
**PRIVATE DISTRICT PLAN CHANGE REQUEST:
OHIRO PROPERTIES LTD, OHIRO ROAD, BROOKLYN**

1. Purpose of Report

To consider a request by Ohiro Properties Limited to change the zoning of land adjoining Ohiro Road in the Operative District Plan. The land is also subject to a Council change through Plan Change 33, notified on 26 May 2004.

2. Executive Summary

Ohiro Properties Limited has made a request for a private plan change for the rezoning of 15.44 hectares of land at Ohiro Road, Brooklyn.

At this point in time, the Council is not required to make a decision on whether to approve or decline the plan change, only a decision on the process that is to be followed i.e. whether the proposal should remain a private plan change (Council accepts the plan change) or whether Council takes over the plan change (it adopts the plan change) and whether the proposal should proceed to notification.

This report recommends that Council accept the request for a private plan change. This is because most of the benefit in this case will be to the developer, rather than there being any significant public good component suggesting the change should be adopted.

3. Recommendations

It is recommended that the Subcommittee:

- 1. Receive the information.*
- 2. Agree to accept the proposed private district plan change for the rezoning of approximately 15.44 hectares of land at Ohiro Road, Brooklyn, as outlined in Appendix One and the 'Request for Plan Change' document, attached to this report.*
- 3. Agree to publicly notify the proposed private district plan change in accordance with the First Schedule of the Resource Management Act 1991.*
- 4. Agree that the applicant will be required to pay for all actual and reasonable costs associated with the proposed plan change, including any appeal costs.*

4. Background

4.1 Private Plan Change Process

The process for a private plan change is set out in the First Schedule of the Resource Management Act 1991. Any person may request a change to the District Plan and Council must consider that request.

The Subcommittee needs to decide whether to reject, accept or adopt the request for a plan change. It is not necessary to decide whether or not the plan change proposal should be approved or declined – this is done at a later stage in the process after submissions have been received – but the Subcommittee must decide the form in which the proposed change will proceed.

There are limited grounds upon which a plan change can be rejected. These are discussed in detail in Section 5.2.

If the Council accepts a private plan change it can proceed to notification. It remains a private plan change with the Council administering the legal process. Once all the submissions and further submissions have been received the Council hears the matter and issues a decision.

If the Council adopts a private plan change it becomes a plan change made by Council itself, and Council bears the cost of the plan change.

4.2 Plan Change Proposal

A map and description of the area to be rezoned is included on pages 2 and 3 of the applicant's request document attached to this report. It essentially consists of 15.44ha of sloping land covered in regenerating bush to the west of Ohiro Road, running south from opposite Borlase Street, Brooklyn.

The request is for a simple rezoning of the land from Rural to Outer Residential. There is no proposal to have any special provisions introduced relating to the site.

All of the land is currently zoned Rural in the Wellington City District Plan. Plan Change 33, notified on 26 May 2004, retains the rural zoning for this area but proposes a new low density subdivision regime in line with a new Rural Area Design Guide. Submissions have been received in relation to the Council's proposals for this area. The summary of all of the submissions on Plan Change 33 is currently being prepared.

5. Discussion

5.1 Relevant Issues and Section 32 Analysis

The applicant has provided information on the proposal and covers likely issues with the consequential development, being:

- General Resource Management Act and District Plan requirements
- Visual Effects
- Ecological Effects
- Geotechnical Evaluation
- Traffic effects
- Infrastructure Effects

These details are all contained within the Plan Change Request document attached to this report.

Section 32 analysis:

Section 32 of the Resource Management Act stipulates a requirement to consider alternatives and assess the benefits and costs of adopting any objective, policy, rule, or method in the District Plan. The recent amendment to the Act requires the Section 32 report to be available at the time the plan change is publicly notified.

The request for plan change document includes a Section 32 Analysis.

5.2 The Council's options - reject the plan change request?

There are limited grounds upon which a plan change can be rejected under the Act. The implication is that all plan changes are assessed on their merits under the plan change process, unless the request is flawed in some basic way. The grounds for rejecting the request are summarised and discussed in Table 1.

Table 1: Option for rejecting the plan change request

Option	Evaluation
<p>Reject the Plan Change</p> <p>A plan change can be rejected for five reasons:</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 Act (other policies or plans, such as Regional policies or plans) • The District Plan has not been operative for more than two years. 	<p>This is not the recommended option.</p> <p>The plan change request does not meet any of the reasons in the Act for a rejecting a plan change:</p> <ul style="list-style-type: none"> • The proposal is not frivolous or vexatious. • Although the matter of subdivision in this area has been considered under Plan Change 33, it would be difficult for the Council to reject this proposal on the basis the substance of the issue has already been dealt with. It is a site specific issue whereas Plan Change 33 looked at rural subdivision across the whole city before applying a rural/residential solution to the wider Brooklyn area. While Outer Residential zoning was considered, such site specific analyses were not carried out under that scenario given the overall policy direction of Plan Change 33. • It is in accordance with sound resource management practice. Further, the District Plan anticipates that greenfields subdivision in the Rural Area will be considered as part of a district plan change to extend the urban

	<p>area.</p> <ul style="list-style-type: none"> • The plan change request will not make the District Plan inconsistent with Part V of the Act (e.g. Regional policies or plans). • The District Plan has been operative for more than two years.
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The request for plan change does not fulfil any of the criteria for rejecting it.

