

Decisions of Hearings and Regulatory Committee

Date: 18 July 2013

Councillors  
WANGANUI DISTRICT COUNCIL

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**Subject:** Plan Change 26 – Residential

**Meeting Date:** 6<sup>th</sup>, 7<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> May 2013

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## **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 Operative Plan was made operative on 27 February 2004. In accordance with Section 73(3) of the RMA, the Wanganui District Council is undertaking a review of the District Plan in 7 phases, with Plan Change 26 as part of Phase 2 - Residential.
- 1.2 The report records the public notification and hearing process in relation to Plan Change 26. It records the Committee's recommended decisions made pursuant to its delegated authority to hear and determine all District Plan Changes except for those delegated to independent commissioners.

## **2.0 PROCEDURAL MATTERS**

- 2.1 The Hearings were convened to hear submissions on 6<sup>th</sup>, 7<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> May 2013. The Committee then closed the meetings at 12.30pm on 16<sup>th</sup> May and deliberated on relevant submissions on the 27<sup>th</sup> June 2013.
- 2.2 The Hearing Panel members were: Councillors Sue Westwood (Chair), Hamish McDouall, Niki Higgie, Rob Vinsen and Randhir Dahya.
- 2.3 Submitters who presented or tabled information to support or expand their submissions were:
  - New Zealand Historic Places Trust (Submitter 9)
  - Jamie O'Leary (Further Submitter 1)
  - Michael O'Sullivan, Steven Archer, Victoria Loughlin-Drover (Submitter 11, 12 and 13)
  - Paul McKenna (Submitter 1)
  - New Zealand Fire Service Commission (Submitter 2)
  - New Zealand Association of Radio Transmitters (Inc) (Submitter 8)
  - Transpower New Zealand Limited (Submitter 3)
  - Victor Sears (Submitter 5)
  - Powerco Limited (Submitter 7 and Further Submitter 2)
  - Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Ltd (Submitter 10)

- 2.4 Plan Change 26 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 on Thursday 1 November 2012, with the period for submissions closing on Tuesday 4 December 2012.
- 2.5 A total of 15 submissions were received. All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the Act.
- 2.6 The further submission process closed on Wednesday 13th February 2013. A total of 3 further submissions were received on Plan Change 26.

### **3.0 SCOPE OF THE PLAN CHANGE**

- 3.1 The purpose of Plan Change 26 is to amend the existing District Plan Residential Zone, to reflect the changes that have occurred since the operative Plan was prepared.
- 3.2 Ad-hoc and poorly designed development within the Residential Zone reduces urban amenity and put pressure on existing infrastructure. These issues have been raised by residents and Council officers prior to, and as part of, the consultation process for Phase 2 of the District Plan Review. Council seeks to encourage development within the Residential zone, but not where this development degrades the character of the surrounding environment or requires unnecessary expansion of urban reticulated services.
- 3.3 This Plan change introduces a minimum lot size for the existing Residential Zone. This creates a foundation to enable the strategic management of the use and development of infrastructure.
- 3.4 Plan Change 26 recognises the importance of the Residential Zone as the area that is home to the majority of Wanganui's residents. It is vital that the residential amenity values as well as suitable infrastructure services within this zone are protected to provide for the health, safety and wellbeing of those who reside there. This Plan change endeavours to create a balance between enabling continued growth and development while protecting our existing infrastructure assets and urban character.

### **4.0 RELEVANT STATUTORY CONSIDERATIONS**

#### **4.1 RMA Part II Considerations**

Sustainable management is defined in the Resource Management Act 1991 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.”*

In accordance with Section 5 of the Resource Management Act, Plan Change 26 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.

#### **4.1.1 Objectives 39 of Plan Change state:**

*“High quality residential areas which consist of:*

*g. Retention of natural and cultural heritage features;*

- 4.1.2 The purpose of Plan Change 26 is to amend the Residential Zone, to reflect the changes that have occurred since the operative Plan was prepared and to provide clarification of the level of service of the zone.
- 4.1.3 The actual effect of these changes to the District Plan is in Appendix 1 of this Report.
- 4.1.4 Section 6 of the Resource Management Act 1991 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 cultural 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.*
- 4.1.5 Plan Change 26 is considered to be consistent with Section 6 of the RMA 1991 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 P120 requires that:

