



Waitakere City Council
Te Taiao o Waitakere

RECOMMENDATION REPORT OF THE JOINT HEARINGS PANEL TO THE PLAN CHANGES NOTIFIED IN ACCORDANCE WITH THE LOCAL GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004 AND THE RESOURCE MANAGEMENT ACT 1991

WAITAKERE CITY DISTRICT PLAN

PROPOSED PLAN CHANGE 13 (HOBSONVILLE AIRBASE)
PROPOSED PLAN CHANGE 14 (HOBSONVILLE VILLAGE CENTRE)
PROPOSED PLAN CHANGE 15 (MASSEY NORTH)
PROPOSED PLAN CHANGE 16 (MANAGING CITY GROWTH)
PROPOSED PLAN CHANGE 17 (NEW LYNN)
PROPOSED PLAN CHANGE 18 (CITY WIDE URBAN DESIGN RULES)

MUL GENERAL

File Reference : WCC 6

1. OUTLINE

This report is part of a series of reports that contain the recommendations of the Joint Regional Policy Statement and District Plan Changes Hearings Panel ("the Panel") following consideration of submissions and further submissions received in relation to the metropolitan urban limits. Other submissions and further submissions to these Plan Changes are dealt with in additional topic based recommendation reports.

The Panel was jointly appointed by the councils of the region under the Local Government (Auckland) Amendment Act 2004 ("the LGAAA"). Following consideration of all the submissions and supporting evidence presented and/or tabled by the submitters and further submitters at the hearings, and the reporting officer's report, the Panel now makes the recommendations contained in this report to the Auckland Regional Council ("ARC").

To reiterate, this report contains the **recommendations** to Council of the Panel on submissions that have been made during the course of the hearings. **It is not the decision of the Council.**

The suggested amendments to the Waitakere City District Plan arising from the Panel recommendations discussed throughout this report are set out in the Panel Recommendation amendments to the Plan Changes, dated 28 May 2007. This forms Appendix 1 to this report.

2. BACKGROUND

Plan Changes 13-18 were notified on 31 March 2005 as a mandatory requirement of the LGAAA.

The LGAAA mandates that all councils in the Auckland Region integrate their land transport and land use provisions and ensure these are consistent with the Auckland Regional Growth Strategy ("RGS"), give effect to its Growth Concept and contribute to the land transport and land use matters specified in Schedule 5 (s39 & s40 LGAAA).

The matters that the LGAAA requires to be included in changes to statutory documents support the purpose of the Resource Management Act 1991 ("RMA") in promoting sustainable management of natural and physical resources.

3. THE PANEL AND THE HEARINGS PROCESS

3.1 The Joint Hearings Panel

The Panel was comprised of the following members:

Cr Paul Walbran (Chair)
Cr Wyn Hoadley (Deputy Chair)
Cr Carolynne Stone
Cr Neil Morrison
Cr Bill Smith
Lindsey Rea
David Hill
Alan Watson

The members of the Panel included regional councillors, city and district councillors, a community board chairperson and two independent commissioners.

The councils of the region jointly delegated to the Panel their powers, functions and duties to hear submissions and make recommendations (under s41(1) and (2) LGAAA, and s24A RMA) on the following 15 proposed plan changes:

AUCKLAND REGIONAL POLICY STATEMENT

Proposed Change 6 - Giving Effect to the Regional Growth Concept and Integrating Landuse and Transport.

Proposed Change 7 - Metropolitan Urban Limits

AUCKLAND CITY DISTRICT PLAN – Operative Isthmus Section

Proposed Plan Modification 175 - Giving Effect to the Regional Growth Concept

FRANKLIN DISTRICT PLAN

Proposed Plan Change 20 - Changes Pursuant to Local Government (Auckland) Amendment Act 2004.

MANUKAU CITY DISTRICT PLAN

Proposed Plan Change 12 - Manukau's Growth.

NORTH SHORE CITY DISTRICT PLAN

Proposed Plan Change 12 - Redraft of parts of the North Shore City District Plan - Required by the Local Government (Auckland) Amendment Act 2004.

