

REPORT 4
(1215/53/IM)

**PRIVATE DISTRICT PLAN CHANGE REQUEST:
BELLEVUE RESIDENTIAL ESTATE, STAGE 8,
NEWLANDS, JARDEN PROPERTIES LTD**

1. Purpose of Report

To consider a request by Jarden Properties Ltd for a Private Plan Change to rezone land between the end of Dommett St and Glanmire Rd from Rural to Outer Residential and to rezone land that forms part of the Stage 9 subdivision from Open Space to Outer Residential and vice versa to reflect land use patterns already established by way of resource consent.

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Agree to accept the proposed private plan change for the re-zoning of approximately:*
 - *0.52ha from Rural to Conservation*
 - *5.12ha from Rural to Outer Residential*
 - *5.09 ha from Outer Residential to Conservation Site; and*
 - *0.79 ha from Conservation to Outer Residential*

In the area of Newlands adjacent to the Bellevue Estates Subdivision and as outlined in Appendix 1.

AND

The amendment of Policy 4.2.9.2 by adding the following (underlined) wording:

“Provide for and, in some circumstances, require extensions to the existing roading network. In particular the actual development potential for future development of the following connector routes will be sought...

- *From between Domett Street and Glanmire Road*

- 4 *Agree to publicly notify the proposed plan changes in accordance with the First Schedule of the Resource Management Act 1991.*

3. Discussion

3.1 The Plan Change Proposal

Jarden Properties Ltd has requested a Private Plan Change for the re-zoning of land forming part of Bellevue Estates, Newlands (Appendix 2 provides an extract from the Plan Change document).

The Plan Change has three parts:

- The rezoning of 5.1ha of land between the end of Dommett St and Glanmire Rd from Rural to Outer Residential to facilitate the development of approximately 48 residential lots ranging in size from 410m² to 970m². As a consequence of the above rezoning a small portion of Rural land (0.52ha) not required for the residential subdivision and contiguous with adjoining Conservation land would be rezoned Conservation Site.
- The rezoning of 5.09 ha from Outer Residential to Conservation and 0.79 ha from Conservation to Outer Residential to reflect existing land use patterns established by the resource consent for Stage 9 Bellevue Residential Estates Subdivision.
- The inclusion of additional (underlined) wording to Policy 4.2.9.2 to state:

“Provide for and, in some circumstances, require extensions to the existing roading network. In particular the actual development potential for future development of the following connector routes will be sought...”

- From between Domett Street and Glanmire Road

3.2 The Site

The areas requested to be rezoned sit at the top of the steep escarpment above the Hutt Road and are contiguous with the existing developed area of Newlands.

The portion of the site requested to be rezoned from Rural to Outer Residential adjoins an existing residential area and is between Dommett St and Glanmire Rd, Newlands and is situated below an already developed ridgeline. Parts of the site are relatively steep and would require earthworks to establish suitable building sites (refer Appendix 5 for the proposed earthworks plan) although a portion of the site extending from the end of Dommett St has already been earthworked.

The portion of the site to be rezoned from Outer Residential to Conservation and vice versa forms part of the Bellevue Estate Subdivision Stages 9A, 9B and 9C which was established by way of resource consent. While the majority of Stage 9 was already zoned Outer Residential, portions of the subdivision were allowed to be established within the adjoining Conservation Site in exchange for the non-development of portions of the site zoned Outer Residential (which had higher conservation value than some of that already zoned Conservation). It was always anticipated that after the final

subdivision pattern had been established within Stage 9 a Plan Change would be initiated to reflect the new land use pattern.

3.3 Background

3.3.1 Zoning History

Much of the area around the edge of Newlands has been earmarked for residential development since the late 1970's. The Transitional Plan identified an area of Residential A1 zoning in the general vicinity of Stage 9 with the adjoining area zoned Open Space. The area identified as Stage 8 was shown as "A1 Residential Deferred" (Appendix 3, Map 1).

In 1994 when the Proposed District Plan was notified the Stage 9 area was given a Residential zoning with the adjoining area given a Conservation zoning. This represented a modification of the residential/conservation (then called open space) boundaries from that shown in the Transitional Plan and represented an increase in the area of residentially zoned land (Appendix 3, Map 2). No submissions were received on the modification of these boundaries.

