

WELLINGTON CITY COUNCIL

DISTRICT PLAN

DECISION OF HEARING COMMITTEE

SUBJECT: **DISTRICT PLAN CHANGE No. 24:
Rezoning of land at Downing Street and
Silverstream Road, Crofton Downs**

HEARING COMMITTEE: **Cr Andy Foster (Chair)
Cr Leonie Gill
Cr Sue Piper**

DATE OF HEARING: **27 FEBRUARY 2004**

1. RECOMMENDATIONS

1. *That District Plan Change 24 be approved as publicly notified with additional subdivision assessment criteria in the Appendix 22 to the Residential Area rules, enclosed as Appendix One of this Decision Report.*

2. REASONS

The Hearings Committee read and heard submissions and conducted a site visit. The committee concluded that the proposal, with some amendments as discussed at the Hearing, and detailed below, represents a good use of the land and a positive environmental outcome. The Outer Green Belt is increasingly well defined. Part of its role is to clearly demarcate the edge of urban development. The subject land is one of a small number of rural parcels directly to the east of the Outer Green Belt, where traditional rural uses are no longer practical. In this light the Committee determined that the proposal afforded the landowner an economic use of the land while also preserving and allowing enhancement of a significant area of regenerating native bush and waterways.

Community benefit and amenity issues

The Hearings Committee read and heard submissions on the likely benefits of residential housing on the land. It also considered submissions concerned with loss of amenity to residential properties in the wider Crofton Downs / Ngaio area. The councillors agree that approving the Plan Change will change the character of the local area to an extent but they consider that the result will be largely a positive one. They recognise the benefits of allowing further residential use in an established

suburban area close to the commercial centre of the City. They consider the mixed residential and open space / conservation use of the land is an appropriate and sustainable long term response to changing patterns of land use, particularly the decline of pastoral farming on the edge of the western suburbs and the definition and development of the Outer Green Belt.

The Committee does not see a conflict with the urban containment philosophy of the District Plan. It notes that the Operative Plan provides for a change of zoning of rural land on the periphery of the urban area *'where it can be shown that the subdivision of additional suburban lands can be justified.'* The Plan emphasises the advantages of favouring the subdivision of areas of land that allow for a direct extension of existing infrastructure of roading, drainage and water supply. In this case the fact that the land lies between the existing urban area and the Outer Green Belt led to the Committee determining that the proposal represents an appropriate conclusion to urban development in that area, and an appropriate interface between the built and natural environments.

Planning history / process

The submissions of the Trelissick Park / Ngaio Gorge Working Group, Frances Lee and the Ngaio Progressive Association were all concerned that a rezoning to Residential does not create a precedence for other Rural land in the area. The Committee observes that these other areas of land have been assessed in the drafting Rural Area Plan Change, which is close to public notification. It notes that there is no proposal to rezone any of this other Rural land and these areas will retain restrictive rules for development and subdivision. However, a separate process has been initiated to discuss more appropriate zoning for Rural Area land adjoining Huntleigh Park Forest. While consultation is in the very early stages, an outcome may be most of the privately owned land being rezoned as Conservation Site.

Another group of submissions, from Graeme Doherty, J H H Galloway, Trelissick Park / Ngaio Gorge Working Group and Frances Lee, was concerned over the proposal to change the zoning of an area of Open Space B land created under consent order in the Environment Court. The Committee notes these concerns but considers decisions made at one period of time, whether they involve the Environment Court or not, should be changed if the change provides for an improved environment. It notes that the Resource Management Act provides for the development and evolution of District Plans to reflect the information available and the views of the community at the time that a zoning, rule or plan is developed / written. It considers that the Plan Change represents a better use of the subject land in relationship to changing patterns of land use in the area i.e. the decline of traditional farming, the definition and purchase of the Outer Green Belt and the development of housing in the existing part of Downing Street. It also determined that the proposal represented a better set of outcomes from an ecological and environmental perspective, as it will result in a larger and more ecologically sustainable reserve, and protection of a more significant permanent stream.

Flooding and geotechnical issues

After considering the submissions and advice from Council's drainage engineer, the Hearings Committee is satisfied that the land does not represent an undue risk of landslide or other slope failure, or flooding of properties below the site. It concludes that any potential for problems can be adequately addressed within the resource consent process that follows the approval of Plan Change. The details of the development proposal will be carefully assessed by both the landowner's and Council's engineers prior to construction, and any resource consent that Council grants for subdivision will be subject to ongoing conditions to ensure the work is completed to a safe standard.

