



REPORT TO THE JOINT HEARINGS PANEL

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 : Report WCC5
Date : 1 December 2006

1. OUTLINE

This report considers submissions and further submissions which were received in response to proposed Plan Changes 13-18 to the Waitakere City District Plan (referred to in this report as “the Plan”). Other submissions to the Plan Changes will be considered in subsequent hearing reports.

This report has been prepared in accordance with section 42(a) of the Resource Management Act to assist the Joint RPS and District Plan Changes Hearings Panel (“the Hearings Panel”) with its consideration of submissions received in respect of the Plan Changes.

The report discusses each submission or groups of similar submissions and includes a recommendation on submissions that has been made by staff preparing the report, **but it is not the decision of the Waitakere City Council (“the Council”)**. Recommendations are not directly made with respect to further submissions in support of or in opposition to submissions. However, the recommendations follow that of the original submission.

Submitters and further submitters are invited to attend the hearing and present evidence in support of their submissions for the Hearings Panel to consider. Alternatively if submitters and further submitters are unable to attend the hearing they may provide written evidence which will be tabled for the Hearings Panel to consider.

Following consideration of all the submissions and supporting evidence, if any, presented by the submitters and further submitters at the hearing, the Hearings Panel will make recommendations to the Waitakere City Council. The Council will consider those recommendations and then make a decision concerning each submission.

The suggested amendments to the Waitakere City District Plan arising from the staff recommendations discussed throughout this report are listed in full in Appendix 1. The suggested amendments are set out in the same style as the Waitakere City District Plan. However it should be noted that a number of submissions, that will be considered separately from this report, have sought broad amendments to the content and direction of other proposed changes and the inclusion of additional matters. This may result in some changes to the wording, structure and format of these provisions, which is not reflected in Appendix 1.

2. BACKGROUND

Proposed Plan Changes 13-18 (“the Plan Changes”) were notified on 31 March 2005 as a requirement of the Local Government (Auckland) Amendment Act 2004 (“the LGAAA”). Amongst other things, the Act required Auckland local authorities to prepare and notify changes to their district plans to provide for integrated land transport and land use provisions that are consistent with the Auckland Regional Growth Strategy.

The LGAAA and the relationship between the LGAAA and the Resource Management Act 1991 (“the RMA”) is discussed further in section 3 of this report.

In response to the requirements of the Act, Waitakere City Council publicly notified six Plan Changes (being Plan Changes 13 to 18 inclusive). The Plan Changes provide for:

- The establishment of three new peripheral urban growth areas, which are primarily intended to provide for the development of commercial and industrial activities (Plan Changes 13, 14 and 15); and
- The introduction of a new chapter in the Policy Section of the District Plan to provide additional objectives and policies concerned with the management of growth (Plan Change 16); and
- Specific rules and supporting policies intended to facilitate and encourage the intensification of development in and around the New Lynn town centre (Plan Change 17); and
- The establishment of new rules to more effectively manage the impacts of growth and intensification (Plan Change 18).

This report addresses those submissions that relate to peripheral urban growth, other than that which would be enabled by proposed Plan Changes 13, 14 and 15. Submissions relating to other topics have either been addressed in previous reports or will be addressed in subsequent reports.

3. STATUTORY FRAMEWORK

3.1 Local Government (Auckland) Amendment Act 2004

The LGAAA requires 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, give effect to its growth concept, and contribute to the matters specified in Schedule 5.

Part 2 of the LGAAA focuses on “Auckland Region land transport and stormwater” and includes sections 6 to 44. The purpose of Part 2 is set out in section 6:

The purpose of this Part is to-

- (a) assign to the Auckland Regional Council principal responsibility for-*
 - i) setting the strategy for the Auckland regional land transport system; and*
 - ii) integrating the planning, funding and development of the Auckland regional land transport system; and*
 - iii) stormwater funding in the long-term interests of the Auckland Region (to the extent that this function was, before the commencement of this Act, the responsibility of Infrastructure Auckland); and*
- (b) establish the Auckland Regional Transport Authority and Auckland Regional Holdings to assist the Auckland Regional Council to discharge that responsibility; and*
- (c) dissolve Infrastructure Auckland, and transfer its assets and liabilities to Auckland Regional Holdings and other organisations; and*
- (d) require Auckland local authorities to prepare and notify changes to the policy statement and plans under the Resource Management Act 1991 to provide for integrated land transport and land use provisions that are consistent with the Auckland Regional Growth Strategy.*

The subsection of key interest here is section 6(d). It is important to note that the test in section 6(d) is one of consistency, a more stringent requirement than that in the RMA where the test at the time of the notification of Proposed Plan Changes 13-18 was for regional and district plans not to be inconsistent with higher statutory documents, such as a regional or national policy statement.

