



Waitakere City Council  
*Te Taiao o Waitakere*

## NOTICE OF MEETING

# PLANNING AND REGULATORY COMMITTEE

I hereby give notice that a Hearing of the Planning and Regulatory Committee will be held on:-

**DATE:**        **Tuesday,        7 November 2006**                      **TIME:**                      **10.00 am**

**VENUE:**        **Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere**

to hear submissions on Plan Change 21 and to take any necessary action connected therewith.

19 October 2006

Audrey Chan  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8603

### **MEMBERSHIP:**

Councillors	VS	Neeson, JP (Chairman)
	RP	Dallow, QPM, JP (Deputy Chairman)
	DQ	Battersby, JP
	MFP	Chan, JP
	JM	Clews, QSO, JP
	RI	Clow
	LA	Cooper
	AK	Corban, OBE, JP
	WW	Flaunty, QSM, JP
	DE	Gilmour
	C	Harding, JP
	PA	Hulse
	JP	Lawley
	CA	Stone

Mayor, RA Harvey, QSO, JP (ex officio)

(Quorum 5 members)

★★★★★★★★★★

(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE  
HELD AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,  
WAITAKERE, ON TUESDAY, 7 NOVEMBER 2006 COMMENCING AT 10.00 AM**

---

**TABLE OF CONTENTS**

<b><u>ITEM</u></b>		<b><u>PAGE NO.</u></b>
1	<b>APOLOGIES</b>	<b>1</b>
2	<b>PROPOSED PLAN CHANGE 21: SITE SPECIFIC SUBDIVISION CONTROL IN THE BUSH LIVING ENVIRONMENT SUBDIVISION CONTROLS IN THE OPERATIVE WAITAKERE CITY COUNCIL DISTRICT PLAN</b>	<b>1</b>

**AGENDA FOR A MEETING OF THE PLANNING AND REGULATORY COMMITTEE TO BE HELD AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE, ON TUESDAY, 7 NOVEMBER 2006 COMMENCING AT 10.00 AM**

---

**1 APOLOGIES**



**2 PROPOSED PLAN CHANGE 21: SITE SPECIFIC SUBDIVISION CONTROL IN THE BUSH LIVING ENVIRONMENT SUBDIVISION CONTROLS IN THE OPERATIVE WAITAKERE CITY COUNCIL DISTRICT PLAN**

**1.0 INTRODUCTION**

This report addresses the issues that relate to Proposed Plan Change 21. The Proposed Plan Change seeks to amend the provisions relating to the rules of the Bush Living: Subdivision section of the Operative Waitakere City Council District Plan, to enable a site specific subdivision. The Proposed Plan Change will also include a boundary adjustment between the subject site and adjacent Auckland Regional Council (ARC) Parkland that will regularise an historical anomaly.

This report sets out the background to the Proposed Plan Change, the various statutory requirements and policy framework, and provides an analysis of the various submissions that were received during notification.

**2.0 SUMMARY**

*A1-A46*

Council's Planning and Regulatory Committee approved proposed Plan Change 21 for notification on 13 December 2005. Subsequently the Proposed Plan Change was publicly notified on 27 January 2006 and 16 submissions were received. A summary of submissions was notified on the 13 June 2006. However, no further submissions were received. A copy of the submissions are attached at pages A1 to A46.

The issues raised in submissions related to the following matters:

- Concern over additional subdivision in the area, and possible associated traffic, bush clearance, stormwater runoff and other environmental impacts;
- Concern that the proposal is contrary to the protection of the Waitakere Ranges;
- Concern that the owners erecting part of their built property on ARC parkland is the reason for the proposed subdivision;
- Concern that the proposed subdivision should be a discretionary activity, rather than a limited discretionary activity.

The majority of the submissions received opposed the Plan Change. The ARC supported the plan change subject to amendments.

