewable energy. To address the issue of the Council's role as an “energy efficiency advocate” the Panel has included a new paragraph entitled “The Council as an Energy Efficiency Advocate” that addresses the need for the Council to promote and be an advocate for renewable energy.

1.6.1 Q1 Efficient City, S9 Energy Efficiency and 1.6.3 District Plan Objectives

In respect to the many submissions that sought a recognition of all sources of renewable energy, the Panel felt that the introductory parts of the Plan should be amended to state “from a range of renewable energy sources” wherever there were sentences relating to “renewable energy”, inserted as a result of the Plan Change. The Panel was of the opinion that this highlights the fact there are many renewable energy options available, not just wind energy.

The Panel agrees with the submission by Mighty River Power (206/1) and others (342/1, 342/1 and 344/1) that the topics covered in S9 Energy Efficiency are wider

than just energy efficiency. Therefore it is recommended the title be amended to include “renewable energy” as requested by the submitters.

CHAPTER 3: GENERAL PROVISIONS – 3.10 DEFINITIONS

Solar Energy

The Panel heard many submissions on how the District Plan should provide, to a greater degree, for the provision of solar energy at a personal/household/business level. While the Panel felt that the uptake of solar energy at an individual/household/business level should be promoted through mechanisms other than the District Plan (as the District Plan does not currently restrict the use or development of solar energy at this level), the District Plan does have a role in providing an awareness and understanding of the potential for developments to incorporate and consider solar energy principles. In order to further this understanding the Panel felt that it was appropriate to include a definition of “Solar Energy” as presented in the oral submission from the Energy Efficiency and Conservation Authority. The Panel therefore **recommends** that a definition be included in section 3.10 of the Plan as follows:

SOLAR ENERGY: means the generation of electricity through the use of photovoltaic panels and the direct transmission of heat from the sun for the heating of water and/or other building spaces.

Energy Efficiency and Energy Conservation

The Panel considered that the definitions of “Energy Conservation” and “Energy Efficiency” as requested by the Energy Efficiency and Conservation Authority (341/4 and 341/5) are appropriate. These terms are widely used throughout Plan Change 32 and that their inclusion would provide additional clarity and understanding to users of the Plan.

Wind Farms (Wind Energy Facilities)

The Panel agreed with the submissions of Mighty River Power (206/12) and others (342/12, 343/12, 344/12), that all references to wind farms be replaced with “wind energy facilities”. Using one term consistently throughout the Plan will avoid confusion.

Wind Energy Facility

The Panel considered the range of, sometimes conflicting, requests by submitters to include additional words into the definition of “wind energy facility”. Where possible the Panel considered that the language should be non technical in nature.

The Panel considered that the definition of “Wind Energy Facility” should be amended to incorporate the words “colloquially a ‘wind farm’”.

The Panel accepts that the intention of the definition of “wind energy facility” was to exclude all types of “cables” that connect the “wind energy facility” to the electricity network, as these “cables” will be covered by the Utility Rules in Chapter 23, as raised by the submission of Vector Ltd (626/2). Electricity generated by a wind energy facility can be distributed via the local network or transmitted via the national network, creating a distinction between “distribution” and “transmission”. Accordingly the definition has been amended to take this into account.

In a further submission and at the hearing, Meridian Energy (340) raised concerns that the new wording proposed by Vector was overly “wordy” and introduced further concerns that a smaller wind energy facility may not require the installation of a substation. To overcome Meridian Energy’s concern the Panel has deleted the words “from the substation” from the definition.

The Panel considers that the concern raised by Meridian Energy (340/1) that “internal transmission connections” be included in the definition, can be adequately addressed by inclusion of the words “underground cables” as requested by Greater Wellington Regional Council (453/2). It is understood that it is common practice in modern wind energy facilities to put all internal transmission connections underground.

The Panel carefully considered the request by the Energy Efficiency and Conservation Authority (341/3) to change the kilowatt limit on domestic turbines. However, while the Panel agreed that a kilowatt limit on a turbine is not ideal, for the purposes of the definition a limit needs to be established. In the absence of compelling evidence to the contrary the 5 kW limit was kept as being the appropriate generation capacity for a small scale turbine.

POLICY CHAPTERS

Residential Policy 4.2.1.3

The Panel heard many oral submissions about the need to undertake more renewable energy initiatives at the individual household level as well as through the design of new subdivisions and multiple housing developments. The Panel felt that while it was not possible to substantially change the District Plan to address this concern it could effectively be highlighted in the explanation to Policy 4.2.1.3. The Panel has therefore included appropriate wording in the explanation.

In addition, the Panel has made a “recommendation for further work” to investigate how renewable energy initiatives can be incorporated into the Subdivision and Multi-unit Design Guides.

New Policies in Existing Areas (Residential Area 4.2.1.4, Suburban Centre Area 6.2.1.3, Institutional Area 8.2.1.3, Airport and Golf Course Recreation Precinct 10.2.1.4, Central Area 12.2.1.3, Rural Area 14.2.1.3)

Support for the inclusion of new policies in the Area based chapters (i.e. relating to zones) came from a number of submitters including the Energy Efficiency and Conservation Authority (341/10-14), Frances Robinson Architects (328/1-6), The

Sustainable Energy Forum Inc (325/5-8), The NZ Photovoltaic Association (321/5-8) and Solar Industries Association (330/1-5). Many submitters suggested ways in which the District Plan could “go further” in recognising ways in which renewable energy could be “provided for” in the District Plan.

The Panel carefully considered the many suggestions made by submitters in both their written and oral submissions. The Panel acknowledges that the District Plan has limitations as to what it can achieve and that in some circumstances the outcomes sought by submitters are better delivered by other Council mechanisms such as a Community Plan or Council recommended.

The Panel considered that many of the changes to the explanation requested by Genesis Power Ltd (329/5-10) would assist with the interpretation and understanding of the policy and have been adopted.

Policies - Institutional Precincts 8.2.1.3, Airport and Golf Course Recreation Precinct 10.2.1.4, Central Area 12.2.1.3

The Panel felt that in light of all the oral and written submissions relating to the need for greater innovation in the application of renewable energy and energy efficiency, additional wording highlighting this could be added to the explanation of each policy in each of the above Areas. This would highlight to the Council and others that there might be greater opportunities to address these issues in each of these Areas.

Rural Area Policy 14.2.1.2

The Panel recommends no changes to this Policy.

Rural Area Policy 14.2.1.3

The Panel agrees with the request of Meridian Energy (340/5) that additional wording to the explanation would serve to highlight that the Rural Area is the most appropriate Area for locating wind energy facilities. While the policy is the same as that which applies within all the other Area based sections, it is accompanied by an additional Method (i.e. Rules).

CHAPTER 16: OPEN SPACE OBJECTIVES AND POLICIES

16.5 Open Space Objectives and Policies

The Panel felt that no changes were necessary to the Open Space objectives and policies as the Panel has recommended removal of the Open Space B Area from the wind energy facility rules. This is discussed below under “Chapter 26”.

CHAPTER 25: RENEWABLE ENERGY

25.1 Introduction

The Panel considered a large number of submissions requesting changes to the Introduction and as consequence a number of changes are recommended to be made to the text of the Introduction.

The Panel made a number of changes that are minor and grammatical in nature and others that improve readability. The significant changes include adopting greater links to the Regional Policy Statement as requested by Greater Wellington Regional Council (453/3); changing all references to “wind farms” to “wind energy facilities” as requested by Mighty River Power (206/12); including the definition of renewable energy as defined by the RMA as requested by Mighty River Power (206/2); improving the wording of the third paragraph as requested by Genesis Power Ltd (329/14).

In addition, the Panel felt it necessary to add a paragraph referring to amendments made to section 7 of the RMA as it provided valuable context to the proposed changes (new paragraph 2). The paragraphs under the heading “How this Chapter is to be applied” has also been amended, to delete the word “override” and make the paragraph easier to understand.

Objective 25.2.1

The Panel have recommended no changes to Objective 25.2.1.

Policy 25.2.1.1

Along with wording changes that improve the grammar and readability of the explanation to the policy the Panel agrees with the submission of Genesis Energy Ltd (329/14) that the policy should be expanded to include the “use of renewable energy” as this is mentioned in the explanation but not in the actual policy.

The Panel considers that the request by Greater Wellington Regional Council (453/4) to amend the explanation to include reference to Council’s role in promoting and encouraging energy efficient transport decisions is necessary and provides additional explanation as to how the Council may encourage the efficient use of energy.

Policy 25.2.1.2

The Department of Conservation (142/2) requested that the policy be expanded to address those components of the environment most likely to be impacted by wind energy facilities e.g. natural character of the coast, ecological, visual and amenity values. The Panel considers that the general wording of the policy is appropriate, in order to cover the range of renewable energy technologies and issues that may arise in the coming years. The suggestion from the Department of Conservation that the policy should be more specific is potentially restrictive and therefore not accepted. It is considered that the policies of the Rural Area already adequately address these

concerns. The Panel does not consider it necessary to amend the policy, but wording to similar effect has been included in the explanation.

New Zealand Wind Energy Association (197/3), Meridian Energy (340/6) and Wellwind Energy (623/6) requested that the policy and supporting explanation explicitly recognise the need for electricity generation from renewable energy sources and the high quality of the wind resource in Wellington. The Panel considers that recognising the high quality of Wellington’s wind resource is important. Plan Change 32 is about recognising and providing for renewable energy and energy efficiency and in particular about providing a framework for considering wind energy facilities as a discretionary activity within the Rural Areas.

The Panel agrees with the Makara Guardians Inc Society (339/3) and others (364/3, 493/4 516/5 and 582/2) that the reference to “necessity”, as it refers to elevation, is not necessary.

Mighty River Power and others (206/11, 342/11, 343/11 and 343/11) requested that the statement “an inherent potential conflict” be deleted. The use of the wording “inherent potential conflict” suggests that there will always be a conflict between wind energy and, landscape and amenity values. A conflict arises when two uses are incompatible and there are competing values for a particular site, and the wording of the explanation should not pre-empt the possibility of conflict. The Panel considers it appropriate that the words “inherent” be deleted where it occurs with “potential conflict”.

CHAPTER 26: RENEWABLE ENERGY RULES

Removal of Open Space B Area

Paul Hughes (146) requested that wind power development should not be permitted on Open Space B land. The Panel felt that the Open Space B Area should be removed from the wind energy facility rules that should otherwise only apply to the Rural Area. Submitters noted that there had been little mention of the role of Open Space B land in Plan Change 32. The Panel also felt that the objectives and policies of the Open Space B Area were in direct conflict with the objectives and policies of Chapter 25 and that with the additional layer of protection in the form of management plans, development of structures in the Open Space B Area would effectively be precluded.

Rule 26.1.1

The Panel heard many concerns relating to the issue that Chapter 26 should not “override” all other rules and that wind energy facilities should also be subject to the rules of the underlying zones (or Areas) within which they wish to locate. The Panel considers that the use of the word “override” in Chapter 25 has been unfortunate and has resulted in a considerable amount of concern.

However, the Panel agrees with legal Counsel for the Council that the purpose of statement 26.1.1 is to ensure that there is no confusion over which rule applies to an

activity. By providing a specific discretionary activity rule for wind energy facilities it is possible to assess the issues of particular concern to a wind energy facility.

Ian Leary of Spencer Holmes for Makara Guardians and West Tawa Developments, and the Department of Conservation both raised concerns about the potential of this “overriding” clause to also apply to the objectives and policies of Chapter 25 thereby causing an unanticipated prioritising effect. However, the Plan Change clearly states that the objectives and policies of Chapter 25 apply “in addition” to those of the Rural Area and with the amended and clearer explanations to Chapter 25 and 26 the Panel feels that this will not be the case.

The Panel heard many submissions about Plan Change 32 “allowing” wind energy developments and that the resource consent process will only be a formality. Neither anemometers nor wind energy facilities have been provided for as permitted or controlled activities in this Plan Change and the Panel has not altered the proposed wording.

A discretionary activity consent, such as that required for wind energy facilities, requires consideration of all Part 2 RMA matters (sections 5, 6, 7 and 8) as well as all the relevant provisions (objectives and policies) of the District Plan. In addition to consideration of these matters, other matters pertinent to the actual activity are listed as “assessment criteria” in the discretionary activity rule. A comprehensive list of assessment criteria is provided for in the wind energy facility rule, covering a range of “effects” relevant to wind energy facilities, e.g. landscape, noise and visual. The Panel feels that these assessment criteria are comprehensive and does not consider that this amounts to “overriding” all safeguards in the District Plan.

Discretionary Activity (Restricted) - Rule 26.2.1

The Panel did not agree that anemometers should be provided for as permitted or controlled activities. The Panel considered that the restricted discretionary activity status for anemometers is appropriate.

Meridian Energy (340/7) was concerned that the use of the word “support structures” in the rule may inadvertently allow a range of buildings. They suggested the use of the word “mast” as it has a clear meaning and it may apply to a full height mast or a pole extension on an existing building. The Panel did not agree with this interpretation. While the submitter raises an issue where confusion may arise about the use of the terms “mast, support structure and supporting structure”, it is considered that it would only be an issue if the activity was a permitted or controlled activity. As a restricted discretionary activity where the Council has retained discretion over “siting and design”, this is not considered necessary. Council can have input into the design, and consider alternatives if necessary.

Meridian Energy (340/8) suggests that the inclusion of “siting” as a matter of discretion and “alternative siting” as an assessment criterion is impractical. They suggest that there is no flexibility in siting anemometers to genuinely test the wind resource and that it is more appropriate to address effects through the duration of consents and the consideration of visual and amenity effects. However, the Panel considers that for Council to make a fully informed decision it will need to know why

a particular site is necessary and this will include an assessment of alternative sites. This also provides Council with the flexibility to approve an anemometer with amended siting if this would avoid adverse effects on the environment. Moreover, the Panel highlighted the importance of assessing the number of anemometers so that cumulative visual effects of a proposal can be considered by including “the number to be erected” as an additional assessment criteria. This will provide a clear understanding to the community on the scale of proposed developments.

Discretionary Activities (Unrestricted) - Rule 26.3.1

The Panel felt that Rule 26.3.1 was appropriate. It does not change the activity status for wind energy facilities from what is currently in the operative District Plan.

The Panel did not consider that Rule 26.3.1 removes environmental protection and rejects the concern of some submitters that this provision would allow wind turbines and infrastructure to be built irrespective of the damage to the area. The rule provides a framework within which wind energy facilities can be considered. A resource consent is required for a discretionary activity allowing all effects on the environment, both positive and negative, and actual and potential to be considered.

Rule 26.3.1 Assessment Criteria

The Panel considers that the assessment criteria are comprehensive and provide a good checklist for the Council, applicants and submitters when determining the effects that will need to be considered and addressed in any application for resource consent. The amendments made to the criteria have been made on the basis that they will better relate to the issue or effect the activity may have on the environment as well as address specific concerns raised by submitters at the Hearing.

New Assessment Criteria (26.3.1.12)

The Airways Corporation (209/1) and Genesis Energy (329/31) both requested that a new assessment criterion be included that addresses the potential of wind energy facilities to interfere with existing aircraft safety. The Panel accepts that there is potential for wind energy facilities to affect navigational sites and stations, and that such facilities exist within the Rural Area of Wellington City. A new assessment criterion is therefore recommended.

26.3.1.1 (new number 26.3.1.13)

The assessment criterion has not been amended but has been relocated to the end of the assessment criteria. However, the relocation of the assessment criterion does not imply an underlying hierarchy. All assessment criteria are to be regarded equally (but do not limit the assessment) in determining whether to grant consent.

26.3.1.2 (new number 26.3.1.1)

The Panel heard many submissions on different aspects of noise generated by wind turbines.

Much evidence was presented at the hearing by Makara Residents regarding their concerns relating to noise should a wind energy facility be established on Quartz Hill. The Makara Guardians Incorporated Society took a great deal of time and effort to identify and quantify their concerns regarding the potential effects of wind turbines on the noise environment of Makara Valley. Many of the witnesses provided ‘first hand’ experience of wind turbines in other locations, while others expressed their views on how it would affect them.

It is not the role of this Panel or the forum to determine the actual noise effect of wind turbines in a specific location. The Panel’s concern is to establish whether the assessment criterion is worded in a way that allows the actual and potential noise effects generated by wind energy facilities to be assessed appropriately. On this basis the central concern for the Panel was the adequacy or otherwise of NZS 6808:1998 (Acoustics - The Assessment and Measurement of sound from Wind Turbine Generators).

