

Decision Report of Hearings and Regulatory Committee

26 June 2013

Councillors
WANGANUI DISTRICT COUNCIL

Subject: Plan Change 23 – Rural Lifestyle Zone
Meeting Date: 6th, 7th, 15th and 16th May 2013

1.0 INTRODUCTION

- 1.1 The Resource Management Act 1991 (RMA) requires each part of the District Plan to be reviewed not later than 10 years after the Plan becomes operative. The Plan was made operative on 27 February 2004. In accordance with Section 73(3) of the RMA, Council is presently reviewing the District Plan in Phases. This Plan Change is part of a series of changes proposed as part of Phase 2.
- 1.2 This report records the public notification and hearing process in relation to Plan Change 23. It records the Hearings and Regulatory Committee decision made pursuant to its delegated authority to hear and determine all District Plan Changes except for those delegated to an Independent Commissioner.

2.0 PROCEDURAL MATTERS

- 2.1 The Hearing was convened to hear submissions on 6th, 7th, 15th and 16th May 2013. The Committee then closed the meeting at 12.30pm on 16th May, and deliberated on relevant submissions on 14th June 2013.
- 2.2 The Hearings Panel members were: Councillors Sue Westwood (Chair), Hamish McDouall, Nicki Higgie, Jack Bullock, Rob Vinsen and Randhir Dahya.
- 2.3 Submitters who presented or tabled information to support or expand their submissions were:
 - William Simmons (Submitter 12 and Further Submitter 2, 3 and 4) (Mairi & Malcolm Lamb, Submission 13 in support)
 - Michael O’Sullivan, Kara Berube and Jamie O’Leary on behalf of Michael O’Sullivan, Steven Archer and Victoria Laughlin (Submitter 28 & 29)
 - Paul McKenna (Submitter 8)
 - Graeme Jackson, Keith Haitana and Steve Lacey on behalf of the Longbeach Residents (Submitters 1-5, 7, 28, Further Submitter 1)
 - G & S Young Family Trust and David and M Bennett (Submitter 16 & 17)
 - New Zealand Railways Corporation (KiwiRail) (Submitter 33)
 - New Zealand Association of Radio Transmitters (Inc) (Submitter 26)
 - Transpower NZ Ltd (Submitter 10)
 - Victor Sears (Submitter 14 & 15)
- 2.4 Plan Change 23 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 on 1st November 2012, with the period for submissions closing on 4th December 2012.
- 2.5 A total of 33 submissions were received. All submissions were summarised along with the decisions requested, and this document was publicly notified in accordance with Clause 7 of the First Schedule of the Act.
- 2.6 A late submission was received by Rachael Dey on behalf of Winchester Trust on Thursday 6 December 2012.

- 2.7 The further submission process closed on Wednesday 13 February 2013. Five further submissions were received..

