

# WELLINGTON CITY DISTRICT PLAN

## *PROPOSED DISTRICT PLAN CHANGE 26*

### **RATIONALISATION OF ZONE BOUNDARIES, TAYLOR PRESTON AREA, NGAURANGA GORGE, WELLINGTON.**

#### **HEARING HELD ON 13 JULY 2004.**

Helen Tobin and David Watt, Hearing Commissioners, under delegated authority pursuant to section 34 of the Resource Management Act 1991.

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#### **RECOMMENDATIONS**

As Hearing Commissioners with delegated authority to hear submissions and recommend a decision on proposed Plan Change 26, pursuant to clause 10 of Part 1 of the First Schedule to the Resource Management Act 1991, and amendments thereto, we gave careful consideration to all the issues and points made by the submitters and Council officers and consultants to Council, and we recommend that:

- 1. Council receives this report.*
- 2. Proposed Change 26 to the Wellington City District Plan be approved as notified.*
- 3. Council accepts or rejects all submissions and further submissions to the extent that they accord with the above recommendation.*

#### **BACKGROUND**

Proposed Plan Change 26 to the Wellington City District Plan was publicly notified on 1<sup>st</sup> November 2003. The purpose of the Plan Change is to effect a rationalization of the boundaries between Open Space B and Suburban Centre areas in the vicinity of the existing Kiwi Point Quarry and the land occupied by buildings and unused open space adjacent to the existing Taylor Preston meat plant and operation. The proposed rezonings are shown on the Plan attached as Appendix 1.

The statement of Background Information accompanying the Plan Change explained it as follows:

*“This change will provide protection from future development of part of the steeply-sloping land west of Kiwi Point Quarry by incorporating it in Open Space B. The relocated boundary will incorporate all of the Taylor Preston development area, including all existing buildings (which are currently bisected by the boundary between Open Space B and Suburban Centre) within the Suburban Centre area, along with a small adjacent area of flat, currently underutilised land.*

*The total area of land affected by this change is approximately 3 hectares, with approximately 1.5 hectares of former Suburban Centre land being transferred to*

*Open Space B and approximately 1.5 hectares of former Open Space B land being transferred to Suburban Centre.”*

## **STATUTORY CONSIDERATIONS**

The purpose of the Resource Management Act, 1991 (RMA) is to promote the sustainable management of natural and physical resources. In particular, in terms of Part II of the Act, the Council has responsibilities under section 7 of the Act, which requires that it must have particular regard to:

- b) the efficient use and development of natural and physical resources*
- c) the maintenance and enhancement of amenity values*
- f) maintenance and enhancement of the quality of the environment*

We comment on these criteria later. We do not consider that any matters arising from Plan Change 26 are of concern with regard to the provisions of either section 6 of the RMA, Matters of National Importance or section 8, Treaty of Waitangi. Hence we do not consider these sections further.

Also, in respect of section 32, there is a ‘duty to consider alternatives, assess benefits and costs’ etc. The Reporting officer for Council prepared a section 32 assessment prior to the notification of the proposed and we comment on this in a later part of this report.

## **SUBMISSIONS**

Four submissions and no further submissions were received on this proposed Plan Change. Submissions were received from:

1. Naomi Lane
2. Penny Deans and Andrew Gawith
3. Neil Washbourn Pharazyn
4. Horokiwi Quarries Ltd

The submission lodged by **Horokiwi Quarries Ltd** was identical to their submission to the parallel Plan Change 25. Mr Ross Baker spoke on behalf of Horokiwi Quarries at the hearing of that Plan Change and subsequently waived his right to speak again with regard to Plan Change 26. The main concerns of Horokiwi Quarries Ltd related to the proposed expansion of the existing Kiwi Point Quarry, the provision of which was the subject of Plan Change 25, and purported inaccuracies in the information provided to support this activity.