The Panel heard from four qualified noise professionals: Neville Hegley for Makara Ohariu Community Board; Malcolm Hunt for Wellington City Council; George Bellhouse for Regional Public Health Authority; and Miklin Halstead for Meridian Energy. The Panel felt that while there was a general consensus about the adequacy and appropriateness of NZS 6808 for measuring the noise from wind turbines there was concern about its ability to address other perceived noise effects. In this regard the Panel felt that the evidence of Mr Neville Hegley addressed this concern and accordingly the Panel has amended assessment criterion 26.3.1.2 (new 26.3.1.1) to include reference to NZ6802.

26.3.1.3 (new number 26.3.1.2)

The Panel thought it appropriate to change “amenity” to “amenity values” as requested by Ruth Paul and Christopher Moore (193/3) and the Makara-Ohariu Community Board (194/3), and to change “adversely impact on” to “effects” as requested by Wellwind Energy (623/8). The Panel felt it was appropriate to recognise that not all effects will be adverse and there may also be positive effects.

Genesis Energy 329/20 requested that the assessment criterion be amended to separate out the “nuisance” effects and provide an accurate description of what the terms “electromagnetic”, “blade glint”, and “shadow flickering” mean. The Panel felt that the suggestion was useful and provided greater clarity to the assessment criteria.

In addition the Panel felt that the word “dwelling” should be amended to “residential location” as it was more encompassing and reflected that it is not just “houses” that have the potential to be affected.

26.3.1.4 (new number 26.3.1.3)

Visibility does not equate to adverse effects and wind energy facilities can have different visual effects according to people’s perception of those facilities. The extent to which a wind energy facility is visible from different locations may determine whether someone feels they are affected.

The Panel agreed with the request by Ruth Paul and Christopher Moore (193/4) and Makara-Ohariu Community Board (194/4) that rural character is an important aspect of visual effects that should be considered.

The Panel agrees with Meridian Energy (340/12) that the words “adversely impact on” be replaced with “be visible from” in the first bullet point but not that the second bullet point should be deleted. The Panel does, however, agree that the word “proximity” in the second bullet point is not useful and has accepted that this be changed to “relationship”.

The Panel heard a number of submitters raise concerns about the potential for there to be cumulative visual effects of wind energy facilities within the landscape, as well as concerns about the overall scale of modern wind turbines in relation to the landscape. The Panel considered that these are important aspects of visual effects and has amended the assessment criteria accordingly.

26.3.1.5 (new number 26.3.1.4)

The Panel agreed that the criterion should state “potential effects on birds” rather than “likely impact on...” as requested by MG Taylor (405/17), as this is more appropriate RMA language. It is also considered that the “sensitivity of the site to disturbance” is an important matter to take into consideration along with the distinction between migratory and resident populations of birds. Overall it is accepted that the requested changes make the assessment criteria easier to read and more inclusive.

In the light of oral submissions at the hearing with regard to the potential for earthworks to affect runoff and local catchments, the Panel felt it appropriate to include a new bullet point in this assessment criterion that addresses this concern.

26.3.1.6 (merged with new number 26.3.1.7)

Meridian Energy (340/13) requested that the issue of “archaeological values” be included in 26.3.1.9 and that “geological values” be deleted. The Panel felt that the issues identified in this criterion are closely related to those in assessment criterion 26.3.1.9 and could easily be included along side those in 26.3.1.9. It is not considered appropriate to delete “geological values” as the role of assessment criteria is to identify the particular matters to be considered and in this instance geological values could be relevant.

26.3.1.7 (new number 26.3.1.5)

The Panel recommends no changes to this criterion.

26.3.1.8 (new number 26.3.1.6)

The Panel agreed with Meridian Energy (340/14) that the statement “major alterations to natural landforms should be avoided” in the assessment criterion is more a statement of policy and not appropriate for an assessment criterion. However, the Panel does not feel that it should be entirely deleted, rather in the interests of making

the assessment criterion clear and precise as requested by PB Power (210/3) and B Offergeld (211/3), it is recommended that the assessment criterion be reworded.

The Panel agrees with Ruth Paul and Christopher Moore (193/5) and Makara-Ohariu Community Board (194/5) that “landscape features” should be included. However they feel that assessment criterion 26.3.1.8, which primarily addresses the issue of earthworks, is not the appropriate place. It is considered that the most appropriate place would be to include “landscape features” in assessment criteria 26.3.1.9, which deals with the impact of wind energy facilities on a range of values.

26.3.1.9 (new number 26.3.17)

The Panel agrees with the submission of Ruth Paul and Christopher Moore (193/5) and Makara-Ohariu Community Board (194/5) that open space values should be considered even if it is not Open Space B land and the criterion has been recommended for amendment accordingly.

Amendments to this assessment criterion have been made as a result of submissions made on Assessment Criteria 26.3.1.6 and 26.3.1.8

26.3.1.10 (new number 26.3.1.8)

The Panel recommends no changes to this Criterion.

26.3.1.11 (new number 26.3.1.9)

The Panel recommends no changes to this Criterion.

26.3.1.12 (new number 26.3.1.10)

The Rural Area Design Guide applies to residential development and subdivision within the Rural Area. It provides a guide to development in order to maintain and enhance rural amenity and deals with residential scale development, including earthworks and access ways. The Rural Area Design Guide was not written in a way that is relevant or can be applied to the development of wind energy facilities i.e. wind turbines. Therefore, the Panel agrees with the submission of Meridian Energy (340/15) that the words “(excluding wind turbines or wind energy generators)” be added to the assessment criterion.

26.3.1.13 (new number 26.3.1.11)

The Panel recommends no changes to this Criterion.

DISTRICT PLAN CHANGE 33: RIDGELINES AND HILLTOPS (VISUAL AMENITY) AND RURAL AREA

The Panel's recommendations on submissions on Plan Change 33 are addressed in two parts: Ridgelines and hilltops; and Rural Area provisions.

A: RIDGELINES AND HILLTOPS

BACKGROUND

The landscape of Wellington is characterised by rugged hills that cover most of the rural and open space areas and provide the backdrop to the city. The management of development affecting ridgelines and hilltops has been a consideration since the 1980s and gained momentum in 1994 when specific rules for ridgelines and hilltops were included in the Proposed District Plan.

The rules in the 1994 Proposed Plan were based on a definition that specified that a ridgeline or hilltop related to "all land at the top of a ridge or a hill measured 50 metres vertically from the apex". Difficulties were encountered in administering these provisions. A particular problem was whether the rules applied to the myriad of spurs, hillocks or minor ridges throughout the city. Through the submission and appeal process on the 1994 Proposed District Plan it was agreed that further work was needed.

In 1999 landscape consultants, Boffa Miskell Limited was commissioned to undertake a study to identify the "outstanding" and "significant" ridgelines and hilltops in the city, and the development of a mapping methodology. This was the Phase 1 report referred to through the Plan Change 33 process. The study was limited to considering only one part of the landscape: that of undeveloped ridgelines and hilltops. In light of various Environment Court decisions relating to the question of what constituted 'outstanding' the study was modified to identify the "intrinsic natural values and amenity values of Wellington's ridgelines and hilltops in order for those ridgelines and hilltops to be appropriately protected, maintained or enhanced". The findings were included in a report entitled "*Wellington's Ridgelines and Hilltops – The Natural and Amenity Values*", dated 2001.

The information collated for the 2001 study involved considerable field work and research. New information (aerial photographs, slope maps and inter-visibility mapping) was gathered (some of which had been undertaken for Phase 1). The research involved drawing on existing information such as the Council's District Plan, vegetation surveys, recreation routes, heritage inventory, heritage trails, mountain bike strategy, recreation strategy, reserve management plans, and other specific work undertaken by Boffa Miskell Ltd for the Council. The study was based on ridgeline and hilltop values that had been identified as being important by those who made submissions to the 1994 Proposed District Plan and to the subsequent Rural Review. Such submissions generally called for the protection of natural skylines, natural backdrops, open space, ecology, vegetation and habitats, natural character, cultural

heritage and views. Four landscape values were extrapolated from these: visual; natural; heritage; and recreation.

Subsequently, a District Plan Change was formulated reflecting the findings of the study in early 2004. There was debate as to why the four landscape values (visual, natural, heritage and recreational) had been incorporated in determining the proposed overlay line depicting the important ridgelines and hilltops and how this related to the proposed changes to the policy and rules. The Council recognised that while the four values identified in the 2001 report were important, it was questioned whether the proposed controls should instead focus on visual impact as this had been the primary issue regarding the earlier appeals on the District Plan. The Plan Change was eventually structured to focus more directly on visual values. This was seen as reducing the problems of interpretation over exactly which natural, recreation, and heritage values existed within the overlay control lines and where they were located, and allowing these values to be managed by other mechanisms such as the District Plan heritage provisions, reserves or open space management plans or other methods.

Visual values were the predominant factor in determining the extent of the proposed overlay control lines. The only significant area which disappeared from the draft overlay was Quartz Hill in Makara, which had been included initially primarily for its geological significance.

The ridgeline and hilltop component of Proposed Plan Change 33 was then publicly notified.

SUBMISSIONS

A significant concern in the many written and oral submissions related to the ridgeline and hilltop overlay. This was clearly also a central theme for those concerned about wind energy facilities under proposed Plan Change 32. Others also expressed concern that the overlay would further constrain development rights or conversely liberalise control over developments on ridgelines or hilltops. In particular, a high proportion of Makara residents submitted on the exclusion of Quartz Hill from the overlay. Other submitters also challenged the overlay in respect of areas which are identified for future urban expansion such as in the northern suburbs covered by the Northern Growth Management Framework.

The Panel considered all of the submissions, and has structured the decisions by determining first the city-wide overlay mapping and methodological issues followed by site specific overlay matters.

CITY - WIDE OVERLAY MAPPING & METHODOLOGY

In considering the ridgeline and hilltop provisions in a city-wide context the Panel determined first that the existing District Plan provisions (i.e. the 50 metre rule) should not be perpetuated or continued. It was agreed that these provisions based on the current definition specifying that a ridgeline or hilltop is the land at the top of a ridge or hill measured vertically from the apex were uncertain, unclear and if applied rigorously were unduly onerous and would cover extensive areas of the city. The

Panel therefore accepted that because of the problems in applying the existing provisions and the Council's longstanding commitment to improve the situation, the existing provisions should not be retained. Accordingly, submissions seeking the retention of the provisions were not supported.

With regard to the general aims of the ridgeline and hilltops work to provide a management regime for the more important undeveloped ridgelines and hilltops in Wellington City, the Panel was of the view that the methodology of the research and investigations that led to the mapping of the overlay and related provisions in the District Plan was sound and should be sustained.

Throughout the hearing the ridgeline and hilltops work was criticised in various respects. Some submitters argued that the proposals were ad hoc, unprincipled, arbitrary, unreliable or not in accordance with the RMA. Others commented more specifically that insufficient recognition had been given to Section 6 and 7 matters under the Act (matters of national importance and other matters to have regard to respectively). Others also argued that different approaches should have been followed. Some for example commented that visibility, especially at a local level, should have been based more strongly on the number of viewers as well as from views from communities of interest.

The Panel did not accept these arguments within the context of Plan Change 33. It considered that the visibility methodology employed achieves the aim of identifying the important ridgelines and hilltops in the city. The Panel acknowledges that the process has involved a degree of subjectivity, and the qualitative results could be debated endlessly, but it was agreed that the process was adequate. Changes to the methodology would change the mapping of the ridgelines and hilltops overlay and potentially require the process to begin afresh. The Panel was firmly of the opinion that this was unnecessary.

The Panel did however give considerable thought to the question of the particular landscape values to be addressed through the ridgeline and hilltop provisions.

The Panel was advised that the landscape studies for ridgelines and hilltops identified four key values (visual, natural, recreational and heritage) which were reflected in the mapping of the ridgeline and hilltop overlays. However, visual values played a predominant role when drawing the overlay lines. This inherently followed the presence of some natural values, primarily landform. Nevertheless other landscape values were recognised such as geological features, vegetation of ecological significance, historic features and recreation routes or destinations. Overall, the notion of context and continuity wove these values together.

Notwithstanding the decision of the Council to focus on visual values, the Panel was persuaded by the large number of submitters who believed that other intrinsic natural and amenity values identified in the 2001 study of Wellington's ridgelines and hilltops should be applied in order to enable those landscape features to be appropriately managed. It was noted that the reference to values other than visual would not involve any substantial amendment or realignment of the mapped overlay lines.

In particular, submitters from Makara highlighted the importance of ridgelines and hilltops as expressed in the approved Rural Community Plans. It is the Panel's view that the consultation undertaken for these Community Plans indicates preference for landscape values to be recognised, and this must be acknowledged. While there has been a range of opinion as to the level of permissibility of development on ridgelines and hilltops as described in the Rural Community Plans, both visual amenity and rural/natural character are clearly valued. In light of the amount of consultation undertaken by the Council with the ridgeline and hilltop provisions, this must be acknowledged. The Panel was satisfied that landscape values should include much more than just visibility.

To reference natural, recreational and heritage values in the proposed plan change, the Panel therefore considered that the relevant policies and rule provisions should be amended. The Panel **recommends** the following:

That in Policy 14.2.2.2 the full stop at the end of the Policy be replaced with a comma and the following words be added '*while recognising any natural, recreational or heritage values that may exist in these identified areas*'.

That in Rule 15.4.2 a further assessment criterion be added to read:

15.4.2.7 *The extent to which effects on any other natural, recreational or heritage values can be avoided, remedied or mitigated.*

That in the italicized explanation to Policy 14.2.2.2, after the first sentence in the first paragraph the following sentence be added:

'Visual values were paramount in determining the important ridgelines and hilltops but other natural, recreational and heritage values were also recognised.'

That in the italicized explanation to Policy 16.5.2.2, after the first sentence in the first paragraph the following sentence be added:

'Visual values were paramount in determining the important ridgelines and hilltops but other natural, recreational and heritage values were also recognised.'

AREAS WITHIN THE OVERLAY

The Panel then turned its attention to the coverage of the overlays and in particular the question of Quartz Hill and whether or not this area should be included as part of the overlay mapping.

Submissions were made requesting the inclusion and exclusion of various rural ridgelines, hilltops, coastal escarpments or other areas within the overlays. It is noted that many of these submissions applying to the general Makara area made a link between the possible development of wind energy facilities and the overlay. It was apparent that the submitters regarded the overlay as a protective mechanism which removed the possibility of wind energy facilities being established. With regard to these submissions the Panel acknowledged that the views of many hills or landscapes not within the overlays are precious to many people. However, the Panel was mindful

that the ridgeline and hilltop work, based on the methodology adopted, was directed towards the identification of the important ridgelines or hilltops. The intent was not to include every ridgeline or hilltop perceived to be of value. In respect of future development within the overlay areas the Panel was of the view that the ridgeline and hilltop provisions were not directly linked to the development of wind energy facilities. As outlined in above the proposed wind energy provisions provide the means by which a thorough and balanced assessment of the suitability of any site for a wind energy facility can be determined. Location within or in proximity to a ridgeline or hilltop overlay area would be only one of the factors to be assessed and a wind energy development would not necessarily be precluded on this basis.

Considerable evidence was presented on Quartz Hill by the Quartz Hill Reserve Charitable Trust, the Makara Guardians and Meridian Energy Limited as land owners. After carefully considering the issues the Panel agreed that because of its visual values and its landscape continuity and the geological and geomorphological significance that the area should be included in the overlay. The Panel therefore recommends that Quartz Hill as shown on Appendix C attached to this report be included as part of the ridgeline and hilltop overlay areas.

The Quartz Hill Reserve Charitable Trust also submitted that Quartz Hill should be a reserve. The Panel received advice from the Council's legal advisors that this was a matter completely outside the jurisdiction of the Panel.

A number of submitters expressed concern that the adoption of the Plan Change 33 provisions would leave hilly areas outside the ridgelines and hilltops overlays without protection or control. The Panel did not agree. As previously noted the background work for Plan Change 33 was to identify the important ridgelines and hilltops in the city. For ridgeline and hilltop land outside the overlays a variety of District Plan measures would still apply that would work to mitigate the effects of any proposed development. These provisions include the rural subdivision provisions and design guide, the utilities rules and heritage provisions. In addition, other non-District Plan measures such as reserves management plans would also have an influence.