PAPAKURA DISTRICT PLAN

Proposed Plan Change 10 - ARPS Changes to the Operative District Plan.

RODNEY DISTRICT PLAN

Proposed Variation 22 to the Proposed District Plan 2000
Proposed Plan Change 97 to the Operative Transitional District Plan 1993.

WAITAKERE CITY DISTRICT PLAN

Proposed Plan Change 13 - Hobsonville Airbase;
Proposed Plan Change 14 - Hobsonville Village Centre;
Proposed Plan Change 15 - Massey North;
Proposed Plan Change 16 - Managing City Growth;
Proposed Plan Change 17 - New Lynn;
Proposed Plan Change 18 - City Wide Urban Design Rule

3.2 The Hearings Process

The proposed plan changes were notified by local authorities by 31 March 2005, in accordance with section 39 of the LGAAA. Given the number of proposed plan changes and the predicted volume of submissions to be dealt with, the Panel agreed that submissions were to be separated into categories. The categories used are detailed in the following table:

Waitakere City Council - Proposed Plan Changes 13-18 - Report WCC 6 - Panel Recommendation Report of 28 May 2007 adopted as decisions of Waitakere City Council on 20 June 2007 - printed 31 July 2007.

Category	Topic	Number of Submissions	Number of submitters and further submitters
A	General Growth	1575	266
B	Infrastructure / Natural Resources / Rural / Countryside Living	1098	174
C	Business Issues & Retail Location	290	93
D	Transport	534	115
E	MUL Issues (Not Hobsonville/Massey North)	79	85
F	Housing Lobby Identical Submissions	996	520
G	Swanson / Penihana	251	229
H	MUL Hobsonville and Massey North	1041	197
I	New Lynn	332	48
J	Urban Design WCC 18	281	32
K	Howick	60	29
M	ARC Miscellaneous	8	32
W	WCC 16 & 18 (Miscellaneous)	20	12
TOTAL		6565	1832

Hearing Reports were generated by each local authority in the region under Schedule 1 of the RMA for each category – 50 reports in total. Public hearings were notified and held for each category, addressing all submissions deemed by the relevant Hearing Reports to fall within that category. In total, there were 46 hearing days, commencing on 27 April 2006. A further 12 days were utilised for site visits and deliberations. The Panel allocated time at the end of each hearing day to conduct preliminary deliberations. Additionally, more in-depth interim deliberations were held at the end of each topic. The last day of deliberations following the hearings was on 21 May 2007.

The Panel obtained legal advice in relation to the scope of the hearings process and other key issues raised prior to and during the hearings.

In forming its recommendations, the Panel focussed on the purpose of the LGAAA – to integrate land use and land transport provisions to ensure consistency with the growth strategy, give effect to its Growth Concept and contribute to the matters specified in Schedule 5 of the LGAAA. Under the legislation, local authorities were mandated to notify changes to the RPS and all District Plans to achieve this purpose – a substantial process.

The LGAAA came into effect on 1 July 2004 and notification of changes was required from all local authorities by 31 March 2005. It is relevant that, while District Plans are required to give effect to the RPS, the proposed changes to the RPS were notified at the same time as the proposed amendments to the District Plans.

Due to the relatively short timeframe and substantial changes envisaged by the LGAAA, there has been a mixed approach from local authorities, with different levels of detail reflected in the various proposed plan changes. This had the potential to frustrate the purpose of the LGAAA in terms of achieving integration across planning documents. Given the ambitious task set by the LGAAA, the Panel has taken the decision to concentrate its efforts on ensuring the RPS gives effect to the Growth Concept and meets the purpose of the LGAAA. The Panel considers that, once the RPS reflects the aims of the LGAAA, the District Plans will be required to give effect to the RPS and consequential amendments to the Plans will follow accordingly.

The Panel noted that many of the submissions focussed only on the plan changes and variations notified under the LGAAA. These changes were in many instances “filling the gaps” that existed in the current planning documents. When considering the Panel’s recommendations it is necessary to take into account the changes notified under the LGAAA, the existing District Plans, and other changes that have been notified both before and during the LGAAA process. The Panel was advised that work that each council currently has in train provides an indication of each council’s longer term plans.