*A48-A49*

**Having considered the Proposed Plan Change against the relevant statutory criteria, and having regard to the submissions received, it is recommended that, subject to any contrary or additional evidence submitted at the hearing, the Proposed Plan Change be approved with some amendments as set out in attachments at pages A48 to A49.**

### **3.0 LAND AFFECTED BY THE PROPOSED PLAN CHANGE**

As the Proposed Plan Change is site specific, it would be applicable only to 35 Turanga Road, Henderson, being Lot 84, DP 21508. The land exchange for the associated boundary adjustment subdivision would affect the ARC. There are no other property/sites to which the proposed controls would be applicable.

#### **BACKGROUND INFORMATION**

The rule that is proposed within the plan change will address an unusual chain of circumstances that commenced in 1988, as summarised below.

In 1988 the applicant sought and obtained approval for a two lot subdivision consent from the Waitakere City Council (WCC). In 1996 the applicant lodged a revised consent (same 2 lot subdivision) that included a boundary adjustment to resolve a boundary anomaly with the adjacent ARC Parkland. (The applicant had unknowingly erected buildings on Regional Parkland). Approval was granted contingent on land exchange i.e. if the parties exchanged equal portions of land this would be a satisfactory resolution.

Further investigation revealed that a change in legislation would be required for the Regional Council to be able to divest of land to resolve the boundary anomaly. A draft bill was proposed to enable this to occur. However, the changes to the Local Government Act 2002, removed the bar for the Regional Council to be able to dispose of parkland for the purposes of resolving boundary anomalies, and in 2004 the Regional Council gave approval for the process to be undertaken in relation to the applicants land.

The applicant then sought the re approval of the earlier subdivision application, which had lapsed due to the years spent attempting to resolve matters as outlined above. However, as a result of a consent order to resolve an appeal to the then Proposed Waitakere District Plan, the size of the lots in the subdivision made it a prohibited activity, and re approval was not possible, as application cannot be made for a prohibited activity. The inclusion of the proposed rule in the District Plan would enable the subdivision to proceed.

### **5.0 STRATEGIC CONTEXT**

#### **5.1 Auckland Regional Policy Statement**

The Auckland Regional Policy Statement (ARPS) seeks to maintain a quality environment for the Auckland Region and at the same time, maintain and enhance opportunities for the region's future growth. The ARPS comprises four parts: Regional Overview and Strategic Direction; Resource Management Matters of Significance to Iwi; Transport and Energy; and Environmental Protection. Each part identifies issues, objectives, policies, methods, reasons and the environmental results anticipated as a result of implementation of the ARPS. It is considered that the Proposed Plan Change will give effect to the ARPS and the Auckland Regional Plans.

### **6.0 STATUTORY REQUIREMENTS AND PLANNING FRAMEWORK**

#### **6.1 Resource Management Act**

The purpose of the Resource Management Act as outlined in Part II of the Act is the sustainable management of natural and physical resources. Part II also outlines the matters, including those of national importance, to which Council must have regard to and provide for in achieving that purpose. The purpose of a district plan as outlined in section 72 of the Resource Management Act is to assist Council to carry out its functions. Councils' functions are outlined in Section 31 as the control of actual and potential effects of the use, development or protection of land and associated natural and physical resources in order to achieve the purpose of the Act. Council is to establish, implement and review the objectives, policies and methods to achieve this and can also include rules, which prohibit, regulate or allow activities.

The Act provides a statutory framework for the management of natural and physical resources. The purpose of the Resource Management Act is *'to promote the sustainable management of natural and physical resources'*.

Section 5 (2) defines the purpose of the Act, sustainable management as:

*"managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

Section 6 outlines Matters of National Importance that must be recognised and provided for:

*"6. Matters of National Importance –*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:*
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development:*
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers:*
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, site, waahi tapu and other taonga:*
- (f) The protection of historic heritage from inappropriate subdivision, use and development."*

Section 7 sets out Other Matters that must be given particular regard including:

- (a) "Kaitiakitanga;*
- (b) The efficient use and development of natural and physical resources;*
- (c) The maintenance and enhancement of amenity values;*
- (d) Intrinsic values of ecosystems;*
- (e) Maintenance and enhancement of the quality of the environment;..."*

Section 8 of the Act requires that managing the use, development and protection of natural and physical resources, takes into account the principles of the Treaty of Waitangi.

