

SECTION 32 REPORT - PROPOSED PLAN CHANGE 29 LADBROOKE DRIVE, NEWLANDS

1. Introduction

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. Under section 32(3) the assessment must examine:

- (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act: and*
- (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

This proposed plan change would rezone an site an area of Council owned land in Ladbrooke Drive, Newlands from Conservation Site to Outer Residential. The site would be subject to the objectives, policies, rules and methods associated with the Outer Residential Area. Under the current District Plan rules the Conservation Site zoning permits only a limited range of activities consistent with the conservation of native ecosystems. Proposals to build residential units on the land or use of the site for community marae activities would require resource consent for a non-complying activity. Any such resource consent for the site would be generally inconsistent with the objectives and polices for Conservation Sites and would need to prove that the site lacks significant conservation value.

The proposed plan change is based on the premise that the site in Ladbrooke Drive does not have such strong ecological and environmental values as to warrant Conservation Area zoning. The Conservation Area zoning is considered inappropriate and significantly inhibits the ability to sustainably manage the site. To better provide for the efficient use and development of the natural and physical resources of the site, the plan change proposes to rezone the land to Outer Residential.

The Outer Residential zone would provide a policy rule framework better able to manage the effects of developing the site into the future. With specific reference to the community marae, the Outer Residential zone would provide for future marae developments. Residential uses for the site would be a permitted activity, Three or more residential units would need to comply with the Council's Multi-Unit Design Guide. Marae uses and buildings would require resource consent. The objectives, policies and rules anticipate community buildings and activities as a normal use of residential land provide they can demonstrate that they will have no significant impact on the residential amenity of neighbouring properties. A community marae also has existing parallels in community centres, churches and schools.

2. Process & Consultation

Consultation, in accordance with the First Schedule of the RMA 1991

€ Ministry for the Environment

- € Ministry of Conservation
- € Greater Wellington Regional Council
- € Wellington Tenth Trust
- € Te Runanga O Toa Rangatira Inc

In addition the Council has consulted with the following:

- € Newlands Paparangi Progressive Association
- € Residents on Ladbroke Drive

3. Appropriateness of Objectives

Resource Management Act

The purpose of the Resource Management Act 1991 (the Act) is to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use and development of natural and physical resources to enable people to provide for their, social, economic, and cultural wellbeing and for their health and safety.

Section 5 of the Act states:

5. Purpose – (1) The purpose of this Act is to promote the use of sustainable management of natural and physical resources.
 (2) In this Act, ‘sustainable management’ means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety...

In relation to the proposed Plan Change, section 7 of the Act requires Council to have particular regard to sections 7(b), 7(c) and 7(f):

Section 7(b) states:

The efficient use and development of natural and physical resources:

Section 7 (c) states:

The maintenance and enhancement of amenity values:

Section 7 (f) states:

Maintenance and enhancement of the quality of the environment:

Wellington City District Plan – Conservation Sites

Chapter 18 of the District Plan sets the objectives and policies for Conservation Sites. The introduction to the chapter provides details as to the assessment criteria used to define Conservation Sites in the District Plan. The introductory chapter states:

18.1.1 Ecological Significance

Ecological significance is defined as those attributes that make a certain site or area ecologically important, or of consequence, to the Wellington district. It follows that if an area is nationally or regionally important, it will also be of significance to the district. A site may be ecologically important in its own right, or for its potential to facilitate the development, protection or linkage of identified high ecological values. The selection of significant sites is guided by the criteria outlined below. Where criteria can be combined (for example, one large site combining the ecosystems rather than small sites), the overall level of "significance" will be greater.

Rarity

- The area contains or is regularly used by nationally or regionally threatened species or the sole population of a species (including seral or exotic vegetation).
- The area contains ecosystem types or habitats that are rare or threatened.

Diversity

- The area contains a high degree of diversity (of ecosystem features).

Distinctiveness

- Modification by human impact or human-introduced agents is low.
- The area contains an uninterrupted ecological sequence or gradient (for example, from coast to inland range top).
- The area contains an indigenous ecosystem that is typical of a region's ecology but that is under-represented in protected land status (nationally or regionally).

Continuity and linkage

- The area is contiguous with, or in close proximity to, other protected areas.
- The area has an important role in providing links between natural areas.
- The area has the potential to act as a buffer zone to a protected area, or to have a buffer zone added.

National and regional importance

- The area is identified as being of national or regional importance in established conservation data bases (for example, Protected Natural Area surveys, Regional Policy Statement, Conservation Resource Inventory and Sites of Special Wildlife Interest) or in the Conservation Management Strategy.