The Committee visited the property of Vincent and Mary Gray. Having seen the situation and considered the advice on stormwater management the members are satisfied that the Gray's won't be affected by the development of four houses on the adjoining ridge or the runoff from a further forty houses on the Downing Street extension. They observe that the Gray's large property with its regenerating bush will largely screen them from the adjoining development.

Stream and water quality

Maintaining the quality of streams in the City, and going further to enhance the quality of these streams, is an important issue for Council, as evident from its role in Project Kaiwharawhara. The Hearings Committee believes the Plan Change with its additional provisions will maintain the quality of the Kaiwharawhara Stream system. The Committee members are also excited about the opportunity to test new methods for managing stormwater from residential development on hill slopes.

Greater Wellington's assessment criteria about 'first order streams' has been included. The Committee agrees that the principle is a good one that will work to reduce the adverse effect of mass earthworks and development on the water quality of streams and ecology of streams. It observes however that the subdivision proposal that has discussed by the landowner ('Option D') may be found, in the subsequent resource consent process, to meet the assess criteria. The criteria is not intended to protect every 'first order stream', rather it is designed to avoid significant impact on the wider stream system. A decision to allow a stream gully to be filled may be justified through other aspects of the proposal, for example the large reserve and covenanted areas that will regenerate from gorse into native forest and the required engineering solutions that will be developed to collect sediment and slow the rate of flow.

The Committee does not support Greater Wellington's submission that requested a new standard and term for stormwater management. It does not see the benefit of trying to influence the issue through the process (by escalating any application without stormwater management to a non-complying activity) and instead favours a direct approach of stating the desired outcome within the discretionary activity category. For this reason it decides to modify the advertised assessment criteria for stormwater management, to include the performance standards put forward by the landowner's consultant. The final text of the Plan Change can be read in Appendix One.

The Committee is concerned to ensure that the proposal to slow and pre-treat stormwater will address runoff from all the developed parts of the site into both gully systems.

Ecology and Open Space

The Hearings Committee welcomes the large portions of the land that will be dedicated to conservation and open space – both the generous 3.7 hectare area, which will be vested in Council as reserves contribution, and the additional areas of private land (1.4 hectares), which will be covenanted to protect natural regeneration. After considering the evidence, it believes the Open Space areas shown on the Plan Change map provide significantly better ecological protection and future ecological potential than the combination of the previous area of Open Space B land and the previous Rural zoning of the major portion of the land. The Committee visited the site and notes that vegetation in the ‘first gully’ is a narrow strip of relative young native regeneration along an ephemeral stream. The Rural zoning offered no protection to indigenous vegetation. In comparison, the future reserve in the larger ‘second gully’ will protect a ‘remnant’ of older more advanced secondary regeneration along a permanently flowing stream. Expert opinion (from Ecological Research Associates) indicates that future regeneration in this gully offers a much greater potential as an ecological corridor. The gully also offers an opportunity for public access between the valley floor and higher land of the Outer Green Belt.

The landowner cleared part of the remnant prior to its original request for a plan change, presumably on the assumption that approval would be given to develop this part of the land. After seeing the gully, the Committee considers it is important that this area be restored through replanting. It is aware that Council’s Parks Unit may not be able to make this area a priority within its future propagation and planting budgets. Therefore, while the Hearings Committee acknowledges the bush was removed as a permitted activity and that the landowner will be vesting a large area of reserve in Council, it would like to see the landowner replant the felled area before the land passes to the City. It considers however that Council should bear the cost of developing walking tracks within the reserve at a future date. An additional assessment criterion is added to the Plan Change Appendix to allow a planting proposal to be considered under a future subdivision application.

Frances Lee expressed concern about covenants and Council’s commitment to maintaining them on private properties in future years, and Council’s commitment to enforce any breaches of the covenants. She suggested, as an alternative, the use of Queen Elizabeth II National Trust covenants. The Committee sees merit in this idea as the Trust is the specialist in conservation covenants, and their registration and monitoring of the covenants may give the community greater faith in the process.