Part IV of the Act relates to functions, powers and duties of Central and Local Government.

Section 31 sets out functions of territorial local authorities for giving effect to the Act within its boundaries. These functions include the integrated management of the natural and physical resources of the district and the control of the effects of the use or development of land

Section 32 imposes a statutory responsibility to evaluate the options available to achieve the Council's particular objectives or policies.

Part V of the Act relates to Standards, Policy Statements and Plans. Section 73 of the Act provides for changes to District Plans. The First Schedule of the Act sets out the process that must be followed for plan changes.

Section 74 states the matter Council must have regard to, when changing its District Plan and includes its functions under the act and any Regional Policy Statements. Under section 75, a District Plan must not be inconsistent with a Regional Policy Statement.

Section 76 requires that when making a rule that Council must have regard to the actual or potential effect on the environment including adverse effects of that rule.

Section 35 of the Resource Management Act 1991 requires that a local authority monitor the suitability and effectiveness of its plan in managing the City's environment. Council therefore has a duty and care to ensure that its District Plan remains relevant in order to achieve integrated management of its natural and physical resources.

## **6.2 Auckland Regional Policy Statement**

Section 75(3) of the Resource Management Act 1991 requires that a district plan should give effect to a regional policy statement. The Auckland Regional Policy Statement provides a resource management framework for managing environmental effects within the Auckland region. Chapter 2 provides the 'Regional Overview and Strategic Direction' for the Auckland Region and in 2.5.1 lists nine Strategic Objectives.

The objectives collectively seek the efficient use of land whilst maintaining the natural and amenity values of the physical environment. It is considered that the Proposed Plan Change is consistent with these objectives as the proposed Plan Change will not give rise to any additional subdivision over that that has already been granted consent.

The Auckland Regional Council has submitted in support of the plan change, subject to amendments relating to the matters of assessment that should be given regard to in the course of processing the future subdivision application.

Therefore it is considered that the Proposed Plan Change is entirely consistent with strategic objectives of the Auckland Regional Policy Statement as the Plan Change will ensure the protection of natural and physical resources.

## **6.3 Current District Plan Provisions**

### **• Policies and Rules**

The site, to which this proposed site specific control would be applicable, is in the Human Bush Living Environment, as are the majority of the surrounding sites in private ownership. In terms of natural environment zoning the subject site is a mixture of Protected and Managed Natural areas. This is the typical zoning for smaller sized bush clad lots. There are several private sites in the local area that are of a larger size and are therefore zoned Human Waitakere Ranges Environment. The adjacent Regional Park has an Open Space Zoning.

The District Plan, in Part 3: The City's Environment, recognises the Bush Living Environment within the City as characteristically showing, in terms of landscape elements prominent ridgelines and scarps, merging of bush and buildings, continuous bush cover, and in terms of landscape character: dominance of natural over built, clustering of buildings, complex local and small scale neighbourhoods.

Policies relating to the Bush Living Environment Subdivision include reference to the following matters; protection of vegetation, effects on the environment, neighbourhood and natural character and outstanding natural features. It is considered that this proposal will not be contrary to the policies of the District Plan.

As this plan change is for a site specific subdivision rule, the proposed rule would become part of the Subdivision Rules: Bush Living. The proposed rule and assessment criteria control the effect of subdivision in relation to bush clearance, location of sites, building platform and driveway access, integration with the surrounding neighbourhood, and the relationship of the potential development with infrastructure requirements. Accordingly, this proposed rule will give effect to the policies.

A50-A53

It should be noted that this plan change relates to the creation of a new subdivision rule only, and does not include built development. It will be a requirement of this proposed subdivision rule that a building platform is identified for the new site. At the time of developing this rule, the report writer, with the assistance of Council Arborist, Mr Stephen Bishop, has identified an area of degraded vegetation, which is likely to be the preferred building platform at the time of subdivision consent. A report from Mr Bishop is contained in the attachments at pages A50 to A53. This area of degraded vegetation, that contains a number of pest species, is consistent with the building platform identified in the two previous subdivision applications. It is usual Council procedure that in the process of identifying and confirming a building platform in a subdivision consent that the applicant engages an Arborist to specify the exact platform, which then would become part of the application, and accordingly constrain the location of future development. Any future built development will be subject to the controls of the Bush Living Human Environment, and the Protected and Managed Natural areas.