The main concerns expressed by the other three submitters related to the activities of the Taylor Preston works and potential intensification of detrimental effects, especially odour, if the plant expands. All submitters owned property in the residential areas located above and generally to the west of the Taylor Preston site, although two of the submitters themselves live elsewhere in Wellington city.

**Naomi Lane**, owner of property at 59 Mandalay Avenue, considered that the change would allow Taylor Preston to expand in the gorge area in future and that this was inappropriate so close to residential areas. She asked that conditions should be imposed and a requirement made for further monitoring of the odour emissions and other effects on the environment.

**Penny Deans and Andrew Gawith**, 94 Burma Road, considered that the Council should better balance conflicting landuses, such as industrial/commercial next to residential. They believed that there is scope to place conditions on the change in the same manner as in Plan Change 25 for the quarry extension. They asked that the Council tie Taylor Preston to a course of action that will improve the Council's land in Ngauranga Gorge, or that the Council did not grant the 'rationalisation' of the zone boundaries.

**Neil Washbourn Pharazyn**, owner of property at 24 Gurkha Crescent, was concerned as to the information that had been available in relation to the Plan Change. He noted significant discrepancies between information given on the Council's website and information sent to residents by post, and that there appeared to have been more consultation on Plan Change 25, in relation to the Quarry Extension, than there has been on the re-zoning around the Taylor Preston plant. He considered that public consultation was highly important, especially if the change might lead to increased production at Taylor Preston resulting in more odour. He asked that the Council obtain a further report on the odour implications for residents from Plan Change 26, to re-advertise the change with the report included as background information and that it be brought to the attention of nearby Khandallah-Johnsonville residents.

## **THE HEARING**

The hearing for Proposed Plan Change 26 was heard on Tuesday 13<sup>th</sup> July 2004.

Sylvia Allan as reporting officer on behalf of the Council spoke to Plan Change and was supported by Philip Simpson, a resource management consultant with RDT Pacific, and Brian Bouzaid, Quarry and Landfill Manager for the Council, who spoke briefly and answered queries with regard to the provisions of the change. Mr. Gawith was the only submitter who appeared. He spoke on behalf of the submission made by himself and Penny Deans.

**Ms Allan** explained that the change was essentially about the rationalization of anomalous zone boundaries that existed in the Ngauranga Gorge area.

She said that there appeared to be no argument about the change with regard to the two areas of land, a small face to the east adjoining the northern face of the existing quarry which will be included in the Suburban Centre area, and larger steeper bush clad area generally above the Taylor Preston plant which would be transferred to Open Space B. Both areas are adjacent to the old 'Stock Route', former access into the area.

The third area, adjacent to the Taylor Preston plant, which is to be taken out of Open Space B and put into the Suburban Centre area, was originally quarry land. The existing zone boundary in this area is quite unrelated to ground uses. The Open Space B includes land where part of the existing Taylor Preston main building (and the area where a biofilter plant is presently under construction) is located and an unused area of flat land (which until a few years ago had industrial buildings on it).

Mr. Bouzaid confirmed that the Council is currently negotiating a lease of the currently unused area with Taylor Preston. Ms Allan noted that the boundary of the proposed re-zoning on the south had been drawn about 20 metres from the stream which runs behind the site. It was hoped this stream would be improved as part of the wider rehabilitation proposals for land in the Gorge area.

**Mr. Gawith** identified his property, 94 Burma Road, on the aerial photographs. It is adjacent to the area of Open Space B which contains the reservoir water tanks, and above the hillside to be now included in the Open Space B zone. He and Ms Deans overlook the Taylor Preston site and he said that from time to time they were bothered by the effects of the operations of the works. He said odour was the most offensive effect, but that there were other problems such as noise from night operations, including barking dogs.

Mr. Gawith said he was aware that the control of odour was a concern of the regional council and that Taylor Preston had consent from Greater Wellington to cover air emissions, also that works were underway to improve the current problem. Nevertheless the smell was an ongoing problem, and one that was hard to define as it varied with weather and other conditions. Anecdotally, he said complaints on some days extended to the central Johnsonville area. He asked that some control be retained over any further development on the flat area of land adjacent to the Taylor Preston site.