From a wider city perspective the Panel also considered that the submissions from Truebridge Callendar Beach (31/1) on behalf of various clients raised important issues. It was submitted that the proposed ridgeline and hilltop overlays in the northern suburbs of the city covered by the Northern Growth Management Framework (NGMF) would be a de facto open space zone, and counter the aims of the NGMF by restricting growth and development. The Panel was concerned that the ridgeline and hilltop proposals were seen to counter the NGMF, as this was not the intent. The overlay should not be regarded as a non-development area. The Panel was advised however that a special situation applied in the northern suburbs where most of the land covered by the ridgeline and hilltop overlays and earmarked for future urban development was still zoned Rural. The NGMF Implementation Programme provides for the initiation of further District Plan work to rezone rural land for urban (mostly residential) purposes. This will also involve changes to subdivision provisions. The Panel was advised that the intent is to provide for improved methods for developing greenfield sites. The ridgeline and hilltop provisions will be the subject of further review in the NGMF area. The details of future plan changes cannot be defined at this stage but the intent will be to ensure that the aims of the NGMF are fulfilled. The

Panel noted that the explanatory statement to Policy 14.2.2.2 includes comment to the effect that the NGMF area will be the subject of future plan changes.

Finally, in respect of the city-wide considerations the Panel heard submissions to the effect that the ridgeline and hilltops work was of limited scope and addressed only one aspect of the Wellington's landscape. It was requested that further comprehensive landscape work be undertaken to ensure that wider coverage and protection be afforded to landscape values in the city.

The Panel accepted that such work is not within the scope of District Plan Change 33, and submissions in this regard could not be sustained. Nevertheless, to provide the basis for future planning the Panel believes that the Council should embark on preparing a landscape inventory with a comprehensive land use catchment management mapping of the entire district so that decisions can be made to reflect the full spirit of the RMA. Accordingly, supplementary recommendations have been made requesting that the following matters be considered for inclusion as a priority in future District Plan work programmes:

- **Landscape Inventory:**
The Panel believes it is essential to complete a landscape inventory with a comprehensive land use and catchment mapping of the whole district. We note policy on coastal areas including coastal ridges, escarpments and hilltops has always been considered a matter to be dealt with by a future plan change. We recommend the Council commits to giving this work priority.
- **Vegetation and Ecology:**
A review is recommended to implement policies and recommendations included in "Wellington Wet and Wild" (Bush and Restoration Plan), a Council policy which seemed to have had little public exposure. The Panel believes that at least some regulatory controls are required for its objectives to be achieved. This could include a framework for the protection of the natural character of streams, and appropriate protection for significant natural areas and indigenous vegetation.
- **Forestry**
The Panel believes there may be a need for forestry (i.e. plantation) guidelines to address the potential for forestry developments to have visual impact in mixed-use land areas, in the rural parts of the city. The possibility of guidelines should be investigated to identify the need to mitigate the visual impact

SITE SPECIFIC OVERLAY ISSUES

Sites relating to existing Residential Area appendices in the Operative District Plan

The Panel heard submissions from a range of parties on the ridgelines and hilltops overlays for Residential areas. It concludes that there is a need to clarify the relationship between the ridgelines and hilltops rules and the rules for specific areas of land set out in the appendices to the Residential rules. It accepts that the visual and

environmental impacts of development within ridgelines and hilltops areas have already been provided for in the adoption of these appendices, and it therefore recommends that the rules set out in the appendices are the ones to be followed and the rules in the general text (Rules 5.2.5, 5.3.9 and 5.4.5) will not apply.

While the Panel would like to give more weight to the assessment of visual and environmental impacts of developments within the ridgelines and hilltops portions of existing appendix areas, it recognises the difficulties that would be caused by using two sets of rules. The submission process for Plan Change 33 does not permit changes to the Residential appendix rules and the Panel sees no easy way to adjust the rules in the general text (i.e. the wording of the assessment criteria) to complement the different appendix rules.

The Panel's recommendation addresses the submission of Michael Tse (286). The submission requests that the advice note following Rules 5.3.9 and 5.4.5 be amended to read: "*Where specific provisions have been included in Appendices to Chapter 5 for specific sites, those provisions shall prevail.*"

However, to add clarity and to avoid any possible confusion, the Panel recommends that this statement be repositioned within the primary rules. The following words would be added in bold type at the end of the main rule statement:

in Rule 5.3.9:

"provided that, if the proposed earthworks are within Appendix 17, the assessment criteria listed under 5.3.9.7 will not apply if criteria addressing the same issue are included in the Appendix."*

and, in 5.4.5:

"provided that, if the proposed subdivision is within Appendix 13, 17, 18, 20 or 22, the assessment criteria listed under 5.4.5.6 will not apply if criteria addressing the same issue are included in the Appendix."

The Panel considers that the ridgelines and hilltops overlay should remain on the District Plan maps within appendix areas, to maintain the continuity of the overlay mapping, but for purely information purposes. The submissions received for properties covered by existing Residential Area appendices would therefore be accepted in part, to the extent that the existing appendix provisions will prevail, but the overlay will remain on the maps.

To this end the Panel also recommends that the existing cross references on the District Plan maps to the sites with appendix areas (identified below) be amended by the inclusion of the following words:

'The ridgelines and hilltops overlay within this area is for information only.'

* = Earlier numbering error corrected by the vote of the City Council, at its meeting of 27 April 2005

Appendix areas

The areas of land where only the appendix rules will apply are:

- Lots 2 and 3 DP 71465, and Lot 33 DP 1022 Section 39 Karori District; off Stockden Place and off Allanbrooke Place – Appendix 13 to the Residential Area rules. Submission received from Stephen King, Briar Homes (285).
- Lot 1 DP 25046 and Pt Sec 10 Kaiwharawhara District, above Patna Street and Huntleigh Park Way, Ngaio – Appendix 17 to the Residential Area rules. Submission received from Kilmarnston Properties Ltd and Kilmarnston Developments (53).
- Lot 24 DP 70931 Stebbings Valley – Appendix 18 to the Residential Area rules. Submission received from Best Farm (407).
- Lot 1 DP 1747, off Freeling Street, Island Bay – Appendix 20 to the Residential Area rules. Submission received from Michael Tse (285).
- Lot 2 DP 29604 and Lot 1 DP 319195, Downing Street and Silverstream Road, Crofton Downs – Appendix 22 to the Residential Area rules. Submission received from Ridvan Garden Developments (409).

The ridgelines and hilltops overlay would remain on District Plan Maps 20 and 21 for the Ridvan Garden Developments property (Downing Street and Silverstream Road), for purely information purposes. The Panel however recommends that the line be redrawn along the 200 metre contour to coincide with the assessment criteria in Appendix 22. This is considered to be the more appropriate boundary for the ridgelines and hilltops overlay area. It is a fine-tuning of the overlay boundary, using the methodology of this Plan Change and the earlier analysis of the local ridgeline issue under Plan Change 24.

The new boundary of the ridgelines and hilltops overlay for this property is shown on the map attached as Appendix D of this decision.

Sites in the Residential Area without appendices in the Operative District Plan

Khoury Avenue / Makara Road

Upper Hutt Developments submission (674) on its residentially zoned property near Khoury Avenue, Karori, was not supported. The Panel recommends that the ridgelines and hilltops overlay remain as notified as it believes the overlay is appropriately located over the site. It has considered the relationship to Proposed District Plan Change 27, which concerns a partial land swap and rezoning of the Upper Hutt Developments land with an adjoining area of Wellington City Council reserve land. The Panel notes that the Plan Change 27 hearing and decision process is adjourned, and while the process is advancing, no decision has been made on the matter. It considers that if the land swap and rezoning takes place it would still be appropriate to have a ridgelines and hilltops overlay over the Upper Hutt Developments land because the overlay is shown on other ridgelines and hilltops in areas zoned Open

Space (the land would be rezoned Open Space under Plan Change 27). On the other hand, if the land remains Residential the Panel considers it appropriate to have rules to influence the visual and environmental effects of subdivision and earthworks on the presently undeveloped area of ridgeline.

The Panel does not agree with the submitter's argument that if Council does not ultimately approve Plan Change 27, on the basis that the lower reserve land has higher amenity values, the Upper Hutt Development land has no landscape values to conserve. While the Panel recognises that the owner would be constrained in its ability to develop the land as a residential subdivision, it does not consider this sufficient reason in itself to remove the overlay. It notes that the submission did not present any visual or landscape evidence to justify removing or repositioning the overlay.

Tapu Te Ranga Marae

The submissions of the Island Bay Residents' Association (676), Southern Environmental Association (683) and the Island Bay Natural Heritage Charitable Trust (677), were that the ridgelines and hilltops overlay on the Tapu Te Ranga Marae stay unchanged. The submission of Bruce Stewart (573) requested that the line be removed.

Having heard the evidence the Panel recommends that the ridgelines and hilltops overlay boundary remain unchanged. It is satisfied that the overlay is in the correct position to protect the landscape values of the Tawatawa Ridge. In terms of the issues of natural justice raised by Bruce Stewart and the residentially zoned portion of the site, the Panel observes that the overlay seeks to manage and not to prevent residential development. Instead the provisions would influence the design of any earthworks (that do not meet the permitted activity conditions) or any subdivision of the land.

The Panel notes that the interim decision of the Environment Court on Plan Change 9 precludes earthworks or construction of any type above the 70 metre contour. The Panel recognises this is a separate decision that, if confirmed by the Court, would have the effect of making the overlay decision irrelevant.

Ridgelines and hilltops in the Rural Area – specific sites:

Woodridge

Woodridge Estates (411) sought the decision that the ridgelines and hilltops overlay be removed from Pt Secs 2 and 3 Horokiwi Road District and Lot 1 DP 28139, and the decision that the existing rules and assessment criteria of the Operative District Plan be retained for property (i.e. the operative rules, 15.4.1 and 15.4.2).

The Panel does not support these requests. It considers it is appropriate that the new provisions that have been developed for ridgelines and hilltops across the Rural Area are extended to cover the Appendix 3 area. It recognises that the combination of both the ridgelines and hilltops overlay and the Appendix 3 boundaries is confusing but it considers it necessary to retain the overlay as a mechanism to control development

within the cross-hatched areas on the appendix, which are not cross referenced from Appendix 3 to Rule 15.4.2.

The Panel is aware that the assessment criteria under Rule 15.4.2 have been changed from those in the Operative District Plan, thereby changing the position agreed under the Consent Order of 1999. The Panel sees no problem with this as the District Plan is an evolving document and the community has the ability to change its position on different issues over time. It does not consider that the changes for buildings, accessory buildings and earthworks would prevent the rural / lifestyle development of the land anticipated by the negotiation of the text of Appendix 3.

As discussed in a previous section of this decision, the Panel does not accept that the property should be removed from the ridgelines and hilltops area because it has been shown as a possible future residential area in the Northern Growth Management Framework. Instead, it considers it desirable to apply the more detailed assessment criteria for ridgelines and hilltops to the property. The Panel therefore recommends no change to the ridgelines and hilltops overlay over the property, or any change to the relationship between Appendix 3 and Rules 15.4.1 and 15.4.2, as they were notified in Plan Change 33.

West Tawa

The Panel accepted the submission of West Tawa Developments Partnership (452) to amend the overlay boundary, in the vicinity of Duval and Kiwi Groves, as shown in the photo montage presented at the Hearing. It considers that the amendment would have little effect on the values of the wider landscape, as the area removed from the overlay is low on the slope and there is a considerable distance between it and the skyline of Spicer Ridge.

The Panel recommends that the new boundary of the ridgelines and hilltops overlay for this property be redrawn, as shown on the map attached as Appendix E of this decision.

Bellevue

The submission of Bellevue Lands (401) and Ngaio Forest Suburbs (426) to delete the overlay is not supported. The Panel understands that owners intent to pursue a separate plan change to rezone the land Residential. It notes the ridge area south of Domett Street has been modified by other stages of the Bellevue development but the rest of the site retains its natural contours and regenerating native vegetation.

While the Panel accepts that the site has been considered for residential subdivision for a number of years it observes that the land is presently zoned Rural. It also notes that no subdivision plan or landscape assessment was presented at the Hearing in support of the submissions. It considers the previously earth-worked ridge is a highly visible landform that should remain subject to controls on buildings, earthworks and subdivision. It therefore considers that the whole area of the two properties should remain in the overlay area.

The Panel recommends that the ridgelines and hilltops overlay for these properties is not changed from the original notified in Plan Change 33.

Dunlop Property, Newlands

Robin and Elizabeth Dunlop (470) requested that the ridgelines and hilltops overlay over their property be reduced to the area of high visibility within the district, that is, the top of the hill rather than the entire property. They argued that the areas of green pasture below the summit and upper slopes of the hill should be outside the overlay area.

The Panel accepted the officer's recommendation that a small adjustment to the overlay boundary on the corner of the property above Centennial Highway and Glover Street would be appropriate on a detailed re-examination of the mapping without any change to the methodology. The Panel acknowledges that this would not be of major benefit to the Dunlop Family. It does not consider that the overlay area can be further reduced because the hilltop area, which is effectively a tableland, is highly visible and any further reduction would not be consistent with the application of the ridgelines and hilltops mapping across the rest of the Rural Area. The Panel notes that the established 50 metre ridgelines and hilltops rule would encompass the larger part of the tableland area.

The Panel recommends that the ridgelines and hilltops overlay for this property be redrawn, as shown on the map attached as Appendix F of this decision.

POLICIES AND RULES

A variety of submissions were received on the policy and rule provisions of proposed Plan Change 33 relating to Ridgelines and Hilltops. The Panel gave full consideration to these submissions and has made alterations or amendments where it was considered that these would improve the provisions. The officer's report on submissions made a number of recommendations supporting various submissions, either wholly or in part. In the main these recommendations were supported by the submitters. After hearing submissions the Panel made recommendations which it is believed will improve the Plan Change. The specific changes recommended by the Panel are highlighted below.

Residential Area

Residential Area Policies and Rules

The Panel was advised that apart from properties covered by special appendix provisions only two, relatively small residentially zoned areas fall within the proposed ridgeline and hilltop overlay areas. The overlay lines had originally been drawn to exclude most residential areas as it was not considered that land already urbanised should be subject to further constraint in this regard.

However, for the undeveloped areas of residential land remaining within the overlay lines the Panel heard that it was necessary to make provision in the Residential Area

chapter of the Plan for the possible development of this land. Most is steep but might accommodate some dwellings.

Given this background the Panel accepted that the provisions were generally appropriate and that none of the submissions from Greater Wellington Regional Council (471), M Taylor (454) or Telecom NZ Ltd (651) seeking various amendments or deletions should be supported.

The Panel also heard from the New Zealand Institute of Surveyors (643) who submitted on the fact that unlike the Rural Area there is no specific land use control for buildings within ridgeline and hilltop overlays in the Residential Area. The Institute argued that development controls should be consistent to avoid possible unintended adverse environmental results from houses being erected as of right. The Panel was of the view that consistency would be desirable but that the necessary changes would be difficult to effect. It was accepted that the earthworks and subdivision controls would have to suffice. It was noted that in any event only two areas were affected and no major problems would likely arise. The submission was not therefore supported.

The submission from Michael Foster (653) requested that in the explanation to Rule 5.2.5 reference to 'quality subdivision design' be replaced by the words '*high standard of design*' in the second paragraph as these words are used elsewhere in the Plan. The Panel agreed that this is appropriate and recommends accordingly.

Rural Area

Rural Area Introduction and Policies 14.2.2.2 and 14.2.5.2

The evidence presented by Meridian Energy Limited (340) highlighted the omission of comment in the officer's report on one submission relating to the introduction to the Rural Area provisions. The submission sought additional wording in the introduction that noted the wider community interest and in particular the value of the wind resource in the Rural Area. A cross reference to the policy and rules of Chapters 25 and 26 was also requested. After considering the submission the Panel was satisfied that the introductory statement was satisfactory and should not be amended. The panel was of the view that the content of Policy 14.2.1.3 made sufficient reference to wind energy matters. (Note: Policy 14.2.1.3 has been introduced in respect of a decision to proposed District Plan Change 32).

The Panel considered or heard many submissions on matters relating to the proposed rewording of Policy 14.2.2.2 and the proposed deletion of existing Policy 14.2.5.2. Some submissions supported the proposals but most sought additions, alterations, amendments or deletions, either in respect of particular words or the provisions as a whole.

Most submissions seeking change in one form or another were made in the context of wider submissions either supporting or opposing the wind energy proposals in Plan Change 32, or from those otherwise seeking to protect the existing character of the rural area.

After weighing all of the competing requests the Panel was nevertheless satisfied that in general the proposals were acceptable and struck an appropriate balance. It was agreed that the proposed amended wording to Policy 14.2.2.2, to recognise a wider range of values, reflected the need for balance in considering possible development within identified ridgeline and hilltop areas while maintaining rural amenity values. The deletion of policy 14.2.5.2 was also seen as necessary to avoid conflict with Policy 14.2.2.2.