Size

- Larger-sized sites are normally more likely to be viable in the long term and to have greater ecosystem or habitat diversity.

Viability

- The area has the potential to be ecologically sustainable if human impact is minimised (a combination of Size, Diversity and Distinctiveness).
- Modification is easily redressed by natural processes.

Other

- The area has formal access.
- The area provides access to other protected areas.
- Protection is likely to offer further conservation benefits, for example, raised public awareness.
- The area is capable of, or is, being physically protected.
- Pest species in the area can be controlled.
- The area has the potential for species, habitat or ecosystem restoration.

With regards to the proposed Plan Change the following objectives and policies of Chapter 18 are particularly relevant:

18.2 Conservation Site Objectives and Policies

OBJECTIVE

18.2.1 To maintain and enhance indigenous and part indigenous habitats and ecosystems, especially those classified as Conservation Sites, by protecting them from modification and loss.

POLICIES

To achieve this objective, Council will:

18.2.1.1 Raise the awareness of the ecological features of Wellington's natural environment by defining ecologically valuable sites on public and private land as Conservation Sites.

18.2.1.2 Work to address conservation aims by progressively addressing privately and publicly owned Conservation Sites through a Conservation Strategy.

18.2.1.3 Control the effects of uses and activities that could modify or disrupt the ecosystems of Conservation Sites or adversely affect adjoining areas or the amenity values of Conservation Sites, by requiring any such use or activity to obtain a resource consent.

18.2.1.4 Recognise the value of public access to and recreational use of publicly owned Conservation Sites provided that such use does not significantly damage or disrupt the Site's ecosystems.

METHODS

- Rules
- Operational activities (conservation strategy, reserve management plans)
- Advocacy

Around Wellington there are many areas, important for conservation purposes that need to be secured for their present or future value. Rules have therefore been included in the Plan to protect ecological values. There may be circumstances where it is inappropriate for Council to restrict the use of private land. Through a Conservation Strategy that offers incentives of

varying types, on a case-by-case basis, it is envisaged that ecological values will be progressively conserved and will become assets rather than liabilities for landowners. As well as identification as a Conservation Site in the District Plan, areas of public land can be further protected by legislation such as the Conservation Act 1987 and the Reserves Act 1977. Rules to restrict activities that impact on Conservation Sites, both externally and internally, are designed to maintain the natural values associated with the sites by protecting them from destruction or damage.

Wellington City District Plan – Residential Areas

Chapter 4 of the District Plan sets the objectives and policies for the use and development of Wellington’s residential areas. With regards to the proposed Plan Change the following objectives and policies are particularly relevant:

OBJECTIVE

4.2.2 To maintain and enhance the amenity values of Residential Areas

POLICIES

To achieve this objective, Council will:

4.2.2.2 Control the establishment and effects of non-residential activities in Residential Areas.

METHOD

- Rules

From the earliest days of urban settlement, a wide variety of non-residential activities has been established in suburban residential neighbourhoods. These activities provide needed services, facilities or work opportunities for local residents. In some cases, the uses serve wider city or regional populations.

These activities are generally located in buildings designed for the purpose - many of them former shops for which retail uses are no longer viable. These isolated non-residential activities and small groups of shops have not been identified on the District Plan Maps but are included in the general Residential Areas as the difficulties of administering many small special zones, as well as the complexities of the restrictions that past controls have imposed, are not justified for the small benefits they bring.

Because non-residential activities can impact adversely on the amenities of Residential Areas, control over these has been maintained in the District Plan.

Nevertheless, Council supports work from home and the establishment of other non-residential activities, provided that they are appropriately located and are compatible with existing Residential Areas in scale, intensity and design of buildings. Working from home is a Permitted Activity subject to conditions to maintain residential amenities. All other non-residential activities are Controlled or Discretionary Activities and are to be carefully assessed against defined criteria to ensure that they are compatible with the character of the residential area. However, more stringent controls have been maintained around the Central City area where there is pressure for Central Area activities to establish in adjacent residential neighbourhoods. The

limitations on non-residential activities in these areas will assist in protecting existing amenities.

The environmental result will be that Residential Areas are maintained primarily for residential purposes, but a mix of activities will be allowed to a level that will not detract from amenity values.

OBJECTIVE

4.2.11 To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Maori.

Maori concepts present a different view for the management of the City's natural and physical resources. In particular, kaitiakitanga is a specific concept of resource management. By acknowledging ancestral relationships with the land and natural world, a basis can be constructed for addressing modern forms of cultural activities.