*“To ensure activities in the Residential Zone that:*

*h. Maintain and enhance the natural and cultural heritage features of the zone.”*

Under Section 7 of the Act, 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;*

- 4.1.6 Plan Change 26 recommends a minimum lot size is introduced in order to manage the effects and provision of urban infrastructure within the urban boundary. This change is to curb ad-hoc development which puts pressure on Council infrastructure as a physical resource.
- 4.1.7 Plan Change 26 is considered to be consistent with S7 of the Act as the Policies for the Residential Zone identify those characteristics that contribute to the amenity of the area. The rules for the zone have been developed so as to ensure that future development and activities maintain these characteristics.
- 4.1.8 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 STATEMENTS AND PLAN PROVISIONS

### 5.1 Horizons Regional Council – Regional Policy Statement

Section 75(2) of the Act 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 and One Plan are considered to be relevant to this Plan Change in that they include requirements around the onsite, independent treatment of wastewater.

An assessment of how the provisions in Plan Change 26 compare with the Objectives and Policies of the Operative Regional Policy Statement and the Proposed One Plan are considered in the table below.

Operative Regional Policy Statement (RPS)		Plan Change 26
Objectives 5, 6.	Policy 6.1	Evaluation
<p>Obj 5. To achieve sustainable land use.</p> <p>Obj 6. To avoid, remedy or mitigate the adverse effects of urban development.</p>	<p>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: 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.</p>	<p>Objective O39 gives effect to RPS as it aims to manage land use in a sustainable manner. This objective also highlights the need protect urban amenity and reduce the effects of development.</p> <p>Policy P8 is consistent with the RPS as it states the need to protect and enhance landscape and visual character of the urban environment.</p> <p><del>Policy P120 also aligns with Policy 6.1 in the RPS as it ensures</del> amenity values and transport infrastructure are of a high standard.</p>
Regional One Plan (As Amended by Decision August 2010) (POP)		Plan Change 26
Objective	Policy	Evaluation
<p>Objective 7-3: Historic heritage<sup>^</sup> Protect historic heritage<sup>^</sup> from activities that would significantly reduce heritage qualities.</p>	<p>Policy 7-10: Historic heritage<sup>^</sup> The Regional Coastal Plan<sup>^</sup> and district plans<sup>^</sup> must include provisions to protect historic heritage<sup>^</sup> 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<sup>^</sup> identification (a) Territorial Authorities<sup>^</sup> must develop and maintain a schedule of known historic heritage<sup>^</sup> for their district to be included in their district plan<sup>^</sup>.</p>	<p>Policy P120 <i>h. Protection of natural and cultural heritage feature</i> gives effect to POP</p>

## 6.0 SUMMARY OF SUBMISSION

- 6.1 Refer to appendix 1 to this report for a summary of each submission
- 6.2 Refer to appendix 1 to this report for a summary of each submission.

## 7.0 PRINCIPLE ISSUES IN CONTENTION

### 7.1 Minimum lot size

- There was concern around introducing a minimum lot size into the District Plan.

Currently there is no minimum size to which someone can subdivide their property.

- Submitters believed that this may restrict development and discourage development within the Residential Zone.
- Submitters stated that current site coverage and yard requirement rules adequately control lot size.

## 8.0 SUMMARY OF EVIDENCE HEARD

### 8.1 Key evidence presented by submitters:

#### 8.1.1 Minimum lot size

- Submitter 1, 11, 12, 13 and Further Submitter 1 reiterated their original submissions.
- They were concerned that introducing a minimum lot size will restrict development and not allow the city to grow.
- The rationale behind the introduction of a minimum lot size is focused to significantly on infrastructure.

8.1.2 Submitter 9 reiterated their original submission in support of Objective 39 and Policy 120 and Method 19.

8.1.3 Submitter 2 reiterated their submission to include an exception within the noise rule for emergency sirens and was happy with the officer's recommendation to accept their recommendation.

8.1.4 Submitter 7 tabled evidence that reiterated their original submission. In this evidence Powerco disagreed with the planner's report that identification and/or health and safety signs are provided for under the National Environmental Standard for Electricity Transmission Activities 2009.

Submitter 7 showed photographic examples of the types of sign they were referring to and reiterated their request to have them included within the Plan change.