The Panel also noted that many of the submissions lodged under the LGAAA were made in respect of the RPS and simply stated that the District Plans should be amended to reflect any changes to the RPS. The Panel considers that the issues raised in these submissions are best addressed after local authorities release the decision reports and any appeals to RPS Change 6 and RPS Change 7 are concluded. It will then be clear to what the District Plans must give effect.

This approach was not universal across the region or for all issues raised by the submissions. Some proposed District Plan changes were substantial, for example, those put forward by Waitakere City. In such cases, the Panel has dealt with the proposed changes in the same level of detail as the proposed RPS changes.

The Panel considers that the approach outlined above is practical and realistic, and will give local authorities time to prepare the necessary changes and carry out consultation with local communities. Ultimately, the objectives of the LGAAA can best be achieved by allowing the process in respect of the RPS to run its course, with subsequent amendments to District Plans in the context of a clear and robust RPS. Legal advice to the Panel has confirmed this approach.

3.3 Evidence

The Panel has received extensive and detailed evidence from submitters during the hearings process. The Panel has carefully considered this evidence and the substantial number of submission points put before it. This recommendation report does not attempt to comprehensively summarise each submission point and/or piece of evidence as this would result in an unduly lengthy report without substantially adding to the recommendations.

3.4 Integration

A key element of the LGAAA is the requirement for “integration” in a number of aspects. These include “*giving effect, in an integrated manner, to the growth concept*” and “*contributing, in an integrated manner, to the matters specified in schedule 5* “. Changes that seek to achieve these requirements must, in relation to each other, be integrated (s40 LGAAA). Schedule 5 also refers to “*facilitating integrated transport management*”, and “*integrating transport and land use policies*”.

Integration is therefore required within each of the planning instruments, and across all planning instruments in the Auckland Region. The Panel recognises the importance of integration to the LGAAA process and has been very mindful of this in its deliberations.

The Panel has made a number of recommendations on matters which provide integration across the planning documents, for example the recommendations to include material on the following:

- recommendations in relation to corridors
- recognition of regionally significant infrastructure
- integrated transport assessments
- Appendix H on densities required to support public transport

These, and other matters, are discussed further in the Panel Key Issues Recommendation Report.

4.1 PANEL KEY ISSUES RECOMMENDATION REPORT

In response to the extensive detail and evidence presented, the Panel has produced a Panel Key Issues Recommendation Report (the “Key Issues Report”) setting out its direction on the issues it considers to be key to the LGAAA process. This report is overarching of issues and is not separated into different categories, as with the recommendation reports. The recommendation reports for each proposed plan change and category refer back to the Key Issues Report where it assists in providing the context for specific recommendations.

The Key Issues Report is attached to and forms part of this recommendation report, and should be taken to comprise Section 4 of this report. It should be read in conjunction with Section 5 – Discussion and Recommendations.

4.2 DISCUSSION AND RECOMMENDATIONS

The following discussion is the Panel’s recommendation, having considered all the submissions and further submissions, both within the reporting officer’s report and presented and/or tabled at the hearings.

Abbreviations Used In This Report

Auckland Regional Policy Statement – ARPS / RPS

Auckland Regional Growth Strategy – RGS

Integrated Catchment Management Plan – ICMP

Local Government (Auckland) Amendment Act 2004 – LGAAA

Metropolitan Urban Limit – MUL

Regional Land Transport Strategy - RLTS

Regional Open Space Strategy – ROSS

Resource Management Act 1991 – RMA

Territorial Authorities – TA / TAs

5. DISCUSSION OF SUBMISSIONS

5.1 SUBMISSIONS RAISING PROCESS ISSUES

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
309/10 (Plan Change 13)	Royal Forest and Bird Protection Society - North Shore Branch	Submitter requests that widespread notification be given of the Plan Change and that independent commissioners be appointed for the hearing.	
309/11 (Plan Change 14)	Royal Forest and Bird Protection Society - North Shore Branch	Seeks that widespread notification of changes to the MUL be given and that independent commissioners be appointed for the hearing.	
309/12 (Plan Change 15)	Royal Forest and Bird Protection Society - North Shore Branch	Seeks that widespread notification of changes to the MUL be given and that independent commissioners be appointed for the hearing.	