In 1994 the Proposed District Plan gave the Stage 8 area (the area the subject of this Private Plan Change request) a Rural zoning. Bellevue Lands Limited made a further submission seeking that the land be rezoned residential. The Council decision in 1996 resolved that it should remain Rural and no appeal was lodged.

3.3.2 Land adjoining 28 Sunhaven Drive

The owner of 28 Sunhaven Drive has been in contact with Council Officers for a number of years with concerns regarding the residential zoning of the adjoining land. The adjoining land was rezoned from Open Space B to Outer Residential as a result of the 1994 Proposed District Plan as described above.

As this site forms part of the larger Conservation zoned site it was assumed that the site would be rezoned to Conservation, however, applicants have indicated that this portion is to remain residential.

3.3.3 Previous consideration by Council

In 2004 Bellevue Lands Ltd sought Council's consideration of the rezoning of Stage 8. This request coincided with the notification of Plan Change 33 (Ridgelines and Hilltops (Visual Amenity) and Rural Area and the following resolutions were made by the District Plan and Reserves Management Committee, 2004.

- "2. Agree in principle that the land comprising Conservation Sites (as indicated in the map attached in Appendix 1) which may be amended through and vested by the subdivision of Stage 8 of the Bellevue Estate subdivision, would be accepted by Council because this land would be a useful and desirable addition to Council's open space network;*
- 3. Agree that the adoption of a private plan change for the rezoning of the proposed Stage 8 of the Bellevue Estate subdivision will only be considered where the change will not prejudice Plan Change 33.*

4. *Note that the rezoning of the proposed Stage 8 of the Bellevue Estate subdivision may be addressed as an entirely private plan change.*
5. *Notes that the position regarding possible Council adoption of a private plan change may be able to be clarified once further submissions have been received or after relevant decisions are made on submissions on Plan Change 33.”*

Bellevue Lands Ltd did not pursue the Plan Change at this time and subsequently made submissions on Plan Change 33 also seeking the rezoning of the Stage 8 area to Residential and the removal of the Ridgelines and Hilltops overlay. The rezoning request was declined as it was determined to be outside the scope of the Plan Change and the removal of the Ridgelines and Hilltops Overlay was also declined due to the lack of visual assessment information. Bellevue Lands Ltd appealed Councils decision and the appeal was resolved by consent order with the adjustment of the Ridgelines and Hilltops Overlay but the zoning remaining Rural.

The Memorandum of Counsel recording the resolution of appeal and in support of proposed consent order states:

“... the Council has been in Discussion with the appellant on the appropriate level of development of the site. Council, through its officers, will continue to work with the appellant to try and achieve a mutually satisfactory outcome for development of the land, taking in to consideration the subdivision design guide and the public benefit to be gained from the potential to transfer the 38 hectares of Conservation Site land to the Council”.

3.4 Private Plan Change Process

3.4.1 Applicant’s Request

TCB have requested that council “adopt” the Plan Change. They request the relevant zone changes and then state:

“At the same time, the large area of conservation land (approx 38ha) would transfer to Wellington City Council. The zoning of this land is not affected by the proposed plan change therefore would not form part of it. However, a heads of agreement would need to be drawn up to ensure the legal transfer of the ownership of this land takes place at the appropriate time.

It is our view that the Plan Change should be supported by Council and possibly adopted given the large public benefit to be gained from the transfer of the Conservation land. As a secondary option we would progress the Plan Change in a private capacity but with resource input from WCC.”

Wellington City Council Parks and Gardens have indicated their willingness to accept, as well as a desire to obtain, the offered 38ha (approx) of Conservation zoned land. The 38ha has important visual and landscape values being part of the coastal escarpment along the Hutt Rd. In addition, the 38ha will enable a pedestrian linkage between Brandons Rock and Gilberts Park to be realised.

The applicant has provided an indicative subdivision design and layout for Stage 8 resulting in the creation of approximately 48 lots. The layout represents a fairly standard subdivision design and lot size that is consistent with the adjoining residential area. Throughout discussions with the applicant’s consultants, Council has indicated to the applicant that the level of earthworks is considered relatively high as the resulting 24m high batter slope and landscape fill area required to enable the subdivision is within the Ridgelines and Hilltops area.

The applicants have not offered any alternative layouts that might lessen the earthworks required. During discussions, changes have, however, been made to the provision of reserves access and the covenanting of an area of bush.