5.3 Accept or adopt the plan change request?

The request for plan change must be either accepted or adopted for public notification. There are advantages and disadvantages (benefits and costs) for Council in either accepting or adopting the change. They are summarised in Table 2:

Table 2: Options for deciding the plan change request

Option	Evaluation
<p>Accept Plan Change</p> <p>The private plan change is notified as the documents prepared by the applicant. Council processes the plan change proposal in much the same way as a resource consent application.</p>	<p>This is the recommended option.</p> <p>Accepting the plan change proposal:</p> <ul style="list-style-type: none"> • Means the applicant decides what is notified. • Implies Council is taking a neutral position on the proposal. The community should perceive that Council neither supports nor opposes the proposal. • Implies the applicant will bear the cost of the complete plan change process (including costs associated with the resolution of appeals).
Option	Evaluation
<p>Adopt Plan Change</p> <p>The plan change becomes a public plan change. It is notified, heard and decided in the same way as a plan changes prepared by Council.</p>	<p>This is not the recommended option.</p> <p>Adopting the plan change proposal:</p> <ul style="list-style-type: none"> • Council controls what is notified. • Allows Council to work with the applicant to achieve the best outcome. • May be interpreted that Council generally supports the proposal. • Demonstrates that Council is promoting good land use and design decisions. • Implies Council will bear the cost of managing the plan change from the date that it adopts it.

It is recommended that the Council accepts the proposed change request so that it continues to proceed as a private plan change. The proposed future development is a standard Outer Residential subdivision with no significant wider public benefit. The proposal is, in fact, contrary to the Council’s own intentions for the development of this land and the wider Brooklyn area. Thus, it is recommended that the plan change proceed on an entirely private basis.

One point to note at this stage is that, because there will be two plan changes underway in relation to this piece of land, it may well be necessary to hear all of the submissions relating to each at the same time. This should not be an issue in terms of timing as the hearing on Plan Change 33 will not be until after the local government elections in October, by which time this private plan change should have “caught up” – i.e. been through the submission and further submission process.

6. Conclusion

This report recommends that Council accepts the request for this private plan change. The next stage will be to publicly notify it for submissions.

Contact Officer: *Claire Gregory, Senior Policy Advisor, District Plan Team*

Supporting information

a) **Strategic fit**

This matter is directly related to the Council's land use strategy, expressed through the District Plan. This sits within the Built Environment Key Achievement Area. The Council must also have reference to its statutory obligations under the Resource Management Act 1991.

The key outcomes are:

1.1 Liveable city

Wellington is a great place to live and offers a variety of places to live, work and play within a high quality public environment.

1.4 Compact City

Wellington is a compact city with mixed land-use, structured around a vibrant city and suburban centres and connected by major transport corridors.

b) **Annual Plan reference**

Relates to updating of the District Plan.

c) **Annual Plan and Long Term Financial Strategy implications**

Not applicable.

d) **Treaty of Waitangi implications**

There are no specific Treaty of Waitangi implications.

e) **Consultation**

The application is a request for a plan change. From the Plan Change Request Document, no direct consultation appears to have been undertaken regarding the proposal by Ohiro Properties Limited.

As part of the District Plan Change process public participation will be provided for through notification, submission processes and a hearing.

f) **Legal implications**

Will be processed in accord with the Resource Management Act 1991.

Appendix One:

WELLINGTON CITY DISTRICT PLAN

PROPOSED PRIVATE DISTRICT PLAN CHANGE: OHIRO ROAD PROPERTIES, BROOKLYN

ALTERATION TO THE WELLINGTON CITY DISTRICT PLAN

Detailed below are the alterations to the Wellington City District Plan necessary to incorporate the Proposed Private District Plan Change request by Ohiro Road Properties.

ALTERATIONS TO VOLUME THREE, DISTRICT PLAN MAPS

Change the zoning of the area on Operative District Plan Map 6 subject to the Plan Change from 'Rural' to 'Outer Residential'.

Note: It is recommended that the public notice include a note regarding Plan Change 33 to ensure it is clear that the land is already subject to a Council change currently underway (albeit a rule change as opposed to a zone change). For example:

This Private Plan Change Request relates to land already subject to a current Council District Plan Change (Plan Change 33), upon which submissions have been received. Each change proposes a different approach to the management of subdivision and residential development. If you would like to know more about Plan Change 33, please contact Claire Gregory on 801 4151.