- **Prohibited activity status**

Currently a subdivision of this site would be a prohibited activity under the District Plan. The plan change will allow an otherwise prohibited activity. Simply because the activity is prohibited at the moment is not a bar to the activity proceeding with a plan change.

With regard to prohibited activities in *Coromandel Watchdog of Hauraki Inc v Chief Executive of the Ministry of Economic Development* [2005] New Zealand Resource Management Act 497 (HC), the High Court affirmed the findings of the Environment Court in *NZ Mineral Industry Assn v Thames-Coromandel DC* EnvC W50/2004. In essence prohibited activity status must be reviewed in accordance with section 5 of the Resource Management Act. If an activity is prohibited, it must be prohibited absolutely, subject only to the possibility of a plan change. That is the case in this matter.

To permit this plan change would not be in conflict with the sustainable use of land in the foothills, despite the current prohibited activity status and the Waitakere Ranges Protection Bill. It is considered in this instance that the plan change is a suitable tool to bring about this particular subdivision as the applicant has presented a unique history of circumstances, such that the subdivision has already received consent, albeit that it has lapsed, in addition to the adverse effects of the proposed subdivision being no more than minor. It is considered that for these reasons that the proposal will not therefore undermine the consistent administration of the District Plan. The risk of cumulative effects is minimal as the plan change is site specific and issue specific.

- **Waitakere Ranges Protection Bill**

The above Bill is still going through the statutory process within parliament, and at the time of writing is in the second reading. Some submitters have expressed concern that the proposed new subdivision rule and its consequential subdivision undermine the intention of this Bill. It is considered that for the same reasons as outlined in the prohibited activity discussion, that this does not undermine Councils stance, and will not undermine the intent of the Bill, or in the event that it is successful the Act of Parliament.

#### **6.4 Section 32 Considerations**

Section 32 of the Resource Management Act 1991 requires an evaluation to be undertaken by a local authority before any objective, policy, rule or other method is adopted.

Council's obligations under section 32 (3) are divided into five parts that comprise the following:

- examining the extent to which each objective is the most appropriate way to achieve the purpose of the Act;
- examining whether, having regard to efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives;
- taking into account the benefits and costs of the policies, rules or other methods;
- taking into account the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods; and
- summarising the evaluation and providing reasons for that evaluation.

The Section 32 analysis done prior to notification of the Proposed Plan Change identified that the proposed plan change was necessary and the most efficient and effective means of achieving the purpose of the Act. The section 32 analysis has been updated in this report where recommendations are made in response to submissions that would amend the Proposed Plan Change.

#### **7.0 ANALYSIS OF SUBMISSIONS**

*A1-A47*

A total of 16 submissions, but no further submissions were received in respect of Plan Change 21. A full copy of the submissions are attached at pages A1 to A47.

Given the relatively small number of submissions that were received the approach taken for the analysis of submissions that has been adopted for the purposes of the Hearing is to take each submission and discuss the points raised. A number of the submitters attached a copied set of submissions points and these are discussed as a group at 7.2 of this section.

#### **7.1 Submission from Dr Jessica Beaver (Submission 21/1)**

The submitter seeks that the Plan Change be refused, and the reasons put forward for the refusal are;

- The further subdivision will create a traffic hazard on Turanga Road;
- That a lapsed subdivision from 20 years ago is not justification for its reintroduction;
- The Proposed Plan Change is contrary to the Waitakere Ranges and Foothills Protection Bill.

## Discussion

A1-A47

This submitter has concerns relating to traffic issues, citing the additional traffic attributed to the future dwelling on new lot creating an adverse effect on Turanga Road, as it is narrow and winding. The proposal was reviewed by the Council's Traffic Engineer, Mr Adam Moller. Mr Moller has visited the site, and his feedback is contained in a memo, attached at pages A1 to A47. Mr Moller does not consider from a traffic engineering perspective that there would be safety issues associated with the potential vehicle movements generated from a future additional dwelling.