The Panel did however give further thought to the submission from Meridian Energy (647) that sought to change the word “control” at the start of Policy 14.2.2.2 (and also to Policy 14.2.2.3) to “manage”. A suggested alternative if these changes were not to be made was to add the words “*These rules provide the management framework for these areas.*” at the end of second paragraph in the italicised explanations. The Panel acknowledged that where other Plan provisions or other methods may apply to assessing future development in ridgeline or hilltop overlay areas the word “manage” would perhaps be appropriate. However, it was considered that in the context of Plan Change 33 that focuses on the application of rules to regulate activities on ridgelines and hilltops that the word ‘control’ should be retained. Nevertheless, the Panel was not averse to including the alternative words requested by the submitter and accordingly it is recommending that the words “*These rules provide the management framework for these areas*” be included at the end of the second paragraph in the italicised explanation to Policy 14.2.2.2 and the first paragraph to Policy 14.2.2.3.

Rural Area Rules

Rule 15.1.10 - Earthworks on Ridgelines and Hilltops

Various submissions were received regarding earthworks within ridgelines and hilltops, some in support and some in opposition. Representatives of the Makara Forest Partnership (404), Russell Hume (406) and Truebridge Callendar Beach (412) attended the hearing to present their submissions. They argued that the proposed rule was too onerous and would limit the ability of farmers and others to provide for the reasonable use of their land. They requested that the rules permit vertical cuts up to 2.5 metres as a Permitted Activity. The Panel was of the view, however, that the proposed rule was appropriate and that to allow larger excavations could have significant effects on visual amenity, particularly if they were to occur on steeper areas within the identified ridgeline and hilltop areas. The discretionary consent process provides for the consideration of applications for more extensive works. For these reasons it is recommended that the rule remain without change.

Rural Rule 15.1.4

Submissions from the Makara Forest Partnership (404), Russell Hume (406) and Truebridge Callendar Beach (412) expressed concern that fences should not, by their inclusion in the definition of ‘Structure’, become non-complying activities if located within ridgeline and hilltop overlays. Fences would become non-complying because they had not been specifically provided for as a permitted activity. The Panel accepted that this was not the intention of Plan Change 33 and that the matter would be resolved by adding the text ‘(excluding fences)’ at the end of the second bullet point in Rule 15.1.4. This had been recommended in the officer’s report. However,

the officer's report had not recommended that a range of other small farm structures be similarly provided for as it was thought to be beyond the scope of the Plan Change. The Panel was nevertheless satisfied that it would be within the scope of the submissions to make further exclusions from the rule and that the best way to achieve this would be through the adoption of a new definition for minor rural structures. An activity list in the rules was not seen as the best alternative. Accordingly it is recommended the following definition be included in the definition section of the Plan:

“MINOR RURAL STRUCTURES: Means a structure associated with rural activities including fences of any height and other structures under 1.8 metres in height.”

As a consequence it is also necessary that amendments be made to Rules 15.4.2 and 15.4.2a as follows:

That in Rule 15.4.2 the words *“the construction of fences associated with rural activities”* be replaced by the words *‘minor rural structures’*.

That in Rule 15.4.2a the words *“the construction of fences associated with rural activities”* be replaced with the words *‘minor rural structures’*.

Rural Rule 15.4.2

The Panel agreed with the submission of the New Zealand Institute of Surveyors (643) that a typographical error in Rule 15.4.2 be corrected by deleting the word ‘or’ from the rule so it reads: *‘...identified ridgelines and hilltops...’*

Rules 15.4.2 and 15.4.2a - Discretionary Activities (Unrestricted)

A range of submissions were received either in support or opposition to proposed Rules 15.4.2 and 15.4.2a. Various amendments were requested but most submissions in opposition sought the retention of the existing Rule 15.4.2. The Panel was satisfied that these provisions, as drafted, provide an appropriate means of control and should be retained generally as notified.

Particular consideration was however given to the submission from Telecom NZ Ltd (651) that sought to clarify the relationship between the two rules and other permitted rules, namely the earthworks rule. The Panel agreed that amendments should be made to clarify the provisions and it is therefore recommended that rule 15.4.2 be reworded as follows:

‘15.4.2 The construction or, alteration of, or addition to buildings or siting of any structures or the undertaking of any earthworks (except the construction of fences associated with rural activities which minor rural structures and earthworks that are Permitted Activities) within identified ridgelines ~~or~~ and hilltops are Discretionary Activities (Unrestricted).’

Open Space Areas

Open Space Introduction, Policy and Rules

The Panel heard that the proposed changes to the Open Space provisions were to reflect the ridgeline and hilltops work and did not involve any real diminution of the planning approach to open space land in the city. The Panel acknowledged that most Open Space Areas were in Council ownership and subject to other management regimes such as Reserves Management Plans.

The Panel believed that most of the submissions in support or opposition to the Open Space provisions were driven by Proposed Plan Change 32 that made provision for anemometers and wind energy facilities in Open Space B Areas. It was appreciated that challenges to the Open Space provisions had been made with the intent of either hindering or facilitating possible future wind energy developments.

The Panel was of the opinion that the decision in respect of Proposed Plan Change 32 to remove Open Space B Areas from the wind energy facility provisions eliminated the linkage with the ridgeline and hilltop proposals under Plan Change 33. It is therefore recommended that no changes should be made to the Open Space proposals in plan Change 33.

One submitter, B Purdie (594) requested that the District Plan prohibit the erection of any structures on Te Wharangi Ridge (south east side) from Mt Kau Kau to Johnston Hill, including Crows Nest and Castle Rocks (above Wilton Bush). The Panel agreed that it would be excessively restrictive to prohibit development in these areas or indeed any part of the city and it was noted that the District Plan does not contain any Prohibited Activity Rules. It was also noted that much of the area referred to in the submission is within the Outer Green Belt and therefore subject to restrictive utility provisions in the Outer Green Belt Management Plan.

Open Space Rule 17.3.2.1

The Wellington City Council (211) submitted on Plan Change 33 to replace the proposed criteria under 17.3.2.1 with the existing operative criteria. This was requested to retain consistency with the Plan Change. The Panel supported this submission and recommends that Rule 17.3.2.1 be amended to read “*Whether the structure is designed and located so as to be visually unobtrusive*”.

Open Space Rule 17.3.2 and Conservation Site Rule 19.4.1 (Explanations)

The Wellington City Council (211) also requested additional explanatory text to the existing explanations under Rules 17.3.2 and 19.4.1 to provide further guidance to the rule with regard to identified ridgelines and hilltops. The Panel agreed that the additional explanations would be helpful and recommends as follows:

That in the explanation to Rule 17.3.2, after the words “*Inner Town Belt Land*”, in the fourth line, the following words to be added:

‘In cases where buildings and structures are to be located in the Open Space B or Open Space C zones that are also within the ridgelines and hilltops overlay area,

Council seeks to ensure that any adverse visual effects will be avoided, mitigated or remedied. Opportunity for design solutions is possible through the assessment criteria, and activities will be carefully assessed to ensure that where development is proposed in these areas, it is done in a comprehensive and sensitive manner, responsive to the local natural features. Careful consideration will be given to proposals which might result in the modification of skylines.'

That in the explanation to Rule 19.4.1, after the words "or adjoining areas" in the ninth line, the following words be added:

"In cases where buildings and structures are to be located in Conservation Sites that are also within the ridgelines and hilltops overlay area, Council seeks to ensure that any adverse visual effects will be avoided, mitigated or remedied. Opportunity for design solutions is possible through the assessment criteria, and activities will be carefully assessed to ensure that where development is proposed in these areas, it is done in a comprehensive and sensitive manner responsive to the local natural features. Careful consideration will be given to proposals which might result in the modification of skylines."

Utilities

Most of the submissions to the utilities provisions in Chapters 22 and 23 related to concerns regarding the removal of the sunset clauses for permitted masts and overhead lines on ridgelines and hilltops in the Rural Area.

The Panel heard that the sunset clauses for both masts and overhead lines had arisen from consent orders agreed in respect of appeals to the utility provisions following the notification of the Proposed District Plan in 1994. Masts and overhead lines otherwise permitted in Rural Areas were not permitted as of right in the Makara/Terawhiti area depicted on the appendix plan to the rules. This was to apply until such time as a plan change for ridgeline and hilltops became operative or 31 December 2004, whichever was the earliest. As a plan change for ridgelines and hilltops had not become operative before 31 December masts and overhead lines were now permitted in the Makara/Terawhiti area.

Proposed District Plan Change 33 for ridgelines and hilltops that was eventually notified in May 2004 replaced the more generic ridgeline and hilltop rule with overlay lines depicting the more important ridgelines and hilltops in the Rural Area and elsewhere in the city. As a result, masts and overhead lines in the Rural Area not within an identified ridgeline or hilltop overlay remained a permitted activity. The Panel notes that these utilities are still subject to the standard permitted activity conditions.

Submitters J Jorgensen (413), Makara Guardians (652), S King (285), G Kirkcaldie and M Taylor (454) opposed this situation and the proposed changes to the Utilities Chapters. It was contended that the more limited control on masts and overhead lines under Proposed Plan Change 33 was not in accordance with the original agreements with the Council and that the more limited control would reduce amenity values and

lead to a degradation of the rural landscape. It was also alleged that the changes had been made to assist possible wind energy facilities in the area.

The Panel did not accept these submissions. It was noted that although masts and overhead lines had in effect been a Permitted Activity in the Makara/Terawhiti area for some months this had not led to any rush to erect masts or lines. It was accepted that over time some new structures might be erected outside the ridgeline and hilltop overlay areas but it was not expected that they would be in such numbers to seriously compromise landscape amenities or character of the rural area and in any case the permitted activity condition controls their size and location. Appropriate control was to be maintained within the ridgeline and hilltop overlays that generally covered the most dominant ground. The Panel also rejected the assertions that the utilities changes had been made to facilitate possible development of wind energy facilities. The permitted activity provisions were unlikely to be of assistance in this regard.

Submissions were also received from utility network operators, namely Broadcast Communications Limited (35), Telecom NZ Limited (651) and Vector Limited (669). These submissions either supported the proposed amendments to the utilities provisions or sought various additions or amendments. In the main, the additions or amendments were focused on minimising the consideration of particular utility activities as Discretionary Activity (Unrestricted) applications or changing the assessment criteria for this class of activity. Various assessment criteria were seen as unnecessary or too restrictive. These submissions were opposed by J Jorgensen (413) and the Makara Guardians (652).

In considering these submissions the Panel was of the view that the utilities provisions as notified were satisfactory and should remain as notified.

The submission from Wellwind Energy Limited (539) commented that objectives, policies and explanations in the utilities chapters should be altered to give greater recognition to the need for electricity generation from renewable sources. The Panel was of the view that this was not a matter to be addressed in this part of the Plan because it is addressed under Proposed Plan Change 32.

B Purdie (594) requested that various roads in Wadestown be added to Rule 23.3.1.9 (masts and antennas located on a road which affect harbour views). The Panel determined that this submission could not be supported as it was outside the scope of Plan Change 33.

Submission (594) also requested that in the Discretionary (Restricted) Rule 23.3.4.2, lines and cables be located underground. However, the Panel noted that underground utilities are a Permitted Activity and consequently the submission was not supported.

Submission (159) from Angus Taylor requested that bullet points 4 and 5 of rules 23.4.1.2 and 23.4.2.5 be deleted on the grounds that they would virtually exclude wind farms from Wellington. The Panel noted that wind energy facilities provisions were covered by Proposed Plan Change 32 and consequently the submission was not supported.

Utilities Rule 23.4.2.5

The submission from Transpower NZ Ltd (241) requested the re-wording of the criteria in the Unrestricted Discretionary Rule 23.4.2.5 and the inclusion of an additional criterion to reflect the special position of the national grid transmission lines. The submission expressed concern over national grid transmission lines meeting the proposed new criteria given the visibility of these types of overhead lines. The Panel accepted that the national grid link to the South Island necessitates the presence of overhead lines within the city, and that in practical terms, it would not always be possible to minimise the visibility of such lines given their length and the nature of the country that they must cross. They currently traverse or run along some ridgelines and hilltop areas. To recognise the essential function of the national grid transmission lines the Panel agreed that it was appropriate to make special provision in the utilities provisions as requested by the submitter. It is therefore recommended as follows:

That in Rule 23.4.2.5 the following additions or deletions be made (new words underlined and deletions struck through):

“Where proposed within identified ridgelines and hilltops, except in relation to new or existing National Grid transmission lines, whether the extent of new or additional overhead lines and cables are sited and designed in ways that avoid as far as practicable being visually obtrusive by:

- *ensuring visual continuity of relatively undeveloped land is maintained on the upper slopes and summit of the ridgeline or hilltop*
- *minimising as far as practicable the visibility of the overhead lines and cables in relation to district wide, local and neighbouring views*
- *the co-siting of new and additional overhead lines and cables where this will not result in cumulative adverse effects*
- *ensuring where possible the overhead lines and cables are seen against a landform backdrop and not the sky in relation to district wide, local and neighbouring views*
- *mitigating against potential adverse visual effects of overhead lines and cables by sensitive siting and design and ~~appropriate~~ appropriate planting and/or screening if and where appropriate*
- *the use of external colour and materials to minimise the visual contrast with the surrounding environment for example, the use of neutral, recessive colours”*

That in addition a further criterion be added as 23.4.6.2 to read:

“23.4.2.6 In relation to National Grid transmission lines that traverse an identified ridgeline or hilltop, whether the new or additional overhead lines are sited and designed in ways that avoid, as far as practicable, being visually obtrusive by:

- *ensuring the visual continuity of relatively undeveloped land is maintained on the upper slopes and summit of the ridgeline or hilltop*
- *minimising, as far as practicable, the degree of change from the existing line*

- *the use of external colour and material to minimise the visual contrast with the surrounding environment (for example, the use of neutral, recessive colours)*
- *ensuring where possible, that the overhead lines and cables are seen against a landform backdrop and not the sky in relation to district wide, local and neighbouring views.”*

The Panel noted that the second bullet point was amended to clarify this provision.

Other Matters

J Bryce (60) submitted that in respect of the subdivision and design of developments in ridgeline and hilltop areas, compensation should be required as this could result in additional cost or loss of capital. The Panel noted that under Section 85 of the Resource Management Act 1991 no compensation is payable in respect of District Plan provisions that do not render land incapable of reasonable use and have been introduced following the due processes of the Act. The submission was not therefore supported.

B: RURAL AREA

BACKGROUND

Context

Approximately two thirds of Wellington City is zoned Rural Area in the Wellington City District Plan. This zone encompasses a diverse range of rural environments, from relatively remote coastal hill country to land adjoining our residential suburbs. The land as a whole is typically rolling to rugged steep hill country with fairly low quality soils and a scattered residential pattern. In western areas, rural land uses are predominant, with an emphasis on pastoral farming. However, most landowners do not rely on the land for their entire income, with a significant number commuting to work elsewhere.

The need to undertake a review of the Rural Area provisions was contemplated from the start of the preparation of Operative District Plan under the RMA and was signalled in the that Plan. In particular, the Council identified the fragmentation of rural land as being a significant resource management issue requiring further analysis. In the interim, a holding approach was adopted with strict subdivision provisions adopted into the District Plan. The purpose of this was to ensure that there would be minimal fragmentation of land in the rural area before further work could be undertaken. Additionally, the Council had developed the District Plan around a clear policy of urban containment.

As a result of this the District Plan currently manages all subdivision under the Discretionary Activity (Unrestricted) category, with a minimum lot size of 50ha (except for two areas within the Northern Growth Management Framework area which have specific provisions as a result of agreements by consent – refer to Chapter

15, Appendices 2 and 3). This means that the creation of any lot under 50ha in the majority of the Rural Area is a Non-Complying Activity.

Like the subdivision rules, the provisions for residential buildings in the District Plan are relatively restrictive. A new residential building on a certificate of title registered in the applicant's name since the notification of the District Plan (1994) requires a resource consent for a Discretionary Activity (Restricted) as a result of permitted activity condition 15.1.3.1. In practice, this means that currently the Council processes a small number of applications for new dwellings under this activity status in the Rural Area.

A consultative approach has been taken to the process of reviewing the rural provisions, particularly with the South Karori, Makara, Ohariu Valley and Horokiwi rural communities and their representatives over the last four years. The consultation undertaken sought feedback on the bigger questions of Wellington's urban form, as well as on specific mechanisms to manage land use activities and subdivision in the Rural Area, both prior to the drafting of the plan change and then later on the details of the specific provisions to be included. Four Rural Community Plans were developed for the South Karori, Makara, Ohariu Valley and Horokiwi communities, and timed to correspond with the Council's major planning and urban form project in the Northern Growth Management Framework area. Combined, the outcomes from this work provided a clear direction on the rural communities' vision for the rural area, while at the same time taking into account the broader issues facing other communities within Wellington as a whole.