Evidence Presented:

The Panel received no evidence from this submitter or its representatives at the hearing of this report.

Discussion:

The Panel is advised that the Plan Changes were widely notified. In addition, the Panel is aware that consultation was carried out in relation to the content of the Plan Changes and in respect of the LGAAA process.

The Hearings Panel comprises a number of independent commissioners, together with elected members who are acting in a commissioner capacity. The role of the Hearings Panel is to hear evidence from parties who made submissions or further submissions, and then make recommendations to each of the Auckland councils in respect of the particular Plan Changes that each council initiated.

Panel Recommendation 5.1.1:

The Panel recommends that submissions 309/10, 309/11 and 309/12 be rejected.

5.2 SUBMISSIONS SEEKING EXTENSIONS OF THE URBAN AREA

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
327/9 (16)	Ken & Francie Stokes	Amend Map 33 to include the urban zonings as shown in the submission	Opposed By: 107 Westfield (New Zealand) Limited 108 Progressive Enterprises Limited
326/9 (16)	Gary Harfield	Amend Map 33 to include the urban zonings as shown in the submission	Opposed By: 107 Westfield (New Zealand) Limited 108 Progressive Enterprises Limited

Evidence Presented:

The submitter provided evidence referring to the evidence that they provided in the hearing of the Penihana Report.

Discussion:

The Panel understands that these submissions relate to the 'Penihana' land, in Swanson. The submissions seek urban zonings for the land, comprising a Living Environment zone for the lower land adjacent to the railway line and a 'Large Lot Residential' zone for the upper slopes of the land (which include the submitters' properties). The latter proposed zone would provide for lots of between 2,000m² and 5,000m².

The issues relating to the potential development of this land have been addressed comprehensively in the Swanson Penihana hearing report (WCC Report 5), and the subsequent Panel recommendation report for that topic. The land currently falls outside of the MUL, and the Panel considers that it is not appropriate to apply an urban zoning to the land while this circumstance prevails. The next opportunity to adjust the position of the MUL arises in 2009, when the ARPS is due to be reviewed. Proposed Plan Change 16 signals that the Penihana land (north of the Blewitt Gully Stream) may be urbanised at some time after 2011, which is consistent with the timeframe associated with the ARPS review process.

Plan Change 16 does not contain any proposal to urbanise the submitters' land in the future, as the properties in question are located to the south of the Blewitt Gully Stream. The Panel notes that this land is also located within the area that is subject to the proposed Waitakere Ranges legislation. The land has been discounted as potential urban land after a number of technical studies were undertaken – particularly in relation to landscape values.

The Panel does not support urban zonings for the submitters' land. The Panel notes that the submitters have an alternative recourse available through an Environment Court appeal that seeks subdivision of their land at lot sizes of 1 hectare or greater. This relief would appear to provide a more appropriate environmental outcome for the land, and can be pursued outside of the current LGAAA process.

Panel Recommendation 5.2.1:

The Panel recommends that submissions 327/9 and 326/9 be rejected.

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
584/2 (16)	Yat Kwong and Susan Wong	Seeks that the submitters' land at 9 Trig Road, Whenuapai be included in the Plan Change as the motorway extension will mean that their land will eventually be rezoned from rural to living.	Opposed By: 259 Transit New Zealand

Evidence Presented:

The Panel received no evidence from this submitter or its representatives at the hearing of this report.

Discussion:

The submitters' land is not within the area that the Council is currently seeking to urbanise, as defined in Plan Change 16, and falls outside of the present and proposed MUL boundary. The land is also not contiguous to any land that is proposed to be urbanised through the current process.

The Panel considers that development of the land at this time would dissipate the Council's efforts to ensure urban intensification, through the release of too much urban 'greenfields' land at the periphery of the City.

Panel Recommendation 5.2.2:

The Panel recommends that submission 584/2 be rejected.