3.0 SCOPE OF THE PROPOSED PLAN CHANGE

- 3.1 Plan Change 23 is the result of a review of the existing provisions for the Restricted Services Residential Zone.
- 3.2 Plan Change 23 proposes to change the name of the Restricted Services Residential Zone to Rural Lifestyle Zone and introduces a minimum lot size. The policy framework clearly articulates that the Rural Lifestyle Zone is for rural lifestyle living on self-serviced lots and development can occur at a scale which is compatible with this.
- 3.3 Several sites have been proposed to be re-zoned by Plan Change 23:
- 3.3.1 Properties at 9 and 21 Flemington Road (District Plan Map Urban 2) are currently zoned Reserves and Open Space but are no longer Council owned. Number 9 Flemington Road has a resource consent for a residential dwelling.
- 3.3.2 The Girl Guides site on Great North Rd (District Plan Map Urban 3) is proposed to be re-zoned Rural Lifestyle from Residential because the Council Infrastructure Group has concerns about the site flooding.
- 3.3.3 Golf Vue (District Plan Map Urban 12) has already been developed to residential density and has full services therefore it would be inappropriate that these lots had any rural activities undertaken on them. Thus the Residential Zone is more appropriate for this area.
- 3.3.4 Caversham Park (District Plan Map Urban 14) currently has two zones: Residential and Restricted Services Residential. The site is occupied by a serviced crossed-leased development at a residential density so a Rural Lifestyle Zone is inappropriate. It is proposed to re-zone this site Residential.
- 3.3.5 A request has been received by Council to consider rezoning 2 lots from Residential to Manufacturing. These lots are 16 Murray Street (PT Section 21 Right Bank Wanganui River) and 25 Kelvin St (PT Section 21 Right Bank Wanganui River) owned by Seales Winslow (District Plan Map Urban 4 & Urban 5). These lots have been used in a manufacturing/ industrial manner by Inghams Enterprises Pty Ltd for a at least the last 40 year and there is now a resource consent for Seales Winslow to undertake Manufacturing activity on site (RCLU12/0080). A subdivision (Sub12/035) has been lodged with Council to amalgamate the legal parcels which are part of the site. It is appropriate to align the zoning to the activity. It is proposed to re-zone these lots Manufacturing.

4.0 RELEVANT STATUTORY CONSIDERATIONS

4.1 RMA PART II CONSIDERATIONS

Sustainable management is defined in the RMA as meaning “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 well being and for their health and safety while –

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

- 4.2 In accordance with Section 5 of the RMA, Plan Change 23 has been developed with a focus on providing for the Community’s health and safety whilst avoiding or mitigating any adverse effects of activities on the environment, including people and property.
- 4.3 Objectives O32 and O33 of Plan Change 23 states:
- “O32 *New connections to urban water, wastewater and stormwater services are avoided.*”
- “O33 *Water, wastewater and stormwater services are contained onsite and sustainably managed to avoid any environmental effect beyond the site.*”
- 4.4 The purpose of Plan Change 23 is to update the District Plan objectives in relation to rural lifestyle living and the provision of infrastructure to this zone. The policies and methods have been reviewed to ensure that the purpose of the zone is clearly articulated.
- 4.5 Plan Change 23 confirms the intention of the Rural Lifestyle Zone. The potential impact of increased development on amenity and infrastructure services is addressed as well as Horizons One Plan been given effect to.
- 4.6 The changes to the District Plan text and maps are detailed in Appendix 2 and 3 of this Report.
- 4.7 Section 6 of the RMA requires all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, to recognise and provide for matters of national importance, including:
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *the protection of historic heritage from inappropriate subdivision, use and development.*
- 4.8 Plan Change 23 is considered to be consistent with Section 6 of the RMA as it introduces objectives, policies and rules that require future development and activities to prevent damage to heritage sites and buildings and natural and cultural heritage features, as follows:
- Policy P107 requires that:
- “*To achieve a Rural Lifestyle Zone with the following amenity characteristics:*
- g. *Protection of natural and cultural heritage features;*
- h. *Development fits within the natural landscape contour with minimal changes to landform.*”
- 4.9 Under Section 7 of the RMA, the Committee must also “have particular regard to” matters including:
- (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;*
- 4.10 Plan Change 23 outlines that there shall be no more extensions of services to the Rural Lifestyle Zone. This change is to curb ad-hoc development of a residential scale which puts pressure on Council infrastructure as a physical resource.
- 4.11 Plan Change 23 recommends a minimum lot size is introduced in order to mitigate the effects of onsite independent wastewater treatment systems on the

soil and groundwater and therefore provides for the efficient use and development of natural resources.

- 4.12 Plan Change 23 is considered to be consistent with Section 7 of the RMA as the Policies for the Rural Lifestyle Zone identifies those characteristics that contribute to the amenity of the area. The rules for the zones have been developed so as to ensure that future development and activities maintain these characteristics.
- 4.13 With regards to Section 8, no specific concerns relating to Treaty of Waitangi issues have been raised during consultation or through submissions on the Plan Change.