With regard to the matter of the lapsed subdivision being insufficient justification for the approval the Plan Change, it is important to note that there has been ongoing action to undertake the completion of the subdivision for some considerable time, and the possible solutions have been subject to the involvement /agreement of other parties i.e. the ARC. With regard to the matter of this proposal being contrary to the Councils current initiatives to protect the Waitakere Ranges, it is considered that this is not the case given the combination of the unique history and the minimal effects of the proposed activity.

### It is recommended that:

The submission of Dr Jessica Beaver be rejected.

### **7.2 Geoffrey & Margaret Wood (submission 21/2), Susan Petersen (submission 21 /5), Wendy Ronald ( submission 21/6), Bruce Ronald(submission21/ 7), Donna Maree Noffke ( submission 21/9), Debra Haig (submission 21 /11), Jennifer Beveridge (submission 21 /12), Jan Haine ( submission21 /15)**

These submitters seeks the addition of the proposed rule be refused. The reasons put forward for the refusal are;

- That there are already two dwellings on the site and that a third dwelling would be overcrowding;
- The owner of the site is mainly absentee and would not be personally affected by the by the additional noise and lack of privacy;
- That allowing the subdivision would be contrary to an understanding that they have as ratepayers regarding the protection of the Waitakere Ranges. That the council has stood for the protection of the ranges and this proposal is contrary to this;
- That there are already legally subdivided sites not yet built on in the street, so there is no need for additional housing sites;
- The narrow windy road does not lend itself safety to additional traffic;
- The additional subdivision will cause the removal of bush, and additional pollution, water run off, sewage and noise that would contribute to spoil the uniqueness of the ranges;
- That the boundary adjustment issue is not a reason to allow the subdivision. The owners should have taken the necessary precautions prior to building on ARC land, rather than seek a land exchange to compensate which was unlawful at the time and is only now authorised. The Council holds no moral responsibility to redress a problem caused by the landowners building on ARC parkland by proceeding to change the district plan to allow a subdivision.

## Discussion

The matter of an additional dwelling on the site was raised by a number of submitters. This matter was not known to Council officers at the time of the application being notified. In response to these concerns a Council officer from the Field Services Unit has visited the site, accompanied by the reporting planner. At the time of the visit it did appear that a building on the site, shown as the garage on the building permit plans, had been converted for residential use, although at the time of the site visit, in early May 2006, it was not occupied. The conversion and use of the garage for a residential use requires, in this instance, both Building and Planning consents/permits. These discrepancies have been drawn to the attention of the owner, who has decided to revert the garage to its original use. It is therefore considered that this concern raised by submitters has been addressed by the owners undertaking, and therefore does not have a bearing on the consideration of this application. Should the owner not follow through with the current undertaking the matter will be pursued by the Field Services Unit, as an enforcement action.

The matter of the owner being absent from the site is not a matter for consideration under the Plan Change or Resource Management Processes.

With regard to the matter of the proposal being contrary to the Council's other initiatives such as the protection of the Waitakere Ranges, it is considered that this proposal is not inconsistent as the unique set of circumstances and the minimal effects of the proposed activity would not create a precedent effect such that Council policy is undermined.

While it is acknowledged that there are some sites within Turanga Road that could be subdivided, that is not in itself a sufficient reason to disallow this proposal. Each subdivision has to be assessed on its own merits, and its impact on the surrounding environment. Consideration is given to the cumulative impacts of a proposal, however as discussed under the District Plan provisions section of this report, above at Section 6.3, it is considered that this proposal does not lead to cumulative impacts. It is also important to note that it is considered that the circumstances of the application are unique, particularly when coupled with the boundary adjustment, such that the situation would be very difficult to replicate, and would not create a precedent effect for such subdivisions.

The traffic issues have been addressed above in Section 7.2 in response to the first submitter.