3.4.2 Legal Requirements

Any person may request a change to the District Plan, in accordance with the First Schedule of the Resource Management Act 1991 (RMA).

The Committee is required to decide whether to *reject*, *accept*, or *adopt* this plan change request. It is also possible to adopt or accept a request *in part*. It is not necessary at this stage to decide whether or not the plan change proposal should be approved or declined. That assessment is required after a plan change is notified and submissions (including further submissions) have been received. The Committee must however decide the form in which the proposed change will proceed.

To assist the Committee, accepting the plan change means it would remain a private plan change and all processing costs would be met by the applicant. The adoption of the change means that it would become a Council plan change and the Council would be committed to supporting the proposal through the process.

Assessments of the options for this private plan change request are set out in the table below.

Council’s options for rejecting, accepting or adopting the plan change request

Option 1– Reject the plan change	Evaluation
<p>A plan change can be rejected on the basis that:</p> <ul style="list-style-type: none"> • It is frivolous or vexatious • The substance of the change has been dealt with by Council or the Environment Court in the last two years • The change is not in accordance with sound resource management practice • The change would make the District Plan inconsistent with Part V of the RMA (other policies or plans, such as regional policies or plans) • The District Plan has not been made operative for more than two years. 	<ul style="list-style-type: none"> • It is not frivolous or vexatious. • The District Plan has been operative since 2000 and the substance (i.e. the rezoning) of the plan change request has not been dealt with by either the Council or the Environment Court in the last two years. (the submission on Plan Change 33 does not count as the rezoning was outside the scope of the Plan Change) <p>This is not the recommended option.</p>

<p>Option 2- Accept the plan change</p> <p>Council would process the plan change, and it would be notified, heard and decided by the Council.</p> <p>The applicant will bear the cost of the plan change process, which includes any costs associated with the resolution of appeals.</p>	<p>Evaluation</p> <p>Accepting the plan change means that:</p> <ul style="list-style-type: none"> • The applicant decides what is notified (though further information can be sought). • The 38ha of Conservation zoned land indicated to be available for reserves may come at a cost to Council. • This option implies that Council is taking a neutral position on the proposal. The community should perceive that Council neither supports nor opposes the proposal. <p>This is the recommended option.</p>
<p>Option 3- Adopt the plan change</p> <p>The plan change becomes a ‘public’ plan change. It is notified, heard and decided on the same way as a plan change prepared by Council.</p> <p>Council will largely bear the cost of managing the plan change from the date that it adopts it.</p>	<p>Evaluation</p> <p>Adopting the plan change means that:</p> <ul style="list-style-type: none"> • Council controls what is notified and alternative subdivision layouts could be considered prior to notification and with agreement of the applicant. • Additional costs would be incurred in preparing alternative layouts for consideration. Additional time would be required before notification to complete a Section 32 analysis. • It would be interpreted that Council supports the proposal or an amended version thereof. • The public benefit of receiving approximately 38ha of conservation zoned land in addition to the required Reserves Contribution upon the eventual Subdivision of Stage 8 would be realised. <p>There is some public benefit as a result of this plan change however it is not believed that the subdivision layout proposed by the applicants is of a nature that Council could adopt the private plan change. This option is not recommended.</p>

Option 4 - Adopt in part and Accept in part	Evaluation
<p>1. The rezoning of the Residential to Conservation and Conservation to Residential portion of the plan change is <i>adopted</i> and becomes a “public” plan change. It is notified, heard and decided on the same way as a plan change prepared by Council.</p> <p>Council will largely bear the cost of managing the plan change from the date that it adopts it.</p> <p>2. The rezoning from rural to outer residential to provide for a 48 lots subdivision (Stage 8) portion of the plan change is <i>accepted</i>.</p> <p>The applicant will bear the cost of this portion of the plan change process, which includes any costs associated with the resolution of appeals.</p>	<ul style="list-style-type: none"> • The rezoning of the Residential to Conservation and Conservation to Residential portion of the Plan Change is something that Council would have undertaken in the near future as it represents the existing land use pattern. • It would be interpreted that Council supports this part of the proposal. • Separation of the two parts of the Plan Change will allow the two parts to take separate courses possibly avoiding hold ups if there are appeals to the Environment Court. • Discussions to transfer the 38 ha (approx) can occur independently of consideration of the Stage 8 rezoning. • A separate section 32 analysis of the “unders and overs” portion of the plan change would need to be completed prior to notification. • The rezoning from Rural to Outer Residential represents a principally private gain. • It implies that Council is taking a neutral position on the rezoning of rural to residential. The community should perceive that Council neither supports nor opposes the proposal. • Provides for consideration of the rezoning to residential on its merits. <p>This option is not recommended.</p>

3.5 Adequacy of the plan change request

3.5.1 Description of Plan Change Request and Consultation

The applicant has provided a site and locality description, an assessment of environmental effects (AEE) and a section 32 analysis. The applicant has also provided an indicative 48 lot layout proposal and, indicative earthworks plan.