POLICIES

To achieve this objective, Council will:

4.2.11.2 Provide the opportunity for establishing marae, papakainga/ group housing, kohanga reo/language nests and similar activities in Residential Areas that relate to the needs and wishes of tangata whenua and other Maori, provided that the physical and environmental conditions specified in the plan are met.

METHOD

- Rules

General provision has been made for non-residential activities in Residential Areas as Controlled or Discretionary Activities. This will enable tangata whenua and other Maori to undertake uses that are appropriate in Residential Areas

- 5.4.1.4 Whether vehicular traffic generated by any activity can be accommodated without a loss of safety or residential amenity or without causing congestion. On-site vehicle parking will be assessed with regard to the number of people employed or occupying the site and the demands of visitors and customers. Reasonable parking should be provided on site.
- 5.4.1.5 Whether the design and appearance reflect the form and scale of residential buildings. Where appropriate, sites should be landscaped to a high standard, particularly on site boundaries. Existing vegetation on the site should be retained where possible.
- 5.4.1.6 Whether non-residential activities, particularly critical facilities proposed to be located in Residential Areas are sited in secure areas. It is important that the effects of natural disasters on the environment and such facilities are avoided, remedied or mitigated.
- 5.4.1.7 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

Most suburban neighbourhoods in the City are not uniformly residential, but contain a wide range of non-residential activities. Many of these activities provide community, recreational or commercial/business services for residents. Council believes that residents should continue to have access to such services and facilities close to home.

Allowing more mixed activity in Residential Areas also helps to promote Council's aim of achieving a more sustainable city. A range of services and facilities in Residential Areas offers the benefits of convenience and improved access without the need for increased commuting.

Council aims to ensure that any non-residential activity is in keeping with its surroundings. It is important to protect residential amenities. For this reason non-residential activities have been included as a Discretionary Activity (Unrestricted). This enables the full effects of a proposal to be evaluated and where necessary, protective measures to be sought.

In relation to the proposed Plan Change it is considered that the Conservation site zoning for 30 Ladbrooke Drive, Newlands is inappropriate given that the site does not possess ecologically significant or natural heritage values – such as wildlife, native bush remnants, wetlands, coastal flax communities or herb fields.

Summary

It is not proposed to change any of the objectives or establish any additional rules for the District Plan under this plan change. The current objectives for the Conservation and Outer Residential Area remain relevant and are considered the most appropriate means of achieving the purpose of the Act in relation to the management of the effects of land use and development throughout the city.

The proposed rezoning of the site from Conservation Site to Outer Residential better recognises the characteristics of the site and would ensure that the activities carried out on the site are consistent with the surrounding environment. The use of the site as a community marae is analogous to similar areas in within the zone which provides for community centres, churches and schools.

The site would be subject to the objectives, policies, rules and methods associated with the Outer Residential Area. These objectives would be an appropriate way of achieving the purpose and principles of the Act.

4. Appropriateness of Policies, Rules and Other Methods

Analysis

The following table assesses the benefits and costs of the four options considered as part of the investigation into 30 Ladbrooke Drive, Newlands. The analysis includes an assessment as to the effectiveness and appropriateness of each option relating to the proposed plan change.

Table 1: Options for the District Plan Change - 30 Ladbroke Drive, Newlands

OPTION	EVALUATION
<p>Option 1.1</p> <p>Do Nothing</p>	<p>This option is not recommended. This option would retain the Conservation Site zoning. The Conservation Site zoning permits only a limited range of activities consistent with the conservation of native ecosystems. Future proposals to build on the land or use it for marae activities would require resource consent for a non-complying activity. Any resource consent for the site would be inconsistent with the objectives and policies for Conservation Sites.</p> <p>Benefits</p> <ul style="list-style-type: none"> § Restricts the nature of activities on the site § Existing character of the site is retained. <p>Costs</p> <ul style="list-style-type: none"> § The site does not have the ecological / environmental values associated with Conservation Areas. The area has also been subject to large scale earthworks and is currently in pasture. The current zoning is inconsistent with Councils obligations to promote the efficient use of resources as required under Section 7(b) of the Act as any future development of the site would be required to be assessed against the requirements and provisions of the Conservation Area § The Nga Hau E Wha O Paparangi Society (the “Society”) has an existing resource consent that allows it to develop the site as a community marae, despite the Conservation Site zoning. However, there is no potential to further renew the consent at the end of 2005. § After the consent expires or if the Society changes its plans, beyond the scope of the existing consent, it will need to apply for fresh resource consent. This may need to be publicly notified and the consent may be unsuccessful given the restrictive objectives and policies of the Conservation Site zone. § The granting of the previous resource consent indicates that the use of the land for non-conservation purposes is appropriate. Retaining the existing zoning would therefore inhibit the sustainable development of the site.
<p>Option 1.2</p> <p>Change the zoning from Conservation Site to Outer Residential – no additional rules</p>	<p>This is the recommended option. This option consists of changing the zoning from Conservation Site to Outer Residential.</p> <p>Benefits</p> <ul style="list-style-type: none"> § This option recognises that the site is appropriate for Outer Residential use. § The Outer Residential provisions have already been subject to public consultation and scrutiny via the District Plan Change process. § This option provides for the existing activities currently