A key outcome of the Rural Review is that the consultation undertaken endorsed the existing policy framework in the District Plan, including urban containment, and the maintenance and enhancement of the rural character and amenity as underpinning requirements for the sustainable management of Wellington's natural and physical resources. In addition, the Council's current approach of separating rural activities from non-rural activities was endorsed. Accordingly, the focus of the amendments to Plan Change 33 has been on the mechanisms through which the existing policy framework will be implemented, with the existing policy direction remaining largely intact.

While the primary reason for initiating the Rural Review has been to examine the issue of rural subdivision, a number of other issues have emerged out of the consultation and work undertaken. These have also been addressed within the scope of the review. In addition, Council has recently publicly notified or approved the following three Plan Changes:

- District Plan Change 22 – Hazard (Fault Line) Re-alignment and Rules (operative)
- Proposed Plan Change 28 – Non-Notification Statements in the Operative District Plan (subject to an Environment Court reference)
- District Plan Change 6 (operative) - Residential rules and associated definitions (to address technical problems with the operation of the rules).

Amendments have subsequently been introduced to provide consistency with changes made through these.

Key Features of Plan Change 33 (excluding the Ridgelines and Hilltop provisions)

The key features are:

- Objective 14.2.2 is altered to read: *To maintain and enhance the character of the Rural Area by managing the scale, location, rate and design of new building development* (new words underlined). This change acknowledges the integral role of design in ensuring that the rural character and amenity is maintained and it provides a central point for the subsequent changes to the policies and rules and the inclusion of the Rural Area Design Guide.
- A new Policy 14.2.4.2 is introduced to set the context for limited subdivision in most of the Rural Area. Specifically, the policy is to minimise the fragmentation of land to achieve the Council's objective of urban containment.
- A new Policy 14.2.4.4 is introduced to provide a policy context for the taking of esplanade areas (currently there is no policy in the District Plan).
- A Rural Area Design Guide is introduced into Volume 2 (Design Guides) of the District Plan. The design guide sets out key objectives and guidelines for subdivisions and residential buildings in the Rural Area, and resource consent applications for these will be assessed against it.
- A number of changes have been made to the rules in Chapter 15 (Rural Area Rules) of the District Plan. The main changes relate to the provisions for subdivisions, and residential buildings (and associated accessory buildings and residential structures). Of these the most significant (but not the only) changes are as follows:
 - Provision is made for boundary adjustments as a Controlled Activity in all parts of the Rural Area, provided that no additional allotments are created.
 - Changes to the subdivision rules provide for a limited rate of subdivision across most of the Rural Area (including South Karori, Makara, Ohariu Valley, Takapu Valley) as a Discretionary Activity (Unrestricted). Specifically, this new rule provides for one lot of any size to be subdivided from a parent lot of 30ha provided that the parent allotment is at least five years old from the deposit of a survey plan. The existing subdivision regime is more restrictive with a minimum lot size of 50ha as a Discretionary Activity (Unrestricted).
 - Four specific areas zoned Rural Area on the edge of the urban area have been identified for low density rural residential subdivision as a Discretionary Activity (Unrestricted). No minimum lot size and no restriction on the number of allotments are specified with reliance on the assessment criteria and the guidance in the Rural Area Design Guide to establish development that retains the existing character and amenities. These areas are identified in new Appendices 4 to 7.

- The status quo remains with respect to the subdivision provisions in the Horokiwi area, acknowledging that the area is already significantly fragmented compared with other Rural Areas in the City.
- New residential buildings and associated accessory buildings and structures require resource consent for a Discretionary Activity (Restricted), so that they can be assessed against the Rural Area Design Guide and other assessment criteria. Most new dwellings currently require resource consent for a Discretionary Activity (Unrestricted). Written approvals will not be required and applications need not be notified or served on affected persons.
- Alterations and additions to residential buildings that exceed 5m in height and 300m² gross floor area will require a resource consent for a Discretionary Activity (Restricted), so that they can be assessed against the Rural Area Design Guide and other assessment criteria. Written approvals will not be required and applications need not be notified or served on affected persons.
- The provisions for residential buildings on allotments under 1200m² in area in Makara Beach and Makara Village have been separated out from the residential rules applying to buildings elsewhere and the specific allotments identified in new Appendix 8. Otherwise the content of the rules applicable to these areas is predominately unchanged.
- All subdivisions and residential buildings, and associated residential accessory buildings and residential structures, that require a resource consent will be assessed against the Rural Area Design Guide (except in Makara Beach and Makara Village where specified Outer Residential Area rules apply).
- New provisions are included for site access across the Rural Area. Permitted activity conditions are included for car parking in Makara Beach and Makara Village (none currently specified). The ability to consider site parking as a matter to be addressed is introduced in relation to residential activities, rural activities and non-rural activities.
- Factory farming of animals (excluding pigs) in buildings less than 50m² in area will no longer be a Controlled Activity is deleted. All factory farming of animals will be a Discretionary Activity (Unrestricted).
- The provisions allowing large farm accessory buildings as a Permitted activity are excluded from allotments under 1200m² in Makara Beach and Makara Village. In addition, all yards for farm accessory buildings must be a minimum of 6m to be a permitted activity.
- The existing rules relating to buildings in the Hazard (Fault Line) Area have been altered to bring them into line with changes proposed elsewhere in the District Plan through Plan Change 22 “Hazard (Fault Line) Area Realignment and Rules”.

- New rules are included in relation to the taking of esplanade areas on allotments of less than 4ha in specified areas and the circumstances in which a waiver from these requirements will be provided.
- Other minor changes are made to the provisions for septic tanks; proximity to high voltage transmission lines; and non-notification and service.

SUBMISSIONS

Of the 675 original submissions and 117 further submissions (including late submissions), approximately 10% were on the subdivision and residential building rules and the Rural Area Design Guide.

MAIN PROVISIONS OPPOSED

Appendix 7 Miet Land

A significant number of submissions (a total of 33) were in opposition to the inclusion of the land in Appendix 7 (generally referred to as the “Miet land”) as an area suitable for low density rural residential development under Rule 15.4.6.

The submitters included local residents and a range of recreational user groups, and the Panel heard evidence from a number of them. Key concerns were that the Council was proposing the subdivision of a number of allotments within this area, and that subdivision of the land would have potentially adverse visual, ecological, recreational and traffic related effects.

The planning officer’s report outlined the history and background to the proposal to include this area of land as an Appendix area. In particular, it was highlighted that the proposal was for a 3 lot rural residential subdivision on the lower slopes of the site, with the balance of the land retained as Outer Green Belt.

In recognition of recreational and visual values the Panel recommends that Appendix 7 be deleted.

Appendix 4 West of Brooklyn and South of Panorama Heights, Brooklyn

Submissions from the Brooklyn Residents Association (225/1, 225/2, 225/4, 225/15); Catherine Underwood (238/1); and Paul Bruce, on behalf of the Green Party (682/2) oppose the inclusion of Appendix 4 as an area for rural residential development. Parts of these submissions were supported by Friends of Owhiro Stream and opposed by Ohiro Properties Limited and Robin and Elizabeth Dunlop. Concerns raised in the submissions received were wide ranging including the impact on the visual and ecological values of the area (including Owhiro Stream and an area of regenerating bush to the south of Ashton Fitchett Drive) and the inclusion of a landfill area (Maori Gully Landfill, 289 Happy Valley Road) within the Appendix 4 area. The various requested relief includes the retention of the current Rural Area zoning or deletion of

parts of the Appendix area or the area in its entirety, or the rezoning of the land to Open Space.

In addition, Ohiro Properties Limited (430) lodged a submission seeking that part of the area identified as Appendix 4 be rezoned to Outer Residential Area. The land that was the subject of the Ohiro Road Properties submission to Plan Change 33, is the same area of land affected by Private Plan Change 30, which also seeks a re-zoning to Outer Residential. The Panel noted the notification of Plan Change 30 resulted in some subsequent support for Plan Change 33, with approximately 19% of the submitters specifically supporting either the low density rural residential provisions of Plan Change 33, or alternatively the development of the land for rural residential purposes in preference to rezoning it to Outer Residential Area.

The Panel recommends that the requests to rezone all or part of the land from Rural to Open Space, and in relation to the Ohiro Road Properties submission from Rural to Outer Residential Area be rejected. This is on the basis of legal advice obtained by the Council that the requests are outside the scope of this Plan Change, which is concerned with managing the rural environment, rather than identifying land suitable for residential purposes or areas of open space. In relation to the request to re-zone all or part of the land Open Space it is noted that areas with this zoning are predominately in public ownership and set aside as reserves. This is not the case with this land, with no future plans by the Council to purchase it for this purpose.

In addition, the Panel heard evidence from several submitters in relation to the appropriate zoning for the area. On balance, the Panel considers that the inclusion of the area as an Appendix area, in conjunction with Rule 15.4.6 and the Rural Area Design Guide, will provide an appropriate form of development for this urban fringe area. Specifically, the proposed provisions will enable limited development of the land in a sustainable manner, recognising the physical constraint of steep topography and enabling the retention of the visual, landscape and ecological values.

Notwithstanding the Panel's recommendation to approve the inclusion of Appendix 4 as an area suitable for rural residential development, it is acknowledged that a decision on Private Plan Change 30 made by Ohiro Properties Limited (seeking to rezone part of Appendix 4 to Outer Residential Area) is pending. Consequently, the Panel recommends that if the above recommendation from the Panel (to retain Appendix 4 and the associated Rule 15.4.6 over this area) is accepted by the Council, that it is expressly acknowledged that that the decision is made without prejudice to any subsequent decision on Private Plan Change 30.

Brooklyn Residents Association (225/10) has requested the inclusion of specific design guides for subdivision of and construction on Maori Gully landfill (opposed by Ohiro Properties Limited 1105/4). Any development within this area is a Discretionary Activity (Unrestricted) which enables the Council to consider all aspects of a proposal and it is noted that proposals can be publicly notified where warranted. Notwithstanding this, it is recommended that the relief be accepted in part with the landfill identified within Appendix 4. The key reason for this is to ensure that there is no doubt that matters relating to its past use will be addressed in any subsequent resource consent application. The Panel therefore **recommends** that the

submission from the Brooklyn Residents Association be accepted in part and that Appendix 4 be amended as shown in Appendix G attached to this report.

Esplanade Areas

The planning officer's report outlines that a new policy has been included to fill a gap in the policy framework in terms of how the Council deals with esplanade areas. Specifically, new policy 14.2.4.4 is "*To require esplanade areas along identified streams and the coast to protect conservation values, provide public access or other recreational use*". This policy has been supported by Guy Marriage (216/2) and the Panel accepts this support.

The Panel heard evidence from the New Zealand Institute of Surveyors (643/15) seeking the inclusion of a policy statement about the need (or not) to obtain esplanades on lots that are over 4ha. On balance, the Panel considers that it is clear in the explanation to the policy that the Council is requiring esplanade areas only on new lots that are less than 4ha in specified areas, and accordingly, there is no potential for confusion or uncertainty surrounding the administration of the rule. For example, in the explanation to 14.2.4.4 it is stated that "Esplanade areas are required on all new lots that are less than 4ha (including boundary adjustments) that are created along identified streams or the sea coast....". Accordingly, this submission is rejected.

The Panel considered submissions from the Royal Forest and Bird Protection Society, Wellington Branch (288/2, 288/4), Paul Hughes (169/1 – further submission in support from the Tararua Tramping Club 1097/42; 169/2), and Guy Marriage (216/5) seeking more stringent provisions for esplanade areas, and oral evidence was presented by several of these parties. Most of these submitters sought the inclusion of rules to allow the taking of esplanades on areas of 4ha or greater. In addition, submitter 169/1 requested that esplanade areas be able to be taken along the coast on a lot of any size and up to 100m wide at the Council's discretion.

The planning officer's report advises that the changes made through Plan Change 33 have been designed to allow the current practice of taking esplanade areas to continue (which has to be to take esplanade strips in specified areas where new allotments are less than 4ha), albeit using a different mechanism. The introduction of this new mechanism of taking esplanade areas through the inclusion of specific rules was in response to legal advice that the current approach of taking esplanade areas as a condition of resource consent is a questionable practice.

While the Panel has concerns regarding the absence of provisions for esplanade areas on allotments over 4ha and along smaller streams, the reasons outlined in the following extract from the planning officer's report as to why it would not be appropriate to introduce additional provisions at this stage are accepted.

- Compensation is required to be paid for esplanade areas taken on subdivisions of 4ha or more (unless the landowner wishes to gift the land). Council has not yet developed a policy or addressed the implications of the compensation requirements.

- While some background work has been undertaken to the development of a policy and approach for esplanades on lots of 4ha or greater, further work is necessary including a full inventory of the coastline and streams, to determine where esplanade areas are required.
- There has been insufficient consultation on the issue of taking esplanades on new lots of 4ha or more.
- Ideally, the provision for esplanade areas should be addressed comprehensively across all zones in the City, not just the Rural Area.

Accordingly, the submissions and further submission from the Royal Forest and Bird Protection Society, Paul Hughes and Tararua Tramping Club, and Guy Marriage are rejected, as further work needs to be undertaken by the Council before robust provisions can be developed.

The Panel recommends that the Council includes on the District Plan forward work programme as an area of future work, the following:

- **Esplanade Provisions:**
A review of the esplanade policy for waterways in properties of 4 ha or over, and for smaller streams within both urban and rural areas is recommended by the Panel. This should also include access track linkages to such waterways. This recommendation comes from hearing a number of submissions which identified an apparent gap in the regulatory powers for Council to meet its obligations under Section 6 of the RMA: promoting public access to and along waterways.

Status of New Residential Buildings

As outlined in the planning officer's report, the activity status for most new dwellings, and their associated residential accessory buildings and structures under the proposed provisions will be as a Discretionary Activity (Restricted) under Rule 15.3.3a. An express provision has been included in the new rule that written approvals will not be necessary, notice of applications need not be served on affected persons, and applications need not be notified.

Ten submissions were received regarding the status of new dwellings generally within the Rural Area (excluding the Makara Beach and Makara Village areas) under rule 15.3.3a, and the associated non-notification provision. Nine of these submitters support the specific provision for non-notification. However, at the same time eight submitters (and six further submissions in support) request that either:

- new dwellings have Permitted Activity status outside the ridgelines and hilltops,
- or that they can be constructed to a height of 8m as a Permitted Activity, or
- that they be given Controlled Activity status.

Several submitters put forward the view at the hearing that it is not reasonable to require a further resource consent when the subdivision, and the suitability to contain

a residential allotment within it, has already been assessed against the Rural Area Design Guide.

The Brooklyn Residents Association submission (225/11) (further submission in support from the Friends of the Owhiro Stream (1119/6), and further submission in opposition from Ohiro Properties Ltd (1105/5)) requested that the express approval for non-notification for new residential dwellings on the land identified for low density rural-residential development in Appendix 4 (West of Ohiro Road and South of Panorama Heights – Brooklyn) be deleted.

The Panel has considered the above submissions and the evidence presented at the hearing in relation to these issues. The Panel agreed with the conclusions reached in the planning officer's report as summarised below:

- Permitted Activity status is not appropriate, as to it does not allow the Rural Area Design Guide to be applied, noting that this is a key tool to achieve the Council's objectives of retaining the rural character and amenity. The requirement to obtain a resource consent for new dwellings is not entirely new as many new dwellings require a resource consent under the current provisions.
- Controlled Activity status is not considered desirable as this activity category does not enable the Council to decline to grant consent to inappropriate proposals, and the ability to seek amendments to proposals to improve design outcomes is often dependent on the willingness of the applicant. For these reasons, the Council has moved away from the use of this activity status in conjunction with Design Guides.

The Brooklyn Residents Association (225/11) sought that the express approval for non-notification be deleted for the area of land covered by Appendix 4. Other submissions sought that the non-notification provisions in the Rural area generally be retained. The Panels view is that the provisions as proposed provide adequate consideration of the effects on neighbouring properties. This is through the requirement that subdivisions of this land are a Discretionary Activity (Unrestricted) with no express approval for non-notification. Under this activity status the Council can consider any relevant effects under this, and an applicant must show the location of a building site for each allotment with the application for subdivision. In addition the provision allows for only one dwelling on each allotment.

In relation to the request that a resource consent not be required when the subdivision has been assessed against the Rural Area Design Guide, the Panel considers that a resource consent for the building is necessary to enable elements of the Rural Area Design Guide such as components of section 4.0 Planting, 5.0 Rural Heritage and 9.0 Design of Buildings and Structures to be considered. These matters would not be able to be addressed at the time of the subdivision consent, unless the building design is submitted at the same time – which is not usually the case.