Section 40 on the extent of land transport and land use changes states:

- (1) *A land transport and land use change is a change or variation to an Auckland planning document by including issues, objectives, policies, and descriptions of methods for the purpose of-*
 - (a) *giving effect, in an integrated manner, to the growth concept in the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974; and*
 - (b) *contributing, in an integrated manner, to the matters specified in Schedule 5.*
- (2) *A change for the purposes of subsection (1)(a) and a change for the purposes of subsection (1)(b) must, in relation to each other, be integrated.*

Section 40(1) further underscores the importance of the ARGS by requiring changes or variations to give effect to the ARGS growth concept. The importance of integration is stressed through Section 40(1)(b) and (2).

Schedule 5: Land transport and land use changes, indicates that for section 40(1)(b) the matters are as follows:

- (a) *providing increased certainty in the assessment of resource consents, designations, and plan changes related to transport and urban form, and ensuring that transport and land use patterns are aligned to achieve sustainability, efficiency, and liveability in the Auckland Region; and*
- (b) *managing transport and transport infrastructure, facilitating a multimodal transport network, and facilitating integrated transport management; and*
- (c) *reducing adverse effects of transport on the environment (including improving air and water quality, reducing noise and stormwater, improving heritage protection and reducing community disruption and transport land use), and reducing the adverse effects and increasing the positive interactions of transport and land use; and*
- (d) *supporting compact sustainable urban form and sustainable urban land use intensification (including location, timing and sequencing issues, and associated quality, character, and values of urban form and design); and*
- (e) *integrating transport and land use policies to reinforce metropolitan urban and rural objectives of the Auckland Regional Policy Statement, the development of a competitive and efficient economy and a high quality of life, underpinned by a quality environment and amenity.*

The matters that the LGAAA requires to be included in changes to statutory documents support the RMA's purpose of promoting sustainable management of natural and physical resources.

3.2 Resource Management Act 1991 Provisions

The purpose of the RMA, 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 matters 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 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 RMA. Councils are obliged to establish, implement and review the objectives, policies and methods to achieve this and can also include rules, which prohibit, regulate or allow certain activities.

3.3 The Relationship Between the RMA and the LGAAA

The matters that the LGAAA requires to be included in changes to statutory documents, that is, changes consistent with the ARGS and to give effect to its growth concept, can be taken as promoting the RMA's purpose of promoting sustainable management of natural and physical resources.

The impetus for the ARGS grew out of the statutory processes surrounding the region's first ARPS, and the region's desire to work together more strategically to enhance the region's future. Environmental protection and sustainable management of the region's natural and physical resources is central to the ARGS.

The Local Government Act (LGA 1974) gave statutory recognition to the Auckland Regional Growth Forum and legitimised work on a growth strategy through a 1998 amendment. Section SE37 stated that:

- (1) The Auckland Regional Council must prepare and adopt a regional growth strategy for its region.
- (2) The objective of the strategy for the Auckland Region will be to ensure growth is accommodated in a way that meets the best interests of the inhabitants of the Auckland Region.

- (3) The regional growth strategy prepared under this section may include (but need not be limited to)
 - (a) Identification of the anticipated and preferred locations of growth within the Auckland Region:
 - (b) A statement of key values for considering growth issues:
 - (c) Information about future growth to assist regional providers of infrastructure to plan to meet future requirements:
 - (d) Such other matters as are considered appropriate.

Subsection 4 required that an (Auckland) regional growth strategy not be inconsistent with any operative or proposed regional policy statement, while 5 provided for reviews.

It is acknowledged that the RMA and the LGAAA legislative language varies somewhat, and may give rise to a range of views about what is appropriate, and under what statute. For the avoidance of doubt, this hearing report assumes that the changes proposed are to meet the LGAAA requirements, and that these requirements fall within the RMA's requirements. Again, if there are any doubts, or the appearance of potential conflicts between the two statutes and their requirements, the LGAAA, as the more specific legislation applies.

4 OTHER RELEVANT DOCUMENTS / STRATEGIES

4.1 The Auckland Regional Growth Strategy: 2050

An Overview

The ARGS represents the future vision for the Auckland region by its councils working jointly together in the Auckland Regional Growth Forum. It seeks to promote the sustainable management of the region's resources within a sustainable development framework. It was launched by Auckland councils in late 1999, with the then reviewed Regional Land Transport Strategy (ARLTS).

The strategy provides a vision for what Auckland could look like in 2050 when it may have a population of 2 million people. It built on the policy approach in the ARPS. However it contrasts with the ARPS and District Plans that under the RMA are operative for 10 years, and tend to focus on a far shorter time horizon. The ARGS seeks to take an integrated strategic approach to regional growth management into the longer term. Its vision is to sustain:

- strong, supportive communities;
- a high quality living environment;
- a region that is easy to get around; and
- protection of the coast and surrounding natural environment.