	<p>being undertaken on the site by the Society while ensuring that any further developments on the site are controlled through the resource consent process as per the rules of the District Plan.</p> <ul style="list-style-type: none"> § Size, location and the current use of the site is better suited to Outer Residential, rather than alternative zonings such as Rural or Open Space. § The current use of the community marae buildings has existing parallels with the use of community centres, churches and schools. These activities are anticipated by and consistent with the objectives, policies and rules of the Outer Residential zoning proposed for the site. § The site is currently connected to reticulated services so the proposed residential zoning will not create additional costs for Council. § Retention of existing Outer Residential Area objectives, policies, rules and methods avoids adding further complexity to the District Plan and provides certainty to other properties in the area. <p>Costs</p> <ul style="list-style-type: none"> § The Society will require resource consent for many of its activities. These may need to be publicly notified.
<p>Option 1.3 Change the zoning from Conservation Site to Outer Residential – and include additional rules for the site</p>	<p>This option is not recommended. This option consists of changing the zoning of the area to Outer Residential and special rules would be written for the site to facilitate for community marae activities.</p> <p>Benefits</p> <ul style="list-style-type: none"> § This option would make it easier to use the property as a community marae. In addition, this option would require the society to adhere to restrictions on development and use, for example conditions for parking and a design guide for buildings and landscaping. ∅ Specific rules would give the Society greater flexibility in the way it develops and uses the site in the future. It would not be bound to the original proposal that it has resource consent for. ∅ New initiatives may be provided for as a permitted activity or by way of a resource consent without the need for limited or public notification. <p>Costs</p> <ul style="list-style-type: none"> ∅ Adding site specific rules would increase the complexity of the District Plan. ∅ The district plan change would be time consuming to prepare and may face greater opposition. ∅ There is nothing unique on this site that supports allowing non-residential activities.

	<p>€ Adjoining land owners would not have the opportunity to comment on future activities.</p>
<p>Option 1.4 Introduce a special “Marae Zone” for the site</p>	<p>This option is not recommended. This option consists of the creation of a special new zone which would recognise and facilitate the development of the site as a community marae</p> <p>Benefits</p> <ul style="list-style-type: none"> § Specific zoning would give the Society greater certainty and flexibility in the way it develops and uses the site in the future. It would not be bound to the original proposal that it has resource consent for. § Specific zoning to facilitate a marae may be considered as taking into account the principals of the Treaty of Waitangi (Section 8 of the Act). Further work may be required to develop and test this argument further. § New initiatives could be provided for as a permitted activity or by way of a resource consent without the need for limited or public notification. <p>Costs</p> <ul style="list-style-type: none"> § Adding a special zone would further increase the complexity of the District Plan. § A district plan change of this type would be the most time consuming and complex to prepare with little in the way of practical benefits. § Effectively creates an activity based zone which is inconsistent with the effects based planning approach adapted in the District Plan. § A special zone may create a demand for further plan changes for marae, or other community activities in other parts of the city. § No unique attributes on this site that supports allowing non-residential activities as a right. § Adjoining land owners would not have the opportunity to comment on future activities.

Summary

The rezoning of the site at 30 Ladbrooke Drive from Conservation Site to Outer Residential is considered to be the most appropriate method by which to achieve the sustainable management of the site. As the site does not generally have the ecological attributes to warrant a Conservation site zoning, its removal from the zone would not be inconsistent with the objectives of the District Plan.

The proposed Outer Residential Zoning for the site is considered appropriate given the size, character and location of the site in relation to other Outer Residentially

zoned land. The proposed zoning would provide appropriate objectives and policies with which to consider marae uses of the land. The zone would treat the community marae in the same way as other community activities, such as churches and schools that are typically located in residential areas.

Under the Proposed Plan Change the Society would need resource consent for the non-residential component of its proposed development once its existing consent expires in 2 years time or before that if it wants to make significant changes to its proposal. Depending on the proposal it may need to be publicly notified. Any such application would be assessed against the criteria set out in Rule 5.4.1 (non-residential activities) and the provisions of the Act.

5. Recommended Proposed Private Plan Change

It is recommended that Council notify the following District Plan Change No 29.

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