For these reasons the Panel recommends that the submissions supporting the retention of the non-notification provision be accepted, and all other submissions and further submissions be rejected.

Alterations and Additions to Existing Dwellings (outside Makara Beach and Makara Village)

Eleven submitters have opposed the rules for alterations and additions to existing dwellings (Makara/Ohariu Community Board (210/3), Ruth Paul and Christopher Moore (227), Roger Askin (287/3 – 5), Truebridge Callender Beach (412/1), Jenny Jorgensen (413/7), Pepped Warbeck (451/1), West Tawa Developments Partnership (452/7), Konservative Investments Ltd (453/4), Wellington Wind Farms (586/3); Harlan Ralph Jorgensen (600/6), and Makara Guardians Incorporated Society (652/5). There are also 96 further submissions in support of the opposing submissions, with 93 of these being in support of the Makara Guardians Incorporated Society submission. The key concerns raised in the submissions and further submissions are whether there is a need for any limits on alterations and additions to residential buildings as a Permitted Activity, or alternatively the specific trigger levels for a resource consent with respect to height (maximum of 5m) and gross floor area (maximum of 300m²) have been questioned.

The Panel accepts that there is a potential for alterations and additions to existing dwellings that result in substantial increases to the existing buildings or structures to adversely affect the rural character, or the amenity of neighbours if not well designed, or without adverse effects being mitigated. On this basis, limits are considered necessary on alterations and additions to dwellings in terms of maximum height and bulk thresholds to achieve the desired objectives of the District Plan. Setting limits provides an even-handed and consistent approach with the requirement that all new residential buildings must obtain a resource consent.

However, the Panel believes that the limits or triggers proposed in the Plan Change are potentially too restrictive. Specifically, the Panel agrees with amending the maximum height of 5m, to allow for alterations and additions up to the height of the existing building (with a cap of 8m). The amendment acknowledges that in these situations the effects of a higher building have already been established, and the subsequent impacts of any additions are likely to be of a minor nature. Furthermore, on the basis of the information and arguments presented the Panel is of the view that that the proposed limit of 400m² gross floor area for alterations and additions to residential buildings and accessory buildings as a Permitted Activity does not adequately acknowledge that rural landowners generally have greater requirements in terms of accessory buildings related to the residential activity.

For these reasons the Panel accepts the relief requested in the submission from Truebridge Callender Beach (412/1), and accepts in part the relief sought by a number of other submitters and further submitters that have requested that the maximum height be 8m, and recommends that the following changes be made:

- Rule 15.1.3a.3 be amended to read “*The maximum height is 5 metres, or the height of the existing buildings, whichever is the greater, up to a maximum of 8 metres.*”
- The words “to single storey” third sentence of the explanation to Rule 15.1.3a be deleted.

It also agrees in part with the relief sought by Roger Askin (287/5) that the combined total limit be increased from 300m² to 500m²; and recommends:

- Rule 15.1.3a.4 be amended to read “*The combined gross floor area of all residential buildings and residential accessory buildings on the site shall not exceed 400m² in area*”.

SPECIFIC PROVISIONS

Chapter 14: General

The Panel heard detailed evidence from the Glenside Residents Association Inc (Submission 52/2, 52/4) that freshwater springs be identified and given greater protection in the District Plan rules. The Panel agrees that it is important that this aspect be able to be addressed in relation to future subdivisions; however, as outlined in the planning officer’s report, it is considered that the current provisions already provide for consideration of this aspect within the Rural Area Design Guide (refer Chapter 3.0 “Natural Features, Ecosystems and Habitats” O1, O2, G1 and G2). The Panel has therefore concluded that no amendments are necessary in relation to these submissions.

14.1 Introduction

The Tararua Tramping Club (454/7) and Michael Foster (653/3) requested two minor grammatical/clarification changes to the Introduction section to Chapter 14. The Panel accepts these and recommends that:

- at the beginning of the fourth paragraph “Today,” be replaced with “*In 2004,*”.
- the words “has been” be replaced by “*have been*” in the third sentence of the fifth paragraph.

Objective 14.2.2 and Policy 14.2.2.1

The Panel heard from three submitters expressing concern that the new explanation to Policy 14.2.2.1 implies Council is seeking to discourage alterations and additions that result in large dwellings (West Tawa Developments Partnership (452/4), Konservative Investments Proprietary Limited (453/1), Wellington Wind Farms (586/1)). For the reasons outlined in the discussion under the section “Alterations and Additions to Existing Dwellings (outside Makara Beach and Makara Village)” above, it is considered necessary to establish permitted activity conditions. Exceeding the conditions triggers the need for resource consent, and the need to assess the proposal against the Rural Area Design Guide (with the “triggers” proposed being maximum height and gross floor area). The Panel is of the view that the explanation to the policy is necessary to make it clear to the public that alteration and additions that result in large dwellings will be treated in this way to ensure that the rural character is

maintained. The Panel notes that where a proposal is consistent with the Rural Design Guide and other assessment criteria in the District Plan, resource consent is likely to be granted. The changes proposed to the permitted activity conditions for alterations and additions will provide greater flexibility for the owners of existing dwellings wishing to undertake alterations and additions.

The Panel also heard evidence presented on behalf of Meridian Energy seeking clarification that Objective 14.2.2 and Policy 14.2.2.1 do not apply to structures for wind resource evaluation and wind energy generation. The Panel has received advice from Council officers that there was no intention that this objective and policy would apply to this rule. To avoid any uncertainty on this issue, the Panel recommends that:

- The following two sentences be inserted as the third paragraph within the Explanation to Policy 14.2.2.1 *“Renewable energy development, including wind farms, involve structures for wind resource evaluation and wind energy generation. This objective and policy does not control the design of these elements.”*

Policy 14.2.4.2

The Panel recommends no changes to this policy.

Chapter 15: General

Montgomery and Kathryn Asare (228/1) and Guy Marriage (216/3) have supported the Council’s approach to managing subdivision (opposed in a further submission from the Glenside Progressive Association (1012/2)) and the Panel accepts the original submissions on this point. The Panel also considered the submission from Keith Matthews and Helen Shaw (29/2) that Wellington should avoid a sprawling urban form and protect the special natural environments. The Panel is of the view that the Plan Change goes some way to providing for these matters through the proposed rules and the Rural Area Design Guide. Accordingly, no amendments are considered necessary.

Rule 15.1.1 Permitted Activity Conditions

The Panel agrees that the absence of District Plan rules for site access in the Rural Area is of concern with respect to the safety of the public utilising rural roads. The concerns of Roger Askin (287/2) that because of the narrow winding nature of our rural roads in many places vehicle entries would not comply with the proposed minimum sight distances are acknowledged. However, the Panel concurs with the planning officer that unless the minimum standard can be achieved, it is desirable that proposals are subject to scrutiny through the requirement to obtain a resource consent. This will ensure that new accesses are located in as safe a position as possible, on the basis of advice received from the Council’s traffic engineer. The submission from Roger Askin (287/2) is accordingly not supported by the Panel.

The Panel notes a submission from the New Zealand Institute of Surveyors (643/4) that seeks to insert a reference to Appendix 8 (to identify allotments under 1200m² in Makara Beach and Makara Village) in Rule 15.1.1.3.3. The Panel recommends that

the following relief sought by this submitter be accepted to provide the necessary consistency with other provisions:

- Insert into Rule 15.1.1.3.3 after the words “Makara Village and Makara Beach settlements” the words “*as identified in Appendix 8,*”.

Rule 15.1.3

Several minor changes have been sought in submissions lodged by Wellington City Council (211/1, 211/2, 211/3) to Rule 15.1.3. The Panel accepts that these changes are necessary to provide consistency with the terminology used elsewhere in the District Plan, and to ensure consistency with the wording and provisions introduced through other recent Plan Changes. The Panel therefore recommends that the requested relief sought in relation to Rule 15.1.3 be accepted as follows:

- Insert into Rule 15.1.3.2 after the words “residential buildings” the new words “, *accessory buildings and residential structures*”.
- Insert into Rules 15.1.3.3 and 15.1.3.4 after the words “residential buildings (including”, the new words “*alterations and*”.

The Panel accepts the submission of the Greater Wellington Regional Council (471/2) supporting the permitted activity condition for Hazard (Fault Line) Areas (Rule 15.1.3.3) and Hazard (Flooding) Area (Rule 15.1.3.4). Furthermore, the Panel accepts the Regional Council’s support for the permitted activity condition for septic tanks (Rule 15.1.3.5), with a requested amendment to reduce the separation distance from 20m to 5m distance between the outer edge of the septic tank drainage field and a property boundary as this will provide consistency with the on-site sewage disposal guidelines of the Regional Council. On this basis, the Panel recommends that the submission from the Greater Wellington Regional Council be accepted as follows:

- Insert at the end of Rule 15.1.3.5, “*except that the outer edge of the associated drainage field shall be no closer than 5m to a property boundary when above ground.*”

Rule 15.1.3a

Septic Tank Permitted Activity Condition

The Panel heard evidence from four submitters requesting amendments to the permitted activity condition relating to septic tanks. Three of these (West Tawa Developments Limited (452/7), Konservative Investments Proprietary Limited (453/4), and Wellington Wind Farms (586/3)) were concerned that the wording of the permitted activity condition for septic tanks (Rule 15.1.3a.7) effectively restricts the disposal of wastewater by other means. The planning officer’s report confirms that there was no intention that this be the case, so for the avoidance of doubt the Panel recommends the following change requested by the submitters be adopted:

- Insert at the beginning of permitted activity condition 15.1.3a.7 the following words “*If on site sewage disposal is by septic tank,*”.

The Panel notes that the Greater Wellington Regional Council (471/7) supports the permitted activity condition for septic tanks in Rule 15.1.3a.7, but with the inclusion of the same amendment as proposed to Rule 15.1.3.5. The Panel **recommends** that this requested change be accepted for the same reasons as given for the change to 15.1.3.5 (refer to page 14), with the following amendment:

- At the end of Rule 15.1.3a.7 insert, “*except that the outer edge of the associated drainage field shall be no closer than 5m to a property boundary when above ground*”.

Other Permitted Activity Conditions in Rule 15.1.3a

The Panel agrees with the Wellington Regional Council (417/7) that the permitted activity conditions for the Hazard (Fault Line) Area and Hazard (Flooding) Area (Rules 15.1.3a.5 and 15.1.3a.6) are appropriate.

The Panel agrees that several minor corrections requested in a submission from Wellington City Council (211) to parts of Rule 15.1.3a are necessary to clarify the meaning and application of this rule. One of these submissions (211/8) seeks to clarify that the yard rule does not apply to fences (and accordingly fences will remain a Permitted Activity). The change requested will overcome the New Zealand Institute of Surveyors’ (643/5) submission on the same point. In the light of these submissions, the Panel recommends the following changes:

- Insert into Rules 15.1.3a.5 and 15.1.3a.6 after the words “alterations and additions” the new words “*to residential buildings*”.
- Insert into Rule 15.1.3a.2 after the words “6 metres” the new words “, *except for fences which may be constructed in a yard.*”

Rule 15.1.4 Accessory Buildings Associated with Rural Activities

The Panel heard evidence from Truebridge Callender Beach (412/2) in support of their request that provision be made for small accessory buildings less than 50m² with a zero yard as a permitted activity, noting that this would also enable fences to be erected in yards. The submitter expressed the view in evidence that accessory buildings and structures up to 50m² would not create any adverse effects due to the distance from residential buildings and accordingly they should be able to be located on the boundary. The Panel agreed that provision should be made to permit accessory buildings closer to boundaries and was of the view that a minimum distance of 3metres would be appropriate.

The New Zealand Institute of Surveyors (643/14) raised the possibility of landowners constructing a rural accessory building (which does not require an assessment against the Rural Area Design Guide) then seeking to convert it to a residential building at a later date. The Panel accepts the advice that such a conversion will require a resource consent for a Discretionary Activity under both the existing plan provisions and Plan Change 33. Accordingly, no change in relation to this submission is recommended.

Submission 211/9 from Wellington City Council sought to clarify that farm fences would be a Permitted Activity.

To address the need for clarity the Panel recommends that Rule 15.1.4.3 be reworded as follows:

“15.1.4.3 Yards:

Except for fences which may be constructed in a yard, buildings under 50m² in area must be a minimum of 3 metres from all yards and buildings over 50m² in area must be a minimum of 6 metres from all yards.”

Rule 15.2.2 Boundary Adjustments as a Controlled Activity

Support for the provision of boundary adjustments as a Controlled Activity came from seven submitters (Makara/Ohariu Community Board (210/2), Royden Mexted (402/2), Gregory Best (403/2), Makara Forest Partnership (404/2), Gavin Bruce (405/2), Russell Hume (406/2) and Truebridge Callender Beach (412/4)). Six of these submitters also support the associated non-notification provision.

Notwithstanding the general support for the rule, two issues were highlighted by the submitters. The first issue of concern to six of the submitters was that there should be a new rule which provides for boundary adjustments that do not comply with the standards and terms for a Controlled Activity as a Discretionary Activity (Restricted), with the Council’s discretion restricted to particular standards and terms that are not met. Several of these submitters provided written evidence on this point. The proposed standards and terms for a boundary adjustment as a Controlled Activity require that all existing activities, buildings and structures must either comply with specified permitted activity conditions in the District Plan, or have resource consent or existing use rights. The purpose of the standards and terms is to minimise the likelihood of adverse effects arising from activities and buildings as a result of changes in boundary locations. The Panel has accepted the advice of the planning officer that boundary adjustments that cannot satisfy these requirements have not been contemplated in the preparation of the Plan Change, and accordingly the default has purposely been set at Non-Complying status. No change is proposed accordingly.

The Panel also considered evidence presented on a second issue concerning the ability of the Council to consider landscaping under Rule 15.2.2.5. Key concerns of the submitters included that the Urban Strategy Group of Wellington City Council has no expertise in rural matters such that it could impose conditions on landscaping, and that landscaping is inappropriate on large tracts of land. The Panel notes that the Council does have in-house specialist landscape advice to assist with the development of any conditions relating to landscaping, and it is expected that landscaping will only be required as a condition of consent when necessary to mitigate adverse effects. In view of the focus of the Plan Change 33 on continuing the Council’s policy of maintaining the existing rural character and amenity, the ability to consider whether landscaping is required to mitigate any adverse effects is considered necessary and appropriate. Accordingly, the relief sought is not supported.

Rule 15.3.3

Wellington City Council submitted that the rule should be amended to correct errors and clarify aspects (211/6, 211/11). The Panel agrees that the changes are appropriate and recommends:

- A new Rule “15.3.3.5 *maximum fence height*” be included and that the other matters over which the Council has restricted its discretion be renumbered accordingly.
- The standards and terms of Rule 15.3.3 be amended as follows:
 - After the words “site coverage” add the new words in brackets “(*under rule 5.1.3.3*)”.
 - After the words “maximum height” add the new words in brackets “(*under rule 5.1.3.4*)”.
 - After the words “sunlight access” add the new words in brackets “(*under rule 5.1.3.5*)”.

The Panel also notes the support from the Greater Wellington Regional Council (471/8) in relation to the assessment criteria for the Hazard (Fault Line) Area (15.3.3.13-15), Hazard (Flooding) Areas (15.3.3.16-18, and septic tanks 15.3.3.19) and no change is proposed to these provisions.

Rule 15.3.3a

A minor change was sought by Wellington City Council (211/7) to the wording of Rule 15.3.3a to provide consistency with the wording of the provisions used elsewhere throughout the District Plan. The Panel agrees that the change is appropriate and recommends that the third bullet point of Rule 15.3.3a be changed by replacing the word “*and*” with “, *or*” after the words “alteration of”.

Discretion over Landscaping

Jennifer Jorgensen (413/11), Ralph Jorgensen (600/7) and the Makara Guardians Incorporated Society ((652/8), with 93 further submissions in support) oppose the inclusion of site landscaping as a matter over which the Council has restricted its discretion in rule 15.3.3a.3. The Panel does not support this request for the same reasons given in relation to rule 15.2.2 above.

Rules relating to High Voltage Transmission Lines

The Panel considered submissions and written evidence tabled at the hearing from Transpower New Zealand (241/7) in relation to the rules relating to high voltage transmission lines.

The Panel notes the advice in the officer’s report that to simplify the Plan, and reduce the number of rules that apply to residential buildings, the rules applying to the residential buildings in relation transmission lines were amalgamated with the main

residential building rules in Plan Change 33. The intention in doing this was that the scope/content would remain the same.

The Panel noted that Transpower had indicated that it is generally satisfied with the recommendations made in the planning officer's report, which will ensure that the scope of the Council's discretion and the assessment criteria remain the same as currently provided for under the District Plan.