5.0 RELEVANT POLICY STATEMENT AND PLAN PROVISIONS

- 5.1 Section 75(3) and (4) of the RMA requires that a district plan must not be inconsistent with the regional policy statement or any regional plan. Horizons Regional Council's Operative Regional Policy Statement (RPS) and Proposed One Plan (POP) are considered to be relevant to this Plan Change in that they include requirements around the onsite, independent treatment of wastewater.
- 5.2 An assessment of how the provisions in Plan Change 23 compare with the Objectives and Policies of the Operative Regional Policy Statement and the Proposed One Plan are considered in Table 1 below.

Table 1

Operative Regional Policy Statement (RPS)		Proposed Plan Change 23
Objectives 5, 6, 13 & 30	Policy	Evaluation
Obj 5. To achieve sustainable land use.	Policy 5.1 All land in the Region shall be managed sustainably. In particular the adverse effects of land use activities resulting in a significant: <ul style="list-style-type: none"> a. loss of soil from subsidence, landslip or erosion; or b. loss of soil structure; or c. irreversible loss of the productive capability of Class I and II land; or d. degradation of water quality shall be avoided, remedied or mitigated. 	Objective O33 gives effect to RPS as it ensures that services are managed sustainably onsite.
Obj 6. To avoid, remedy or mitigate the adverse effects of urban development.	Policy 6.1 In providing for urban development the social, economic and environmental costs of development are to be considered by taking into account the following matters: <ul style="list-style-type: none"> c. the protection of intrinsic values, amenity values, heritage and cultural values, and the natural features and landscapes of the Region; e. the efficient use of resources, including energy, transport and utility infrastructure. 	Objective O32 gives effect to RPS because it controls the effect of ad-hoc development on the infrastructure network. Objective O34 avoids the effect of urban development on Rural Lifestyle amenity.
Obj 13. To maintain groundwater quality in the Region, and to improve groundwater quality where it is locally degraded.	Policy 13.1 To prevent discharges of contaminants to land or into the ground where these will have significant adverse effects on groundwater quality.	Objective O33 gives effect to RPS as it ensures that services are managed sustainably onsite.

	<p>Policy 13.2 To prevent discharges of contaminants to land or into the ground in circumstances where these may have adverse effects on groundwater used for domestic water supplies.</p> <p>Policy 13.3 To prevent disposal of hazardous waste to land or into the ground where it may contaminate groundwater.</p>	
Regional One Plan (As Amended by Decision August 2010) (POP)		Proposed Plan Change 23
Objective	Policy	Evaluation
Objective 7-3: Historic heritage [^] Protect historic heritage [^] from activities that would significantly reduce heritage qualities.	<p>Policy 7-10: Historic heritage[^] The Regional Coastal Plan[^] and district plans[^] must include provisions to protect historic heritage[^] of national significance, which may include places of special or outstanding heritage value registered as Category 1 historic places, wāhi tapu, and wāhi tapu areas under the Historic Places Act 1993.</p> <p>Policy 7-11: Historic heritage[^] identification (a) Territorial Authorities[^] must develop and maintain a schedule of known historic heritage[^] for their district to be included in their district plan[^].</p>	Policy P107 <i>g. Protection of natural and cultural heritage feature</i> gives effect to POP
Objective 6-2: <i>Water</i> [^] quality (b) Groundwater quality is managed to ensure that existing groundwater quality is maintained, or enhanced where it is degraded.		Objective O33 gives effect to RPS as it ensures that services are managed sustainably onsite and do not contribute to groundwater degradation.

6.0 SUMMARY OF SUBMISSIONS

6.1 Refer to Appendix 1 to this report for a summary of each submission in the Planners Report

7.0 PRINCIPAL ISSUES IN CONTENTION

The submitters identified the following concerns about the Plan Change:

7.1 Longbeach Drive Re-zone and Minimum Lot Size

- The 10 metre distance to boundary is too restrictive
- Lots in this area are already less than the proposed minimum lot size.
- This area should be re-zoned “Fringe Residential Zone”

7.2 Sandcroft Drive Re-zone

- Sandcroft Drive should be zoned Residential so that 12 dwellings can be connected to Council services.
- The infrastructure services can cater for an additional 12 dwellings.