Roads and traffic

The Committee notes that there were few submissions on this issue and these submissions generally believe that the subdivision following from the Plan Change will not have a significant effect on the local network of streets. The Committee

members note that there will only a handful of new houses accessed from Silverstream Road, while the main area of the housing in Downing Street will be served by existing generous and well designed roads.

Other issues

Transpower requested two additional assessment criteria to protect their transmission line, which runs close to the upper boundary of the Plan Change property. The Committee sees no necessity for these criteria as the land will be Outer Residential and Transpower's interests are already assured by Rules 5.1.3.9 and 5.3.7, which restrict the building of houses within 30 metres of high voltage lines. Any application to reduce this distance requires the written approval of the transmission line owner.

Andy Foster
Chairperson, Hearings Committee

Appendix One:

Appendix 22 Subdivision of Lot 2 DP 29604 and Lot 1 DP 319195, Downing Street and Silverstream Road, Crofton Downs.

The following provisions were the result of a plan change requested by Ridvan Garden Developments Limited (Ref. 1044-02-14).

Introduction:

The map that forms part of this appendix recognizes three areas. Area 'A' is zoned Outer Residential and it is the area in which most of the earthworks, all of the roads, accessways and houses, will be constructed. Area 'B' is zoned Open Space B and is intended to be vested in Council as full satisfaction of the Reserves Impact Fee. Area 'C' is zoned Open Space B as part of privately owned residential properties. It is land intended for the regeneration of native forest.

The following rules apply to Lot 2 DP 29604 and Lot 1 DP 319195, previously part of Lot 1 DP 303836 (the land):

Subdivision:

Rule 5.2.5 of the District Plan relating to subdivision as a Controlled Activity does not apply. All subdivision which is not a Permitted Activity is a Discretionary Activity (Unrestricted).

Rules 5.4.5 and **17.3.4** of the District Plan relating to subdivision as a Discretionary Activity (Unrestricted) include the following additional standards and terms and assessment criteria:

Additional Standards and Terms

- € The maximum number of household units on the land shall be 44.

Additional Assessment Criteria

- € The extent to which the proposed earthworks and subdivision design avoids effects on existing landforms and gullies that sustain first order streams (those streams at the top end of a catchment) and natural stormwater flow.
- € The extent to which houses, roads, paved surfaces and residential activities will affect the flow and water quality of the Silver Stream and the wider Kaiwharawhara Stream system. Consideration will be given to how these effects can be practicably mitigated to slow the runoff of stormwater and reduce the quantities of sediment and other pollutants entering the stream system.

It is expected that design solutions will include detention devices that are designed to minimise peak stormwater runoff to levels similar to those of the non-developed state of the land, for a two year design storm of two hour duration. The solutions will also incorporate some form of pre-treatment basin(s) or pond(s) that assists in reducing potential pollutants in the runoff from all the residential part of the development.

- € The extent to which construction of buildings will impact on the visual character of the ridgeline. The intention is to minimise impact on the visual character of the ridgeline. Council will seek to have building sites identified on any allotment that is above the 200m contour.
- € The extent to which the subdivision proposal reflects the layout of the map and the use of the different areas intended under the plan change. It is anticipated that houses and other buildings will be restricted to Area 'A', and that only 44 household units will be constructed on the land. It is also anticipated that Area 'C', will be restricted to the protection of existing indigenous vegetation and the regeneration of native forest. Council will impose appropriate conditions on any subdivision consent to ensure these restrictions through either consent notices under s221 of the Act or a restrictive covenant (a Queen Elizabeth II Trust covenant or similar), or both. These restrictions will be registered against the title of each allotment and will run with the land and bind all subsequent owners.
- € The extent to which any earthworks and structures that are necessary for subdivision development in Area 'A', undertaken prior to the registration of new titles, (for example, batters, retaining walls and services), will affect the existing indigenous vegetation in Areas 'B' and 'C' and the potential of this area to regenerate into native forest. The intention is to minimise impact on Areas 'B' and 'C'.
- € The detail of planting proposed for Area 'B'. It is expected that the private landowner will restore the part of the native forest remnant that was cleared prior to the district plan change process. The planting proposal must be consistent with the recommendations of the Ecological Assessment, prepared by Ecological Research Associates of New Zealand, notified as a component of the Plan Change.