The submission has cited that the proposed subdivision will cause the removal of existing and regenerating bush. This is a matter that has been raised by a number of submitters. It is acknowledged that the subdivision creates the potential for a dwelling to be established at a later date and potentially associated bush removal. As part of the processing of this plan change Council Arborist, Mr Stephen Bishop has visited the site, and has confirmed that there is a degraded area of vegetation, containing a large number of noxious plants that is consistent with the building platform identified in the two previous applications. It is expected that this will be further refined and surveyed as part of the subdivision consent, ensuring that removal of any protected vegetation is kept to an absolute minimum.

The concern that the boundary adjustment is the reason to grant the 2 lot subdivision is incorrect. It is agreed that while the applicant should have taken care not to build over the boundary, it is noted that they have been undertaking a process to attempt to correct this anomaly. Indeed the applicant had to undertake such a process as the second subdivision consent that was granted by Waitakere City for the two lot subdivision, on the basis that the applicant resolve the boundary issues and undertake a boundary adjustment with the adjacent Auckland Regional Council land. However, while this has been connected to the 2 lot subdivision as part of the proposed plan change, it does not in any way facilitate the two lot subdivision.

**It is recommended that:**

A48-A49

the submission of Geoffrey & Margaret Wood (submission 21/2), Susan Petersen (submission 21 /5), Wendy Ronald ( submission 21/6), Bruce Ronald ( submission21/ 7), Donna Maree Noffke (submission 21/9), Debra Haig (submission 21 /11), Jennifer Beveridge (submission 21 /12), Jan Haine (submission21 /15) **be accepted in part** in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

**7.3 Submission from Jenni Hunter (Submission 21 /3)**

The submitter seeks the Proposed Plan Change (and consent to subdivision) is refused for the following reasons:

- Further subdivision would detract from the nature and character of the street;
- Traffic flows are already high, and additional traffic would be unsafe;
- There is an illegal; dwelling on the site, and the absentee owners does not have to experience as the neighbours do the building activities and increased population pressure;
- To build on the site will require bush removal, and will be compounded by additional runoff, sewage, air and noise pollution;
- That allowing the subdivision would contrary to council policy.

**Discussion**

The proposed subdivided lots are likely to be the same lot size as those approved in the earlier subdivision consents, and would therefore be very similar in nature to the many smaller lots that currently front onto Turanga Road. It is anticipated that restrictions would be placed on the level of bush removal on the site, with the applicant being asked to covenant bush if that is deemed necessary at the time of subdivision. Therefore it is considered that the proposed subdivision would not be contrary to the current nature and character of the street.

The traffic issues raised by this submitter are very similar to those raised by the above group of submitters, and discussed at 7.3.

The matter of an illegal dwelling on the site has been discussed above at 7.2, as has the matter of the owner being absent from the property for parts of the year.

The matter of bush removal has been raised by the submitter and has been discussed above at 7.2. It is not anticipated that a future dwelling will result water runoff, sewage, air or noise pollution as the District Plan controls cover the potential adverse affects of such activities. It is expected that any future residential activity, in terms of the erection of the building and its future habitation will be compliant with the controls of the District Plan or Resource Consent conditions.

The concern that the proposal is contrary to Council Policy is discussed above in the third paragraph of 7.2.

**It is recommended that:**

A48-A49

the submission of Jenni Hunter (21/3) be accepted by in part in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

#### 7.4 Submission from Scott Hunter (Submission 21/4)

The submitter seeks that the plan change be refused, as

- There are already two dwellings on the site, and a third would lead to overcrowding, and destroy the bush nature of the area;
- There are already existing undeveloped properties in the area, that are not yet developed, and there is no need to cram extra dwellings onto existing properties.

#### Discussion

The matter of the illegal dwelling is discussed above at 7.2.

The matter of the loss of the bush nature of the area is discussed above in 7.3.

The matter of undeveloped properties in the street is not considered a valid reason for the applicant to be denied their application. It is considered that the proposal does not have adverse effects therefore it should be able to proceed. Future applications will be evaluated on their merit at the time of application.