7.3 Antenna Provisions

- A rule for pedestal mounted antenna is required so that the requirements of licensed amateur radio operators are not restricted.

7.4 Transpower Transmission Corridors

- Advice notes are required regarding compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances and Electrical Hazards from Trees Regulations.
- Provisions of transmission corridors are required.
- Transpower’s transmission lines need to be shown on the District Plan Maps.

7.5 LUX should be measured from the boundary

- Rural Lifestyle sites should not be lit up by neighbours’ external lights when the area has no street lights.

7.6 Power Co

- Provision for identification and health/safety signage for network utilities are required.

7.7 Rural to Rural Lifestyle re-zone

Land has been identified as prime land to be subdivided.

8.0 SUMMARY OF EVIDENCE HEARD

8.1 Key evidence presented by Submitters

8.1.1 Longbeach Drive Re-zone and Minimum Lot Size

- Mr Jackson, presenting on behalf of the informal Longbeach residents group, stated that the Longbeach Drive residents are content having onsite servicing and therefore Residential Zone is not appropriate for their circumstance. However, the proposed rules do not adequately provide for their situation and maybe a “Fringe Residential Zone” is required.
- The 5000m² minimum lot size disadvantages owners who want to subdivide.
- Lots in this area are already less than the proposed minimum lot size.
- The area has already been developed to a residential density and the 10 metre set back is too arduous to comply with due to the size and shape of the existing lots.
- The 10 metre set back will not allow property owners room to build due to the size and shape of the existing lots.

8.1.2 Sandcroft Drive Re-zone

- Mr Young and Mr Bennett presented photographs along with their statement and asserted that existing infrastructure does have capacity as proven by four visual inspections.
- The area currently has a range of section sizes and is effectively already developed to a residential density.
- A number of sections in this area are fully serviced without any adverse effect on the ability of the network to function.
- The minimum lot size proposed for the Rural Lifestyle Zone is illogical for the sites as they are fully serviced.

- The sites could easily accommodate more dwellings.
- Wanganui's population is declining slightly therefore it is difficult to believe that the sewage network is at capacity especially as Council has undertaken a stormwater separation project.
- The sandy soil of this area provides an excellent soakage environment for septic tank effluent.
- Stormwater neutrality could be achieved to enable further development as per the Springvale Catchment.
- Sandcroft Drive should be zoned Residential.

8.1.3 Antenna Provisions

- Mr Newman, on behalf of the New Zealand Association of Radio Transmitters, and Mr Simmons stated that a rule for pedestal mounted antenna is required.
- The wind effect on these dishes ensures that the height of the structure is limited and that the dishes are mesh.
- Mesh dishes reduce the visual impact on amenity.
- Tauranga City Council Environment Court decision was supplied to highlight the Environment Court decision pertaining to amenity effects of pedestal mounted dishes
- Photographs were shown by both submitters to indicate the effect on amenity.

8.1.4 Transpower Transmission Corridors

- Mr Hurley highlighted that the Plan Change does not give effect to the National Policy Statement on Electricity Transmission 2008 (NPSET).
- Policy 10 and 11 are of particular relevance to this plan change.
- Reliance on NZECP34:2001 is not sufficient to fulfil Council's obligations to give effect to the NPSET and additional controls are required in the District Plan.
- Transpower's approach to buffer corridor provisions were tabled by Mr Hurley.
- The existing 20 metre buffer provision in the District Plan is proposed to be deleted via Plan Change 27.