However, Transpower has also suggested a change to the assessment criterion 15.3.3a.14 which would expand the scope. As proposed, this assessment criterion is "*Whether people can be effectively shielded from electromagnetic effects*". Transpower is seeking that this criterion be altered to cover other matters including:

- maintaining integrity of supply
- the protection of people and property in the event of an emergency that results in a line failure
- ensuring that the option of upgrading existing lines to, rather than building additional lines to meet increased electricity demand is not precluded; and
- ensuring that a minimum level of amenity is retained for those living in close proximity to lines.

The Panel does not support this change because such changes to the wording of the assessment criterion will go beyond what was intended, and accordingly specific consultation has not been undertaken with the public on this point.

In response to the submissions of Transpower the Panel recommends that the following changes be made:

- Delete Rule 15.3.3a.5 and replace with "*within 40m of high voltage transmission lines designed to operate at or over 110kV, the separation distance between residential buildings and transmission lines.*"
- Delete Rule 15.3.3a.14 and replace with "*Whether people can be effectively shielded from electromagnetic effects.*"

Site Access

The New Zealand Institute of Surveyors (643/7) submitted that both Rules 15.3.1 (concerning rural and residential activities that do not comply with the conditions for permitted activities) and 15.3.3a (which deals with the construction, alteration of or addition to residential buildings and accessory buildings) overlap in that they both retain discretion over site access. To overcome this, the submitter requested that the Council's discretion over site access and the accompanying assessment criteria in Rule 15.3.3a be deleted, leaving Rule 15.3.1 in place. The Panel agrees that there is a double up in provisions which could lead to confusion, and recommends that 15.3.3a.2 "site access" and assessment criterion 15.3.3a.10 be deleted from Rule 15.3.3a, with the subsequent provisions renumbered correspondingly.

Sewage Disposal

The Panel notes that Greater Wellington Regional Council (586/40) supported the inclusion of Rule 15.3.3a.7 which provides for the consideration of septic tanks, and the associated assessment criterion 15.3.3a.9.

Three submitters have highlighted the same concerns with Rule 15.3.3a.7 and assessment criterion 15.3.3a.9, as discussed previously in relation to the similar provisions under rule 15.1.3a. The Panel accepts that it is not intended that other forms of wastewater disposal be restricted and to clarify this aspect it recommends that Rule 15.3.3a.7 be deleted and replaced with “*the design and location of waste water disposal*”.

While it is outside the scope of the requested relief, the Panel recommends that to provide consistency across the District Plan that at a future date similar amendments be inserted through a separate Plan Change to the provisions for residential buildings on allotments under 1200m² in Makara Beach and Makara Village. Changes would include a similar amendment to Rule 15.3.3.7, and the replacement of 15.3.3.19 with an assessment criterion along the same lines as 15.3.3a.9.

Other Assessment Criteria

Greater Wellington Regional Council (586/40) supports the assessment criteria for Hazard (Flooding) Area (15.3.3a.15-17) and Hazard (Fault Line) Area (15.3.3a.11-13) and the Panel recommends that these criteria be retained.

15.3.4 Signs

A minor change has been proposed through a submission from Wellington City Council (211/12) to clarify the standards and terms for signs under Rule 15.3.4 with respect to the area and number of signs. The Panel considers that this change is necessary to provide certainty as to the meaning of the rule and recommends that Rule 15.3.4 be amended by deleting the second sentence of the standards and terms.

Rule 15.4.1

Two submitters (Jennifer Jorgensen (413/12), with a further submission in opposition from the New Zealand Fire Service (1015/4); and Makara Guardians Incorporated Society (652/10), supported by 93 further submissions and opposed in a further submission from the New Zealand Fire Service (1015/2)), seek that the existing Operative District Plan assessment criteria for on-site parking 15.4.1.5 be retained, and that the new assessment criterion in 15.4.1.6 be deleted. The concern raised in the submissions is that the existing assessment criterion for car parking is being weakened through the Plan Change.

The Panel does not accept this view. The new criterion emphasises the need for on-site parking due to the narrow width and winding nature of our rural roads.

Rule 15.4.5

General

Joyce Griffin, also on behalf of Action for the Environment (560/1) has submitted that expansion into the rural areas destroys the productive capacity of the land, with particular concern raised about the impact of hectare blocks. The relief sought was that the Plan Change be cancelled (supported in a further submission from Friends of the Owhiro Stream (1119/7) and opposed in a further submission from Robin and Elizabeth Dunlop (1003/6)). The Panel believes that the objectives and policies included in the Plan Change will ensure that subdivision is limited, and where it does occur that it is well designed and consistent with the local rural character. Consequently no change is recommended in relation to this submission.

Activity Status and Notification Provision

Seven submitters support the ability of landowners to be able to subdivide an additional allotment from a 30ha allotment every five years in most of the Rural Area, as well as the flexibility in the size of the new allotment (with no minimum lot size specified). However, at the same time, six of these submitters Royden Mexted (402/6), Gregory Best (403/6), Makara Forest Partnership (404/6), Gavin Bruce (405/6), Russell Hume (406/6) and Truebridge Callender Beach (412/7) requested that the activity status for these subdivisions be altered from Discretionary Activity (Unrestricted) to Controlled Activity. The reason for suggesting the change is that it will give greater certainty to rural landowners with regard to the possibility of future subdivision. This request was opposed by the New Zealand Fire Service because it believes Controlled Activity resource consent applications are unlikely to be notified, and the Commission will not therefore be able to assess developments to ensure that they can be adequately serviced with respect to fire fighting (access and sufficient water supplies).

The Panel believes the activity status should not be amended to Controlled Activity. A Controlled Activity status will not enable the full merits of a subdivision to be considered, and the subdivision could not be refused if found to be inconsistent with the Rural Area Design Guide and other assessment criteria. This would therefore be inconsistent with the intent of the Plan Change to continue to maintain the natural and rural character of the Rural Area. The Panel accepts that a Discretionary Activity (Unrestricted) status is appropriate.

- The Panel agrees with the New Zealand Institute of Surveyors (643/9) that the reference “*to this rule*” should be deleted from Rules 15.4.5 and 15.4.6 in the interests of clarity and consistency of the provisions.

One submitter (Pepped Warbeck (451/4)) requested that resource consent applications for subdivisions under Rule 15.4.5 should not require neighbour’s approvals. The Panel accepts that it is important that there be an opportunity for involvement by neighbours and/or the wider community at the subdivision stage, as it is at that time the future dwelling location will be determined. Accordingly, this request is not supported by the Panel.

Support for the proposed subdivision provisions for the Horokiwi area was provided in a submission from the Horokiwi Community Association (232/3). One submission opposing the provisions was received from Sukhdev Badesra and Anja Martel (645/1), with a request that the subdivision rules be relaxed to allow subdivision down to 2-2.5 acres. The Panel does not agree with this request on the basis that the area is already fragmented. A smaller lot regime would be inconsistent with the policy framework to minimise fragmentation of land and to retain a compact City. No change is therefore recommended.

Standard and Terms

The Makara-Ohariu Community Board (210/5) submitted that exclusion of boundary adjustments under Rule 15.2.2 is potentially open to abuse and requested that this part of the rule be deleted. The Panel agrees that it would be possible to overcome the 5 year restriction when undertaking a subdivision under Rule 15.4.6 through the boundary adjustment rules as currently proposed. To remove this possibility the Panel recommends that the first standard and term under Rule 15.4.5 amended as follows:

- Place a full stop after the words “survey plan” and delete the words “unless it has been created by a boundary adjustment under Rule 15.2.2.”

P Warbeck (451/4) submitted that the 5 year stand down period for subdivisions is too restrictive and requested that the standards and terms should commence from the date that the Plan Change becomes operative. The Panel considers that in fact the approach taken by the Council will provide greater flexibility for landowners to subdivide than the submitters’ proposal, as initially a number of allotments that are currently 5 years old will be eligible for subdivision. No change is therefore recommended.

Submissions from Truebridge Callender Beach (412/7) and the New Zealand Institute of Surveyors (643/9) have highlighted an inconsistency within the rule, which states that any subdivision of land in the Rural Area that creates no more than two new allotments (including the balance allotment), and the table in the standards and terms which specifies that there is no limit on the total number of new allotments. In addition, these submitters have highlighted that the area referred to as “Horokiwi” is not defined, creating an uncertainty with respect to the application of the rules. The Panel agrees with the submitters on both of these points. Accordingly, the Panel recommends that:

- In the table in the standards and terms in Rule 15.4.5 the reference to “*No Limit*” in relation to Horokiwi shall be deleted and replaced with “2”.
- In the table under Horokiwi, “(*refer to Appendix 9*)” be inserted and a new Appendix 9 be inserted as shown in Appendix H to this report.

The Panel agrees with the submission from Truebridge Callender Beach (412/7) that the standard and term “All proposed new allotments must adequately show the location of a building site” is not sufficiently definitive and could be open to interpretation. Accordingly the Panel recommends that the third standard and term in Rule 15.4.5 be reworded as follows:

- *“The plans submitted with the subdivision application must show the location of a building site within each allotment.”*

The Panel believes that to ensure consistency within the District Plan provisions the same standard and term in Rule 15.4.6 be similarly amended through a future Plan Change. It is noted that there is no submission on this point in relation to this Plan Change that will allow the Panel to make such an amendment.

Explanation to the Rule

The Panel agrees with the minor amendment proposed by Wellington City Council (211/13) to correct a typographical error in the explanation to Rule 15.4.5. The Panel recommends that the second sentence of the explanation after the words “every five” be amended by replacing the word “year” with “years”.

Request for comprehensive rezoning of land

Joanna Grace on behalf of Te Karamu Station Ltd (45/1) and Te Marama Limited (61/1) sought the rezoning of large areas for “comprehensive development”. The Panel does not support their request on the basis that: these large areas are not located close to the urban fringe; it was unclear from the request as to what is proposed by “comprehensive development”; and there was an absence of any assessment of the actual and potential effects of the proposal. The Panel also notes that if the intention was to seek a rural –residential zoning for this area of land, this approach would not fit with the Council’s policy framework, in particular Objective 14.2.2 and Policy 14.2.2.1, and Objective 14.2.4 and Policy 14.2.4.2.

Rule 15.4.6

General Submissions

The Panel agrees with submitters that Rule 15.4.6 should be retained (Konservative Developments Proprietary Limited (453/2, 453/6) and Robin and Elizabeth Dunlop (470/2)).

A submission from the Greater Wellington Regional Council (471/1) (with further submission in support from the Friends of the Owhiro Stream (1119/7), and a further submission in opposition from Robin and Elizabeth Dunlop 1003/6)) opposed the inclusion of Rule 15.4.6 and Appendices 4-7. The reason for the submission were that the Regional Council has concerns that the impacts from subdivision for the areas identified in Appendices 4-7 do not include appropriate assessment of the effects on receiving environments such as rivers, streams, the harbour and local biodiversity. However, the Panel subsequently heard evidence from the Greater Wellington Regional Council that:

- it do not oppose the concept of selecting areas of land to encourage growth;

- it recognises that the proposed sites selected are consistent with the Council's philosophy of containing urban development, while providing for appropriate development on the city fringe; and
- while the Council would have preferred a more proactive approach to assessing the appropriateness of the Plan Changes (given the cumulative effects on water quality and biodiversity) the Rural Area Design Guide is accepted as a satisfactory mechanism to respond to potential effects – with some changes to the Design Guide recommended (refer to pp 29-30 below).

The Panel notes that some work was undertaken by Wellington City Council to assess the suitability of the areas covered by the appendices. It considers that there will be adequate controls in place to ensure that the issues of concern to the Greater Wellington Regional Council will be addressed. This includes the proposed Discretionary Activity (Unrestricted) Activity status which allows a rigorous assessment to be made of all the actual and potential effects that are likely to arise from a specific proposal, with guidance provided to the developer and the Council on these matters in the Rural Area Design Guide. Opportunity for public involvement in specific proposals is provided with no express approval for non notification or service, and it is expected that the majority of resource consent applications for subdivisions in the Appendix areas will be publicly notified. Subsequent proposals for dwellings, which will require a resource consent for a Discretionary Activity (Restricted), provides the Council with a further opportunity to consider the effects, and need for mitigation measures. For these reasons, and noting the earlier recommendation to delete Appendix 7, and the recommended changes proposed to the Rural Area Design Guide, the Panel considers that the matters of concern to the Regional Council will be adequately.

The Royal Forest and Bird Protection Society Wellington Branch (288/3) and the Brooklyn Residents Association (225) have expressed concerns that Rule 15.4.6 is not subject to a minimum lot size and a restriction on the number of lots. The Panel accepts the approach proposed by the Council. It will be more likely (in conjunction with the guidance provided in the Rural Area Design Guide) to encourage the development of lots that fit with the landscape and natural features (rather than boundaries being determined to meet a specified lot size), and it will provide greater flexibility to applicants in terms of achieving good design solutions. The Panel also notes that the absence of specified lot sizes and number of lots is not a new tool, being currently utilised in the District Plan for subdivisions within the Residential Zone.

A number of arguments were put forward at the hearing in support of Robin and Elizabeth Dunlop's (470/2) request that an additional rule be included within 15.4.6 to enable the construction of a house or earthworks, which fall within the design outline provided, to be considered as a Controlled Activity. The Panel has discussed this general issue in relation to the submissions to Rule 15.3.3a, and for the same reasons Controlled Activity status in relation to this rule is not considered appropriate. Furthermore, it is noted that the land in question is located within the ridgelines and hilltops overlay, and within this area it is considered necessary and appropriate for the Council to retain the ability to decline any application for new dwellings that would be inconsistent with the policy framework or the Rural Area Design guide. The Panel

believes that it is implicit in the granting of a subdivision consent that each new allotment is considered suitable for residential development.

The Panel agrees with the West Tawa Development Partnership (452) that the standard and term under rule 15.4.6, which requires all services to be reticulated underground, be deleted and that it is appropriate to include an assessment criterion that deals with this issue. The submitter states that due to the large distances and high separation of residences, the cost of undergrounding all services would be a prohibitive requirement. However, where denser patterns of residential subdivision are undertaken adjacent to urban areas, undergrounding may be appropriate. It is acknowledged that the standard and term under Rule 15.4.6 is at odds with Rule 23.1.11 (Utilities) which provides for overhead power and telecommunication lines as a Permitted Activity in the Rural Area provided that certain conditions are met. Therefore, the Panel recommends that:

- The standard and term under 15.4.6 and 15.4.5 that requires “For any subdivision incorporating new roads, all services must be reticulated underground” be deleted.
- A new sentence be inserted at the end of assessment criteria 15.4.6.6 and 15.4.5.6 that states “*Where the proposal is located near an existing urban area or an existing residential subdivision, consideration should be given to the undergrounding of services.*”

Assessment Criteria

The Panel agrees with Robin and Elizabeth Dunlop (470/2) that the assessment criteria in Rule 15.4.6 are appropriate.

Two changes to the assessment criteria in Rule 15.4.6 were sought by the Brooklyn Residents Association. Submission 225/5 requested a new assessment criterion that any subdivision should “maintain the rural character”. The Panel does not agree that such a criterion is necessary. Maintaining character is the Council’s policy (refer objectives 14.2.2 – 14.2.6 and the associated policies), and specific guidance is given on the type of development appropriate to maintain the rural character through the Rural Area Design Guide. The Panel heard evidence in relation to Submission 225/6 seeking that the assessment criterion 15.4.6.7 be amended to include consideration of whether appropriate recreational facilities (such as play areas) have been provided. However, for the reasons given in the planning officer’s report, the Panel considered that this requirement is unnecessary, particularly as the level of development envisaged is rural residential of low density.

The Panel does not agree with the submissions made by Konservative Developments Proprietary Limited (453) and West Tawa Developments Partnership (452) (opposed by the New Zealand Fire Service) that there are no parts of the Code of Practice for Land Development that are relevant to the Rural Area (for example, Section F Rural Situations). Furthermore, the Panel notes that the guidance is only applied as relevant, and it is considered appropriate that this practice be continued. A suggestion made in evidence presented by Spencer Holmes Limited on behalf of West Tawa Development that an explanatory statement be added to Rule 15.4.6 giving direction

as to the application of the Code of Practice is not considered necessary. This is particularly as the Code of Practice is a “living document” and may be subject to amendment. For these reasons, no change is recommended in relation to these submissions.

SPECIFIC SUBMISSIONS ON APPENDIX AREAS

Appendix 5 – To the north – east of Ngauranga Gorge

The Panel notes the submission from Robin and Elizabeth Dunlop (470/3) supporting the inclusion of Appendix 5 as an area where Rule 15.4.6 applies.