#### It is recommended that:

A48-A49

The submission of Scott Hunter (21/4) **be accepted in part** in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

#### 7.5 Submission from Dennis Lodge-Osborn (Submission 21 /8)

The submitter seeks that the Plan Change be refused, for the following reasons:

- The subdivision would probably require the removal of significant native bush;
- Turanga Road is very narrow and already overcrowded;
- That subdivision is not allowed on normal sized lots;
- The Council has said that it wants to protect the ranges from further subdivision.

#### Discussion

The matter of bush removal is discussed above at 7.2, with the subsequent amendments to the proposed rule outlined as part of the recommendations to this report.

The narrow winding road is considered not to raise any traffic safety as discussed in above in 7.1.

With regard to the matter of the proposal being contrary to the Councils other initiatives such as the protection of the Waitakere Ranges, it is considered that this proposal is not inconsistent in that the unique set of circumstances and the minimal effects of the proposed activity would not create a precedent effect such that the policy is undermined.

#### It is recommended that:

A48-A49

The submission of Dennis Lodge Osborn (21/8) **be accepted by in part** in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

## 7.6 Submission from Maud Lodge-Osborn (Submission 21/10)

The submitter seeks that the plan change be refused for the following reasons:

- The subdivision would probably require the removal of significant native bush;
- Turanga Road is very narrow and already overcrowded;
- That subdivision is not allowed on normal sized lots;
- The Council has said that it wants to protect the ranges from further subdivision.

### Discussion

The matter of vegetation removal has been covered in the discussion at 7.2.

With regard to the matter of the proposal being contrary to the Council's other initiatives such as the protection of the Waitakere Ranges, it is considered that this proposal is not inconsistent in that the unique set of circumstances and the minimal effects of the proposed activity would not create a precedent effect such that the policy is undermined.

### It is recommended that:

A48-A49

The submission of Maud Lodge-Osborn (21/10) **be accepted in part** in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

## 7.7 Submission from Auckland Regional Council (Submission 21 /13)

The submitter supports the proposed plan change subject to amendments. The amendments being sought are summarised as follows:

- That the proposed rule is further refined so as to not create precedent;
- That the rule is amended restrict development to the Managed Natural Area, and that greater detail of an acceptable subdivision proposal be included in the rule, including details of the boundary adjustment, and that the existing bush on the property be protected by covenant;
- That the proposed activity should be amended from Limited Discretionary Activity to Discretionary Activity.

### Discussion

A48-A49

The proposed rule has been redrafted to meet the majority of concerns raised in the ARC submission, and the redrafted version is contained within the attachments at pages A48 to A49. The following discusses the matters raised in the submission.

With regard to the proposed rule in the notified material, it was the intention of the Council that the boundary adjustment was included in the rule, and therefore it has been redrafted to make this more apparent. This will assist to make the overall proposal more unique.

With regard to the concern that the rule should require a higher level of vegetation protection, it should be noted that the District Plan already affords a high level of protection to the bush on the site, as it is a combination of Protected and Managed Vegetation. It is considered that the proposed rule should include the mechanism of a covenant to protect the bush, should this be considered appropriate at the time of processing the subdivision application. It is noted from the previous consultation with the ARC, that it is most likely that the better quality vegetation on the subject site will be transferred to the Regional Park through the boundary adjustment process. It is also noted that the site for the building platform is within the Managed natural area

The ARC have raised the concern that the proposed rule should be discretionary, rather than limited discretionary, so as to allow a wider level of assessment for the proposed activity. It is considered for the following reasons that this proposed rule has gone through a sufficiently rigorous process, being the plan change process, such that the proposed rule should not have to be discretionary. The Plan change process includes the potential for the public to make submissions and further submissions, and that a section 32 analysis is undertaken. With regard to actual or potential effects on the environment under s31 of the Act councils function includes "the control of any actual potential effects of the use, development or protection of land. Section 76(3) of the Act requires that in making a rule, a territorial authority is to have regard to the actual or potential effects on the environment. Accordingly it is considered that sufficient regard has been given to the effects of the subdivision, so as to not make the proposed rule a discretionary activity.

**It is recommended that:**

A48-A49

The submission of the Auckland Regional Council (21/13) be accepted in part in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

**7.8 Submission from Edgar and Marcia Palmer (Submission 21/14)**

The submitter seeks that the Plan Change be declined, for the following reasons:

- That the proposal will have an effect on the environment, the amenity of the land and the landscape.