8.1.5 LUX

- Mr Simmons presented that it is reasonable to expect that the night time amenity of the Rural Lifestyle zone will not be affected by neighbours' light spill on to adjoining properties.
- Sites adjoin light sources should not be lit up by neighbours external lights when the area has no street lights.
- LUX levels are not solely a matter of household disturbance but also affect animals and the enjoyment of ones property in the evening.

8.1.6 Powerco

- Burton Consultants, on behalf of Powerco, tabled evidence. In this evidence Powerco disagreed with the planner's response that identification and/or health and safety signs for network utilities are provided for under the National Environmental Standard for Electricity Transmission Activities 2009.
- The submitter showed photographic examples of the types of sign they were referring to and reiterates their request to have them included within the plan change.

8.1.7 Rural to Rural Lifestyle re-zone

- Mr Sears highlighted that his land should be re-zoned for intensive urban development due to its proximity to the CBD.

- He does not want to have to apply for a resource consent to undertake the development of his property.
- A statement should be inserted into Plan Change 23 to reaffirm that an assessment of rural land has not been undertaken as part of this plan change.

8.2 Key evidence presented in the Officer's report:

8.2.1 Longbeach Drive Re-zone

- The minimum lot size is a requirement from Horizons One Plan to which council is giving effect. The Horizons One Plan is relevant because these lots are serviced by onsite treatment systems.
- The existing Height Recession Plane provision should be maintained for this area because it has already been developed to a residential density.

8.2.2 Sandcroft Drive Re-zone

- Re-zoning Sandcroft Drive to Residential so that all of the dwellings can be connected to Council services actually creates the potential for approximately 320 new residential lots, subject to the provision of roads, access ways and suitable building platforms, if the minimum lot size for 450m² is accepted in Plan Change 26. This will have a big impact on the network downstream of this proposed development and must be planned for in an appropriate manner.
- The Senior Wastewater Engineer commented that the wastewater and stormwater networks in the city are designed and sized to service the residential zones only. If any properties from Restricted Services Residential Zones connect to the networks, it will add flow to these systems that would not have been included in the original design capacity of the network. This means that the networks within the Residential Zone will run out of available capacity and will have to be upgraded. The problem with these upgrades is that it is paid for by the general rate payer and not the developers adding to the networks because Council doesn't know what the effect of the added flow will be on the network and hence cannot calculate what the development contribution from the developers should be.
- Although submissions 16 and 17 were presented as a stand-alone case with special circumstances, it is important to note that there are many developers in Restricted Services Residential Zone, on the fringes of the Residential Zone, all over Wanganui asking for the Council to allow them to connect to the wastewater and stormwater systems. If we allow one it is very difficult not to allow the others.
- The Council needs to know exactly what the impact of a new development will be on the stormwater and wastewater networks, upstream and downstream from the proposed development. In this way, Council can calculate the capital contributions needed to be in a position to upgrade those parts of the networks as and when required.
- The network that Sandcroft Drive will connect to is the largest gravity wastewater catchment in the city and available capacity of the network will have to be calculated all the way to the interceptor. This work has not been completed.
- The four visual inspections of the wastewater system are insufficient upon which to base engineering decisions. The only way of calculating the available capacity of the network in this large catchment is to use mathematical models with associated 24/7 flow measurements at critical positions on the network. The

Council is in the process of completing these models for all the catchments in the city, but does not have the data at present. The developers have been offered the opportunity to collect and submit the necessary data on behalf of the Council if they do not want to wait for the Council to complete the work.

8.2.3 Antenna Provisions

- The reporting officer concurred with the submitter and noted that the evidence supplied by the submitter was helpful in clarifying the scale of the proposed structure and the resultant visual impact effect.
- She considered that the provision proposed by the submitter was appropriate.

8.2.4 Transpower Transmission Corridors

- The reporting officer concurred with the submitter.
- Operative rule ‘Subdivision Standard f.’ provides a 20 metre buffer but it is proposed to be removed as per Plan Change 27.
- The reporting officer advised that consultation was considered adequate in relation to the proposed transmission corridor provisions because the change is not a great departure from the existing situation.