## **DISCUSSION OF ISSUES**

Issues that arose at the hearing were mainly to do with the potential of Plan Change to facilitate the further expansion of the Taylor Preston works by the rezoning, or inclusion within the Suburban Centre area, of the area of flat land adjacent to the plant. This is not a large area but it is apparent it would logically be used for an extension of the works site.

The Commissioners consider that the general purpose of the change, to rationalise zone boundaries in this area is sensible and overdue. Currently the boundary runs across the main part of the Taylor Preston buildings so that parts of these fall within the Open Space B area. This is anomalous and should be corrected. We also consider that the area of currently flat land which is of concern to the submitters is a potential industrial site whether it is developed by Taylor Preston, or by some other lessee.

The three submissions from residential property owners all represented properties which were located above the site, and in the case of Mr Gawith and Ms Deans directly overlook it. While these properties are reasonably well removed in terms of distance, such location makes them vulnerable to detrimental effects of activities in the industrial area. The submitters were opposed to any increase in industrial activity, in particular from Taylor Preston operations because of problems of odour already associated with the plant. However odour is not a matter that the Council can control or make a condition with regard to in terms of its District Plan.

Information provided to the Commissioners by Greater Wellington, subsequent to the hearing, is that the Taylor Preston consent for the discharge of contaminants to the atmosphere was granted in July 1996, and expires in 2016. At the end of 2003, consequent to an audit of the Taylor Preston operation made on behalf of Greater Wellington, the conditions of the consent were reviewed, and among other matters, it

was required that a biofilter be installed. This is presently under construction and its operation, together with other measures anticipated by the conditions, is expected to materially assist with the odour problems.

It was suggested in one submission that the Council might use the review of the lease to 'demand better environmental practices' from Taylor Preston. A lease is a contractual agreement between the parties and its provisions are outside of the district plan. We could make a recommendation along these lines but it would have no statutory power in terms of the district plan.

The Commissioners did consider the option of recommending the rezoning but also making any further development of the open area a controlled activity, and subject of further resource consent. This would require a new rule. However we concluded that in fact this is neither practical nor necessary. The Suburban Centre provisions of the District Plan are drawn up to provide for a number of industrial areas in suburban parts of the city, and are framed so that the industrial activities are then permitted without further consent. Performance standards imposed by the rules are set 'to avoid, remedy or mitigate the impact of development on Residential Areas', and cover effects such as noise, dust, lighting, radiation, and screening. It would be anomalous to make an exception of a very small area of land which is effectively part of a larger already existing industrial complex, and is already partly developed.

The Commissioners appreciate the concerns of the submitters, however they do not consider that this is a situation where additional control in terms of the plan change is either justified or would be effective. Development in the area is very likely to be expansion of an existing use, and will be controlled by Suburban Centre rules for a permitted activity. We consider this is appropriate. Also, in view of the information obtained from Greater Wellington as to the Taylor Preston discharge consent, we are confident that problems of odour from the plant will be improved by the enforcement of the reviewed conditions.

There was less concern over other parts of change. The submitters expressed no concern about the smaller area of hill face at the top and east of the Stock Route to be changed from Open Space to Suburban Centre. This land is contiguous with part of the northern face of the existing Kiwi Point Quarry and should be considered under the same provisions.

Several submitters supported the part of the Plan Change which relates to the area of steep bush clad face, generally above and to the north west of the Taylor Preston plant, and lying on both sides of the former Stock Route, which will transfer from Suburban Centre into Open Space B. It is anticipated that this land will be rehabilitated and incorporated into Council plans for 'Green Belt' development of the steep land in the Ngauranga Gorge area. Mr Gawith and Ms Deans noted that the preservation of this patch of regenerating bush would be a useful start to the quarry's stated plan of re-vegetating the gorge. It would also give some hope for the cleaning up at least a small part of the Ngauranga Stream.