The ARGS states that:

Three key themes relating to the major issues and growth pressures facing the Auckland region emerge from these prioritised desired outcomes. They are:

- Desirable communities and diversity and choice optimised
- Accessibility optimised
- Natural and physical environment optimised

When the ARGS was launched Auckland councils signed a Memorandum of Understanding committing themselves to its effective implementation through appropriate resourcing of growth work, through committing to develop sector agreements within two years of the ARGS having been signed, and implementing these.

One crucial aspect of implementation includes ongoing changes to RMA policy statements and plans to incorporate relevant aspects of the ARGS and its sector agreements.

The Growth Concept

The “Growth Concept” is a snapshot of how the region could look at 2050 if growth is managed according to the vision, outcomes and principles.

Key features of the “Growth Concept” are:

- that growth will be managed by promoting quality, compact urban environments (intensification); this will assist with managing the effects of growth;
- most growth within the existing metropolitan area with development outside current urban limits only where environmental, accessibility and community principles can be met;
- most urban growth focused around town centres and major transport routes to create higher density communities, with a variety of housing, jobs, services, recreational and other activities (mixed use);
- much less emphasis on general infill throughout suburban areas;
- development of the most highly valued and sensitive natural areas is avoided.

Looking out to 2050, some expansion in new greenfield areas was seen as necessary to provide sufficient land and locational choice for dwellings and businesses. If all proposed greenfield development proceeds the Auckland region’s metropolitan area may increase by about 10% or 5000 hectares, over the 50-year timeframe.

By 2050, more than a quarter of the population (more than 500,000 people) could be living in higher density, multi-unit accommodation compared with less than an eighth or 125,000 people in 1996. However, even after 50 years, 70% of people could still live at lower densities in the suburbs and rural areas.

It is acknowledged that the LGAAA requirement to give effect to the growth concept, is somewhat problematic for the Section 32 evaluation. The ARGs is a broad brush strategic document, reliant on technical and consultative work done to underpin it but which is not part of it. The ARGs notes that:

The Growth Concept is essentially a snapshot that illustrates how the Growth Forum believes the region could look in the year 2050 if growth is managed according to the vision, outcomes and principles contained in the strategy. The Growth Concept provides one possible future scenario for the Auckland region. The use of sector and local area agreements provides flexibility for a number of alternative scenarios to eventuate at a sector level. Therefore sector and local area agreements may result in changes to this Growth Concept as other options are assessed against the vision, priority outcomes and principles and agreed by the Growth Forum and its members at a sector level. (p27)

In other words, further work may raise issues with the focus of growth in a specific area, and which could compromise the vision, outcomes and principles. Maintaining the commitment to the ARGs may require reconsideration of detailed aspects of sector and other agreements and thus changes to them, and to the growth concept.

In addition, further technical work may well be needed to implement sector agreements and to include relevant aspects in district plans. At times, such work may require details of sector agreements to be reconsidered and may result in changes to them.

The way that the ARGs is set up is important. It outlines a vision, key principles and outcomes with a growth concept; these are to be implemented through Memoranda of Understanding between the councils (and also with others), through the development of sector agreements, and sector agreement implementation of these through various mechanisms including changes to statutory documents. The ARGs broad brush picture is expected to remain largely the same or similar, but the specifics may alter.

Each step in the process enables further consideration of whether what was envisaged in the higher, more general document actually continues to be a good fit with the ARGs vision, principles and outcomes, or whether further refinement is necessary. The ARGs acknowledges it is a living strategy, that reviews are important and implementation needs to reflect emerging issues.

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.	

Discussion:

The Plan Changes were widely notified. In addition, 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 some 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.

Recommendation:

Submissions 309/10, 309/11 and 309/12 are 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

Discussion:

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 (Category G). The land currently falls outside of the MUL, and it is not considered 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. It is noted 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.

Urban zonings are not supported for the submitters' land. It is noted 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.

Recommendation:

Submissions 327/9 and 326/9 are 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

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.

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.

Recommendation:

Submission 584/2 is 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)

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 Council has undertaken a 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, it is considered that the broader strategic planning for the area has occurred, as sought by the submitter. The proposed Plan Changes simply represent the outcome of that planning.

Recommendation:

Submission 298/47 is 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

Discussion:

The land in question falls outside the current MUL. There are stormwater 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 the Bill become law.

Recommendation:

Submission 46/2 is 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).	

Discussion:

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

It is considered that the merits of this land for urbanisation are best addressed as part of the 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, 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 occurs, it is considered that this land should remain outside the urban area.

Recommendation:

Submission 181/3 is rejected.

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