8.2.5 Where LUX is measured

- Evidence given by the submitter was compelling. The reporting officer concurred with the submitters views. She agreed that the site should not be lit up by neighbours’ external lights when the area has no street lights.

PowerCo

- The reporting officer supports the inclusion of a performance standard with amendments for identification and health/safety signage for network utilities.

8.2.6 Rural to Rural Lifestyle re-zone

- The reporting officer stands by the original comments in the Hearings Report.
- She notes that the resource consent process is a legitimate process for the submitter to use in order to carry out development on his site. Alternatively the submitter may want to lodge a private plan change with Council for assessment.
- The Senior Wastewater Engineer notes that there is a very small pump station that does not have capacity for additional loading.

9.0 **MAIN FINDINGS ON PRINCIPAL ISSUES**

As a result of submissions, the Committee supported the introduction of a minimum lot size and suspending extension of Council’s infrastructure services into the zone until Council’s data is reliable.

A late submission was received by Rachael Dey on behalf of Winchester Trust. The Committee determined that there were no natural justice issues raised by allowing the late submission.

9.1 The name of the zone

- The title of the zone was identified as an issue of contention. Members of the Committee believed that the area that the zone covers is not of a “rural lifestyle” nature and the title should reflect this.
- It was agreed that the appropriate zone title is “Rural B”. This allows the main Rural Zone to be re-named “Rural A” in the appropriate plan change.

9.2 Longbeach Drive Re-zone and Minimum Lot Size

- The Committee supported the submitter’s views with regards to the distance to

boundary provision and noted that the reporting officer also supported an amendment to reduce the distance by applying the recession plan.

- The Committee noted that it had no option but to give effect to the Horizons One Plan as per the Resource Management Act 1991 with regards to the minimum lot size thus the 5000m² minimum must be retained.

9.3 Sandcroft Drive Re-zone

- The Committee recognises Mr Young’s experience and credentials regarding this issue.
- The Committee recognises that the data Council holds on the wastewater and stormwater systems is insufficient to make a determination on whether it is appropriate to zone this land Residential.
- It is not appropriate for Council to zone the land Residential without the data required to make an informed decision to limit risk.
- The Committee determined to include a review clause in the decision to indicate that when Council has the appropriate data, an analysis of the Districts zoning will be undertaken to determine areas which are appropriate to zone Residential.
- If the submitters wish to pursue a re-zoning of this area prior to Council, they are welcome to apply for a private plan change.

9.4 Antenna Provisions

- The Committee accepted the submissions by Mr Newman and Mr Simmons and noted that the reporting officer also supported the submissions.

9.5 Transpower

- The Committee noted that significant evidence provided by Transpower was compelling. It was accepted that the proposed 20 metre buffer could be implemented as requested because a similar buffer has existed in the Plan for many years in this zone.

9.5.1 Where LUX is measured

- The Committee accepted the submissions by Mr Simmons and noted that the reporting officer also supported the submissions.

9.5.2 PowerCo

- The Committee agree that the identification and health/safety signage for network utilities is appropriate and should be included in the Plan Change as a permitted activity.

9.5.3 Rural to Rural Lifestyle re-zone

- The Committee confirms that the Rural Zone has not been assessed as part of this plan change. They note that land zoned Rural is currently being reviewed to determine whether it has the correct zone classification.

10.0 **SECTION 32 REPORT EVALUATION**

The section 32 report has not required amendments. Refer to Appendix 4.

11.0 **STATEMENT OF DECISIONS AND REASONS**

Refer to Appendix 1 to this report for the Council’s decision and reasons relating to each submission.

12.0 **APPENDICES**

1. **Decisions on Submissions and Reasons for Decisions**
2. **Marked Up Version of Plan Change 23 following Decisions on Submissions**
3. **Planning Maps Affected by Decisions on Submissions**
4. **Section 32 Evaluation**

Signature of Chairman

Councillor Sue Westwood