**Discussion**

The proposal for the second lot will see the building platform located in a degraded area of bush, therefore it is anticipated that the effects on the natural environment will be minimal.

It is anticipated that the rules of the Bush Living Human Environment to which the future house will be subject will ensure that the additional house will have a minimal effect on the both the amenity, character or the receiving environment of the area.

**It is recommended that:**

A48-A49

The submission of Edgar and Marcia Palmer 21/14) be accepted in part, in so far as the proposed rules will be amended to incorporate more strict provisions in relation to the protection of vegetation on site. (See the amended version of the rule attached at pages A48 to A49).

**7.9 Submission from Jane and Don Alexander (Submission 21 /16)**

The submitter seeks that no amendment takes place to the District Plan, for the following reasons:

- That the Waitakere Ranges protection society raised funds to buy an existing section, to stop further development. Turanga Road residents contributed to this;
- Turanga Road already has a number of undeveloped sections;
- Road usage of Turanga and Mountain road are reaching their peak;
- The proposal is made by an absentee owner who already has two dwellings on the site, and further development is for their gain at the expense of others in the street;

- The District Plan amendment is being considered on the basis of a boundary mistake made by the owner. Should Turanga road residents pay the price for this;
- The Ranges should be saved and there should be no amendments.

### Discussion

The previous actions of the Waitakere Ranges Protection Society, while of interest are not relevant in that the Waitakere Ranges Protection Society did not make a submission to this statutory process.

The matter of there being as yet undeveloped properties in the street should not be considered a reason for the applicant to be denied their application. It is considered that the proposal does not have adverse effects therefore it should be able to proceed. Future applications will be evaluated on their merit at the time of application.

A51 Traffic issues are the subject of the memo attached at page A51, where Councils Traffic Engineer has determined that there will be no effects from the potential addition of one dwelling.

The matter of the owner being absent from the site is not a matter for consideration under the Plan Change or Resource Management Processes.

The view that the District Plan amendment is being considered on the basis of a boundary mistake made by the owner is erroneous. It is agreed that while the applicant should have taken care not to build over the boundary, it is noted that they have been undertaking a process to attempt to correct this anomaly. Indeed the applicant had to undertake such a process as the second subdivision consent that was granted by Waitakere City for the two lot subdivision, on the basis that the applicant resolve the boundary issues and undertake a boundary adjustment with the adjacent Auckland Regional Council land. However, while this has been connected to the 2 lot subdivision as part of the proposed plan change, it does not in any way facilitate the two lot subdivision.

### It is recommended that:

The submission of Jane and Don Alexander (21/16) be rejected.

## 8.0 RECOMMENDED CHANGES TO THE PLAN CHANGE

A48-A49 Changes to the text of Proposed Plan Change 21 as recommended in the analysis of submissions are included in the Table of Changes attached at pages A48 to A49.

## 9.0 CONCLUSION

A48-A49 This report sets out the background, issues and Section 32 considerations for Proposed Plan Change 21. In addition, the report considers issues raised in submissions on the Proposed Plan Change, and recommends changes to the Proposed Plan Change where the submissions have merit under the Resource Management Act 1991. The changes are contained in a revised version of the proposed Rule, contained in the attachments at pages A48 to A49.

**RECOMMENDATIONS**

A48-A49

1. That pursuant to Clauses 10 and 16 of the First Schedule of the Resource Management Act 1991, Proposed Plan Change 21: Site Specific Subdivision control in the Bush Living Environment Subdivision controls in the District Plan, is adopted, with the amendments as described in Sections 8.0 of this report and listed in the attachments at pages A48 to A49.
2. That pursuant to Clause 10(1) of the First Schedule to the Resource Management Act 1991, the relief sought by the submitters is rejected, or accepted as outlined in the discussions relating to each submission in the body of this report.

Report Prepared By: Carolyn McAlley, Senior Planner: Policy Implementation.

Report Released By: Philip Brown, Group Manager: Planning and Community Services.