Finally, we note that submitters were concerned about a perceived lack of consultation about Plan Change 26. It is our opinion, based on information given at the hearing and the documents provided to us, that the consultation process was appropriate to the nature of the change. We do not consider it is valid to compare the process with that

of Plan Change 25. Although the areas of land of each Plan Change are in the same general vicinity, they relate to different matters, with different potential effects.

## SECTION 32

Section 32 of the RMA requires that the Council, before adopting a plan change to its District Plan, shall have regard to:

- ▶ Its *necessity* in achieving the purpose of the Act;
- ▶ *Other means* that may be used to achieve the purpose of the Act, including taking no action;
- ▶ The likely *costs and benefits* of the change compared with the principal alternative means, including the effectiveness, and implementation and compliance costs.

The Proposed Plan Change 26 will rationalise the zone boundaries in the vicinity of the Taylor Preston site and Kiwi Point Quarry, Ngauranga Gorge. The desirability of this came to light during a review of the land areas affected by Kiwi Point Quarry and leasing arrangements with Taylor Preston.

A report was prepared by the reporting officer for Council in accordance with section 32 prior to the notification of Proposed Plan Change 26. The Commissioners have reviewed this analysis.

We are satisfied that the Plan Change is necessary in achieving the purpose of the Act, and is the most appropriate means of exercising its function having regard to its efficiency and effectiveness relative to other means. We generally accept the reasons set out in Officers report, as follows:

- The change will enable use and development of an area of flat land by as adjacent expanding industry in accordance with Plan Objectives.
- We consider that this land is suitable for such use. It will also protect a steeply sloping hillside, part of the land that contains one of the city's reservoir tanks from inappropriate development and encourage regenerating bush on this land.
- There are no costs associated with the change.
- The benefits are to allow for the rationalisation and minor expansion of existing industrial activity, and protection of a steep hillside from development.
- The revised zone boundary is effectively a 'land swap' between one area and another. The present zoning of these areas of land is inappropriate and does not recognise either existing land use or contour. Rationalisation of the zoning will allow for better use and development.

Effectively, the only option in this case was to 'do nothing', which we do not recommend.

## **PART II**

With regard to Part II of the Act, the Commissioners consider that the rezoning of these pieces of land will lead to the more efficient use and development of the natural and physical resources represented by the several areas of land involved. This will also maintain and enhance amenity values, and the quality of the environment, especially of the area in the vicinity of the Taylor Preston works and Kiwi Point Quarry will be enhanced by the more rational utilisation of this land.

## **CONCLUSION**

The main reason for proposing Plan change 26, the rationalisation of zone boundaries in the vicinity of the Taylor Preston Ltd operation in the Ngauranga Gorge area, is to adjust these boundaries to more accurately match existing land uses on the ground.

The area of land affected is some 3ha and comprises firstly, the transfer of some 1.5ha of steeper land adjacent to the old Stock Route, now in regenerating bush, from Suburban Centre to Open Space B. Secondly, some 1.5ha of Open Space B land will be changed to Suburban Centre. This land is in two pieces, a small area of hillside which is contiguous with the existing north face of the Kiwi Point quarry, and a larger area adjoining and generally south of the Taylor Preston plant. Taylor Preston buildings already cover part of this area.

The Commissioners support the general purpose of the change, to rationalise boundaries in this area and recommend that Plan Change 26 be adopted as notified.

Helen Tobin  
Chairman and Hearing Commissioner.

David Watt  
Hearing Commissioner.

## **APPENDIX 1 – Plan of Changes to Planning Maps 22 and 23.**

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**Planning Maps (Maps 22 and 23)**

*Rezone the areas shown on the attached plan from Open Space B to Suburban Centre; and from Suburban Centre to Open Space B.*