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
298/47 (16)	Landco Limited	Amend the Plan Change to give effect to the relief sought in submissions 298/44, 298/45 and 298/46.	Opposed By: 300 IMF Westland Ltd 205 Fulton Hogan Limited (1)

Evidence Presented:

The Panel received no evidence from this submitter or its representatives at the hearing of this report.

Discussion:

The submitter seeks that Plan Change 16 be amended to give effect to the relief sought in submissions 298/44, 298/45 and 298/46. Those submissions seek that Plan Changes 13, 14 and 15 be declined or amended to allow a much larger area of land to be included within the extensions to the MUL.

The submitter argues that it would be pre-emptive to allow an extension to the MUL when there are potentially other areas that could be urbanised around the Whenuapai Airfield and the Red Hills Road area.

It is suggested that the development of this broader northern area should be planned in an integrated fashion to avoid compromising potential future land use options.

The Panel is aware that the Council has undertaken a wide range of investigations into the potential development that could occur in the northern area of the City, taking into account the various environmental constraints that exist. This work has had a strategic focus, with consideration given to the future use of the Whenuapai Airbase and the most appropriate staging for the release of urban land.

In this context, the Panel considers that the broader strategic planning for the area has occurred, as sought by the submitter. The proposed Plan Changes represent the outcome of that planning.

Panel Recommendation 5.2.3:

The Panel recommends that submission 298/47 be rejected

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
46/2 (16)	Wilhelmus T van der Kraay	Seeks an amendment to the Plan Change to include the area from Tasman Avenue to Sturges Road along the whole Simpson Road ridge within the Metropolitan Urban Limits.	Opposed By: 108 Progressive Enterprises Limited 107 Westfield (New Zealand) Limited

Evidence Presented:

The Panel received no evidence from this submitter or its representatives at the hearing of this report.

Discussion:

The land in question falls outside the current MUL. The Panel understands that there are storm water and topographical constraints that suggest that the land is better suited to low density 'lifestyle' development if intensification is to occur in the future. The land also falls within the proposed Waitakere Ranges Heritage Area, which is likely to have an impact on the way the land might be developed should that Bill be enacted by Parliament.

Panel Recommendation 5.2.4:

The Panel recommends that submission 46/2 be rejected

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
181/3 (16)	William Calvert and John Calvert	Amend Map 33, Human Environments, to show the urban zonings as per the Metropolitan Urban Limits plan provided as an attachment to this submission (Crows Road Urban Concept Plan).	

Evidence Presented:

The Panel received no evidence from this submitter or its representatives at the hearing of this report. The Panel did, however, receive evidence from this submitter at a subsequent hearing. This included evidence from the land owner, and planning and legal submissions. This evidence addressed the land in relation to the Auckland Regional Policy Statement and the Waitakere City District Plan. The evidence included a discussion of the interaction between the submitter and the Council since approximately 2001, and all for items put before the Panel advocated for the relief sought by the submissions.

Discussion:

The Panel understands that this land has been considered previously for urbanisation by the Council, through the Crows Road Urban Concept Plan project. However, the Panel understands that the land is not required to accommodate growth within the foreseeable future.

The Panel considers that the land may have some merit for future urbanisation. It is immediately contiguous to residentially zoned land that is currently inside the MUL, has a relatively easy contour for the most part, can be readily reticulated with urban services, and has relatively few environmental constraints.

However, despite those factors that support the thrust of the submission, the Panel has reached a view that the current LGAAA process is not the appropriate vehicle for the consideration of the land for urban purposes. The extent of information that has been presented in respect of the proposal is not of the standard that would normally support a change to the MUL. In particular, the ARPS clearly signals the need for preparation of a structure plan for all new 'greenfields' growth areas. This was not presented in the submission, nor in evidence heard by the Panel.

The Panel is of the view that consideration of this land for urbanisation is best addressed as part of the forthcoming ARPS review, when landowners will have an opportunity to advocate for a change in the location of the MUL. This review is due to commence in 2009. At that stage, comprehensive and regionally strategic consideration can be given to the suitability of the land for urban activities and (if urbanisation is desirable) the likely timing of development.

Until that process occurs, the Panel considers that this land should remain outside the urban area.

Panel Recommendation 5.2.5:

The Panel recommends that submission 181/3 be rejected.