The applicant has undertaken consultation with the following organisations:

- The Wellington Tenth Trust
- New Zealand Forest and Bird
- WCC – Open Space
- WCC – Planning Policy
- WCC - Water (Capacity)
- WCC - Drainage Team
- WCC – Roading and Transportation
- Newlands/Paparangi Progressive Association

- Greater Wellington Regional Council – Resource Policy
- Airways Corporation of New Zealand Ltd

A summary of the responses from these organisations is provided in the Plan Change document and attached as Appendix 3.

3.5.2 Section 32 Evaluation

Section 32 of the RMA requires consideration of alternatives, and an assessment of the benefits and costs of adopting any objective, policy, rule, or method in the District Plan. A section 32 report must be available at the time the plan change is publicly notified. This has been prepared by the applicant and is attached as part of the Plan Change request.

3.5.3 Additional Information

The applicant has provided the following additional information on the request of Council:

- A cut and fill plan identifying cut and fill depths (Appendix 5) as well as separate plans showing cross sections of the earthworks.
- An assessment of the portion of the site to be rezoned residential as well as the earthworks that is within the within the Ridgelines and Hilltops overlay.
- A map of where the short range viewpoints (photos provided in the application) were taken from.

In addition, the following information has been requested to be provided prior to notification should the Council agree to “accept” or adopt” the Plan Change:

- A copy of the Wellington Regional Councils Hazards Maps showing exact location of area of instability in relation to the applicant’s site and a statement from a Chartered Geotechnical Engineer that the land is suitable for urban development.

The applicant has been informed that should the Committee agree to accept or adopt the Plan Change the Plan Change will not be notified until the above information has been received.

4. Conclusion

An assessment of environmental effects and a section 32 report have been provided in accordance with the requirements of the First Schedule of the RMA. Additional information has been requested and provided by the applicant or will be provided prior to notification.

It is recommended that Council *accept* the plan change request and allow it to be publicly notified.

Contact Officer: *Alison Newbald, Policy Advisor, Planning Policy*

Supporting Information

1) Strategic Fit / Strategic Outcome

This consideration is not relevant at this stage. When assessing the merits of the private plan change, Council will however need to assess whether it gives effect to the Urban Development Strategy and whether it supports the outcomes for achieving a more liveable city set out in that document.

2) LTCCP/Annual Plan reference and long term financial impact

This relates to updating the District Plan. Plan change processing costs will be paid for by the applicant

3) Treaty of Waitangi considerations

There are no specific Treaty of Waitangi implications.

4) Decision-Making

The decision to agree to notify the plan change is consistent with the requirements set out in Clause 25 of the First Schedule of the Resource Management Act 1991.

5) Consultation

a) Specific Consultation

The applicant has undertaken consultation with neighbours.

b) Consultation with Maori

None.

c) General Consultation

A public notice will allow other members of the public to make a submission and provide for wider community involvement.

6) Legal Implications

The plan change has been prepared in accordance with the Resource Management Act 1991.

7) Consistency with existing policy

This consideration is not relevant at this stage (as stated above).

List of Appendices

Appendix 1 – Proposed Plan Change Zoning Map

Appendix 2 – Explanation of Plan Change (Extract from Plan Change Document)

**Appendix 3 – Map 1 Transitional District Plan
Map 2 Proposed District Plan**

Appendix 4 – Earthworks Plan

Appendix 5 – Summary of Consultation undertaken by Applicant

Appendix 1 – Proposed Plan Change Zoning Map

Appendix 2 – Explanation of Plan Change (Extract from Plan Change Document)

**Appendix 3 – Map 1 Transitional District Plan
Map 2 Proposed District Plan**

Appendix 4 – Earthworks Plan

Appendix 5 – Summary of Consultation undertaken by Applicant