Appendix 6 – Western Slopes of Tawa

The Panel notes that West Tawa Development Partnership (452/12) generally supports the provisions of Rule 15.4.6 as it applies to land in Appendix 6, subject to several amendments. The Panel heard evidence from West Tawa Developments on the submitter’s request that an adjacent area to the west (Lot 1 DP 67858), currently zoned Open Space B, be rezoned to Rural and incorporated into the area defined by Appendix 6. This rezoning request is outside the scope of the Plan Change, and accordingly the request is rejected. The Panel notes that from the planning officer’s report that the Council is investigating this matter, with a view to rectifying this situation in a future plan change covering minor amendments.

Wellington City Council (211/14) submitted that a mapping error on the plan included as Appendix 6 should be corrected. The Panel agrees that it would be inappropriate to include this area for visual and amenity reasons. Therefore the Panel recommends the deletion of the southern allotment as identified in Appendix I.

Submissions Requesting the Inclusion of Additional Appendix Areas

11B Huntleigh Park Way

Submissions from Sara Chester and Dave Chester (36/1, 37/1, 37/2, with further submissions in support from these parties 1005/1, 1004/1, 1004/2) seek that their property at 11B Huntleigh Park Way be either:

- zoned Residential, or
- included as an Appendix area subject to Rule 15.4.6, or
- that the Rural Area rules be amended to enable landowners with pockets of land in areas that are predominately zoned Outer Residential Area to undertake more subdivision than provided currently by Rule 15.4.5.

This request was opposed by the Glenside Progressive Association (1012/3, 1012/4, 1012/5). The planning officer’s report advises that the Council is currently in the process of investigating (outside the Plan Change 33 process) re-zoning eleven properties (including the submitters’ property) located to the west of Heke Street from Rural Area to a mixture of Residential and Conservation Area. The aim of the re-zoning is to ensure the protection of the ecological and visual values of the area, with

the existing suburban houses being the areas to be zoned Residential. The Panel accepts that, to ensure that the protection of the ecological and visual values of the area can be addressed in a comprehensive and integrated manner through this work, no changes be made under Plan Change 33.

Shenval Holdings (428/4) and Long Gully Station (429/2)

Both submitters sought that areas of land be included as an Appendix area, with Rule 15.4.6 applying. From the written evidence provided it is apparent that the legal description provided in the submissions was incorrect. Because of this, and in the absence of plans to identify the areas with the submissions, the Panel is of the view that the public has not had an adequate opportunity to make submissions and accordingly the relief sought cannot be granted.

Notwithstanding this, it is also considered that the submitters' requests for these areas of land to be set aside for rural residential purposes is inconsistent with the Council's policy framework, in particular Objective 14.2.4 and Policy 14.2.4.2 that are concerned with minimising the fragmentation of rural land and maintaining a compact city. Furthermore, there is an absence of information on the nature of the development proposed and the actual and potential effects that may arise, which means that the implications have not been addressed in a comprehensive manner. For all the above reasons, the Panel recommends that both of these submitters' requests be rejected.

Land west of Karori Sanctuary (586)

Wellington Wind Power Limited requested that an area of approximately 875ha to the west of Karori Sanctuary be included as an Appendix area suitable for rural residential subdivision. Alternatively, the submitter requested that subdivision of land (where the result is more than two allotments) be considered as a Discretionary Activity in the Rural Area. The Panel does not agree that this area of land should be included as an Appendix area for the similar reasons cited in relation to submission 429/2 (excluding the issue with the identification of the land). Furthermore, the alternative relief, which would provide for increased subdivision opportunities, is likewise not supported as it would be inconsistent with the Council's policy of minimising the fragmentation of land.

Land fronting Rangatira Road and Collins Avenue (160/1)

This submitter has sought that two rural blocks (Lot 8 and Lot 9 DP 82381) fronting Rangatira Road and Collins Avenue in Linden be included a new Appendix area for rural residential development. The Panel accepts the findings of the assessment of the landscape character and amenity values of this area (undertaken by a landscape architect on behalf of the Council) that the potential for rural residential development in this area is limited (potentially only to a narrow strip adjacent to Collins Avenue (on Lot 9) with possibly three building sites. As the submitter's request covers a significantly larger area, and insufficient information was provided with the submission to enable a detailed assessment of all the potential effects of development within this area, the Panel does not support the inclusion of the requested Appendix area in this locality.

Bellevue Lands Limited (401) and Ngaio Forest Suburb Limited (426)

The Panel heard evidence in relation to the requests of Bellevue Lands Limited (401) and Ngaio Forest Suburb Limited (426) that additional areas of land that adjoin each other be included as Appendix areas, subject to Rule 15.4.6. The Panel also noted from the planning officer's report and the evidence presented, that the Council has recently considered the issue of a re-zoning of the area and an associated proposal to set aside a significant area of Conservation land to be vested with the Council. The outcome contained in the three Council resolutions was:

3. *Agree that the adoption of a private plan change for the rezoning of the proposed Stage 8 of the Bellevue Estate subdivision will only be considered where the change will not prejudice Plan Change 33.*
4. *Note that rezoning of the proposed Stage 8 of the Bellevue Estate subdivision may be addressed as an entirely private plan change.*
5. *Notes that the position regarding possible Council adoption of a private plan change may be able to be clarified once further submissions have been received or after relevant decisions are made on Plan Change 33.*

The Panel also considered the findings of a preliminary assessment of the landscape character and amenity values of the area that was commissioned by the Council to test, in terms of these values, whether the area would be suitable for rural residential development under Rule 15.4.6. On the basis that the landscape assessment identified that some portions of the land are potentially suitable for residential development, while others should be retained as Rural Area, and in the absence of a full assessment of all actual and potential effects of the proposal, the Panel has concluded that the submissions should be rejected. The Panel considers that it would be more appropriate to deal with any future zoning changes comprehensively by way of a private plan change.

Rule 15.4.7

New Rule 15.4.7 rolls over the existing provisions for subdivision in the areas previously set aside for rural residential development within Takapu Valley (Appendix 2) and the Woodridge Estate (Appendix 3). This has been necessary because of the proposed changes to Rule 15.4.5, in which the provisions for these areas are currently placed. The Panel notes the submissions in support of the new rule which maintains the status quo from the developers of these areas (J and M Walsh (410/2) and Woodridge Estates Limited (411/2)).

Application of Rules to the Area identified in Appendix 3

As discussed immediately above, Woodridge Estates Limited support the inclusion of Rule 15.4.7, as it will effectively maintain the status quo for subdivision in the Woodridge Estates Consent Order area identified in Appendix 3 of the District Plan. However, the submitter is concerned that the relevant rules for the construction of buildings have been substantially altered, with a requirement for proposals to be

assessed against the Rural Area Design Guide and a greater emphasis on visual effects. The relief sought by the submitter was that either a new rule be included to maintain the status quo in terms of the assessment criteria that would be applied to Appendix 3, or that the changes to Rules 15.4.1 and 15.4.2 are rejected. The Panel does not believe such changes are appropriate on the basis that the stronger emphasis on the protection of the rural character and amenity in Plan Change 33 should be applied uniformly across the Rural Area.

Rule 15.4.8

Truebridge Callender Beach (412/8) submitted that Rule 15.4.8, as currently drafted, does not specifically refer to boundary adjustments under Rule 15.2.2, although the standards and terms appear to indicate that boundary adjustments that do not meet the esplanade area should be assessed under this rule. The Panel agrees that it is necessary to rectify this omission. Accordingly, it is recommending that Rule 15.4.8 be changed to state *“Any subdivision of land that requires an esplanade area that does not meet the standards and terms of Rules 15.2.2, 15.4.5, 15.4.6 or 15.4.7...”*

Rural Area Design Guide

The Panel notes the support for the inclusion of the Rural Area Design Guide from Wellington Wind Power Limited (586/2), and the Department of Conservation (161/1) with a further submission in support from the Glenside Progressive Association (1012/8). In contrast, the Design Guide is opposed by Michael Warren (141/4) with this submitter requesting that the change for rural aspects be deferred pending confirmation of the practicality of the Design Guide supporting the principle of enhancement and protection from unwarranted development. The Panel believe the Design Guide is an integral part of the package of provisions proposed to protect rural character and amenity. The Panel also noted Design Guides are a commonly used by the Council and are considered to be an efficient and effective tool.

While Greater Wellington Regional Council (471/3) supports the inclusion of the Rural Area Design Guide as a method to assist with achieving objectives and policies for the Rural Area, the Panel heard evidence requesting a number of changes to strengthen the provisions and to provide additional guidance (further submissions in support Quartz Hill Charitable Trust Inc (1030/4), Department of Conservation (1114/1) and Friends of Owhiro Stream (1119/8)); and further submissions in opposition Ralph Jorgensen, Jennifer Jorgensen and Makara Guardians Incorporated Society). In relation to Section 3.0 Natural Features, Ecosystems and Habitats, the Regional Council requested that the importance of protecting first order/intermittently flowing streams and riparian vegetation alongside watercourse/waterbodies be recognised. The planning officer’s report recommended that the relief sought be accepted in part with a variation of the wording sought in the submitter’s relief and the Regional Council subsequently accepted the planning officer’s suggested wording in evidence.

The Panel agree with the Planning Officer and accordingly recommends the following:

- Amend *G1* in Section 3.0 Natural Features, Ecosystems and Habitats of the Rural Area Design Guide to read “*Maintain streams (including small intermittently flowing watercourses) wetlands, and associated vegetation (particularly stream side riparian vegetation).*”
- Insert into the second sentence of *G4* in Section 3.0 Natural Features, Ecosystems and Habitats of the Rural Area Design Guide, after the words “may require”, the new words “*buffer planting, connecting vegetation fragments*”.

Through the hearing it became very apparent to the Panel that there are no effective controls on vegetation clearance in the Plan. This is of major concern to the Panel. It strongly recommends to the Council that it corrects this, and that protection be provided through a future District Plan Change for significant areas of indigenous vegetation, with the Rural Area Design Guide remaining a supporting document.

Another request from Greater Wellington Regional Council (471/3) sought the inclusion of a new chapter in the Rural Area Design Guide on Stormwater Management. The Panel does not believe this is necessary because:

- all subdivisions require a resource consent for a Discretionary Activity (Unrestricted), which means that all aspects of the proposal including stormwater runoff can be considered;
- one of the assessment criteria in Rules 15.4.5 and 15.4.6 already relates to this issue being “Whether the proposal makes adequate provision for services including ...stormwater runoff control.”; and
- as subdivision is relatively restrictive (with low densities) in the Rural Area it is considered that stormwater runoff is unlikely to be a significant issue.

The Panel agrees with Greater Wellington Regional Council that Section 4.0 of the Rural Area Design Guide should place greater emphasis on encouraging the planting of species that are indigenous to the Wellington City. The Panel recommends the following changes:

- Insert in the second paragraph of the Analysis to Section 4.0 Planting after the words “natural character” the new words “*and indigenous biodiversity*”.
- Insert a new objective into Section 4.0 Planting to state “*O3 Where appropriate, establish planting of indigenous plant species to enhance or restore indigenous biodiversity.*”
- Amend *G1* of Section 4.0 Planting to include after the words “characteristic of” the new words “*, or indigenous to*” and after the words “ridges and spurs” the new words “*and remnant stands of indigenous vegetation.*”

In response to a submission from the Wellington Tenth Trust (34/2) that the Design Guide considers Maori cultural sites in more detail, the Panel considers that this aspect requires strengthening and recommends the following change:

- Insert a second sentence to the second bullet point of the “Summary landscape features” in “A6 The coastal landscape” to read “*A number of ancient pa sites are also an integral part of the coastal landscape.*”

The Glenside Progressive Association (52/1) presented oral submissions and a visual presentation. One of the requests made by the Association was that a special character analysis of Glenside be included into the Rural Area Design Guide. Key reasons given for the request included that the recognition of a special character for the area will result in better Council governance, and provide protection against the encroachment of the Churton Park style of development. Similarly, the Brooklyn Residents Association (225/9) with a further submission in support from Friends of the Owhiro Stream (1119/5), have requested that the qualities of the area valued by the Brooklyn Community be established and taken into account in the Design Guide. The Panel believes the requirement for a specific and detailed site analysis in the resource consent application will ensure that the special character of any site is identified, and potentially to a greater level of detail than can be presented in the appendices to the Design Guide. In addition, the Panel noted that the future direction of the Glenside area, and the appropriate zoning for the area, is to be addressed through further work District Plan work to implement the Northern Growth Management Framework.

The Panel agrees with the request from the Glenside Progressive Association (52/1) that the Design Guide be amended to include the New Zealand Historic Places Trust as a useful source of information, when preparing a site analysis plan. Therefore the Panel recommends the second sentence of the last paragraph of “Recognising local and site character” in Section 2.0 Site Analysis Requirement be amended to include after the words “Greater Wellington” the new word “*the*”, and after the words “Department of Conservation” the new words “*and the Historic Places Trust*”.

The Panel agrees in part with the Brooklyn Residents Association (225/12) submission that in locating buildings, the visual impact from all established lots (not just adjoining ones) for which the rural character is a significant amenity, needs to be considered. The Panel recommends that the words “*for adjoining residential areas*” be deleted from the end of the second paragraph in Appendix A8 of the Rural Area Design Guide, and that it be replaced by “*when viewed from existing residential areas*”.

Submission 225/14 from the Brooklyn Residents Association requested a modification to the Design Guide to ensure that in the rural and city fringe areas that lots be restricted to one dwelling. The Panel does not agree any changes are necessary because the proposed rules already provide for this – with more than one dwelling per allotment being a Non-Complying Activity.

Meridian Energy sought clarification as to how the Rural Area Design Guide relates to wind energy. The Panel accepts some clarification is needed. The Council’s intention to assess the consistency of some aspects of wind energy facilities against the Rural Area Design Guide (as specified in assessment criterion 26.3.1.10) should be signalled in Section 1.0 Introduction. It is therefore recommended a new paragraph 4 under “Intention of the Design Guide” be inserted, with the new words:

“The Design Guide also applies to access tracks, roads and buildings (excluding wind turbines or wind energy generators) associated with wind energy facilities.”

West Tawa Developments Partnership (452/6) and Konservative Investments Proprietary Limited (453/3) both sought clarification on how the Design Guide would be applied to sites on the city fringe. The Panel considers that the way the Design Guide will be applied to these areas is already clear (refer to “The Design Guide and the District Plan” and “How to use this Design Guide” (refer to pages 2-3 of the Guide). In addition, the particular nature of city fringe areas has been identified in A8 City fringe areas, with recognition that “Where sites immediately beyond the city boundary comprise relatively accessible and gently sloping land it is likely that they will be taken into the city and developed over time”. Also, Section 10.0 Providing for Change includes guidelines encouraging consideration of the need to future-proof developments in such areas to allow for future intensification.

Ohiro Properties Limited (430) requested that that the Rural Area Design Guide does not apply to the land that it has sought be rezoned to Residential Outer Area. The Panel considers that the Design Guide is an essential component of the package of mechanisms developed to achieve the Council’s objectives and policies with respect to the maintenance of rural character and amenity.

Pepped Warbeck (451/6) has submitted that guideline G3 in Section 9.0 “Choose roofs that are dark and absorb rather than reflect light” precludes the ability of landowners to use solar panels on their roofs. The Panel does not agree with this view. No specific evidence was presented to the Panel demonstrating how the provision would be restrictive.

SUBMISSIONS OUTSIDE THE SCOPE OF THE PLAN CHANGE

The Glenside Progressive Association’s submission (52) sought the inclusion of Glenside as an area of special ecological and heritage value. The Panel can not consider changes to the heritage listings in the District Plan as this is outside the scope of this Plan Change and therefore no change is recommended in relation to this submission. It is noted however, that the Rural Area Design Guide includes objectives and guidelines relating to rural heritage in section 5.0 “Rural Heritage”.

The following submissions are also considered to be outside the scope of Plan Change 33 as the original provisions have not been altered, or the relief can not be implemented through the District Plan provisions.

- Submissions supporting the retention of the existing Objective 14.2.5 “To maintain and enhance natural features (including landscapes and ecosystems) that contribute to Wellington’s natural environment.” (supported by Jennifer Jorgensen (413/2), and Ralph Jorgensen (600/4)).
- Submissions either supporting the existing noise permitted activity conditions (Jennifer Jorgensen (413/8), and Makara Guardians Incorporated Society

652/4, with 93 further submissions in support), or seeking changes to the provisions (Bruce Purdie (594/2) and Roger Askin (287/6).

- Makara/Ohariu Community Board 210/1 requests that the Council more strictly enforce the rules.