8.1.5 Submitter 3 noted that advice notes are required regarding compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances and Electrical Hazards from Trees Regulations. Also provision for transmission corridors are required; Furthermore Transpower's transmission lines need to be shown on the District Plan Maps.

Submitter 3 highlighted that the Plan change does not give effect to the National Policy Statement on Electricity Transmission 2008 (NPSET).

8.1.6 Submitter 5 expanded on his original submission. Mr Sears highlighted that his land should be re-zoned for intensive urban development due to its proximity to the CBD. Mr Sears requested that a statement be inserted into Plan change 26 to reaffirm that an assessment of rural land has not been undertaken as part of this Plan change but will take place at a future date.

8.1.7 Mr Newman (submitter 8), on behalf of the New Zealand Association of Radio Transmitters stated that a rule for pedestal mounted antenna is required. Mesh dishes reduce the visual impact on amenity. Mr Newman reinforced his submission with photos of potential antenna dishes. Tauranga City Council Environment Court decision was supplied to highlight the Environment Court view pertaining to amenity effects of pedestal mounted dishes

8.1.8 Submitter 10 tabled evidence that reiterated their original submission.

8.2 Key evidence presented in officers report:

8.2.1 Minimum lot size

- The submitters appeared to be of the understanding that the minimum lot size is proposed to address amenity. While the minimum size proposed reflects the majority of the residentially zoned infill and greenfield subdivision, the primary focus is on managing the provision of infrastructure. However, it is recognised that where infrastructure is managed around a 450m<sup>2</sup> per site, that many sites would exceed this and result in oversupply of infrastructure. A more flexible and efficient approach would be to apply an average allotment size. This would provide a more efficient density of development in relation to infrastructure capacity, and also provide a wider selection of site sizes for the market.

8.2.2 The reporting officer agreed with Submitter 9 and recommended their submission be accepted.

8.2.3 In response to Submitter 2: NZS 6802:2008 Acoustics - Environmental noise gives examples of appropriate exemption from general noise limits and uses the wording - "in any part of the District where the noise source is a warning device used by emergency services."

The reporting officer noted that as we progress with the review of the District Plan, we will make the requested change to each zone.

8.2.4 In response to submitter 7: On reading the evidence tabled by Powerco Limited. The reporting officer noted that she supports the ~~inclusion~~ in the performance standard R7 with amendments. "One Identification and/or health and safety signs associated with infrastructure not exceeding 0.5m<sup>2</sup> and attached to the corresponding infrastructure"

8.2.5 In response to submitter 3: 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.

8.2.6 In response to Mr Sears (submitter 5): This provision has not been reviewed as part of this phase of the rolling review. The submitter's comments will be taken into account in the rural phase of the District Plan Review. The consideration of appropriate zone classification for the rural zone is currently under review.

8.2.7 In response to submitter 10: The reporting officer confirmed that Hazardous substances and hazardous facilities have not been reviewed under this phase. The submitters comments will be taken into account with this section is under review. Due to this no changes are recommended to Appendix 6 – Hazardous Facility Screening Procedure.

9.0 MAIN FINDINGS ON PRINCIPAL ISSUES

9.1 Minimum lot size

- The Committee accept submission 1, 11 and further submission 1 in part.
- The Committee reject submission 12 and 13.
- In reaching its decision on subdivision the Council wishes to acknowledge the limitations placed on it with regard to the lack of quantifiable information regarding the performance and capacity of the reticulated services network. The 2012 – 2022 Ten Year Plan has programmed funding for a modelling of Council's reticulated infrastructure network. The Committee agrees that the modelling exercise will allow more specific and better informed management of subdivision including minimum

allotment sizes. This will result in a re-examination of the appropriateness of the subdivision framework, and where deemed necessary, result in future changes to the District Plan.

- 9.2 The Committee agreed with Submitter 9's submission and noted that the reporting officer also supported this submission.
- 9.3 The Committee supported the inclusion of emergency sirens to the noise rule requested by Submitter 2 and noted that the supporting officer also supported this submission.
- 9.4 The Committee agree that the identification and health/safety signage for network utilities requested by Submitter 7 is appropriate and should be included in the Plan Change as a permitted activity.
- 9.5 The Committee noted that significant evidence provided by Transpower (submitter 3) 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.
- 9.6 The Committee confirms that the Rural Zone has not been assessed as part of this Plan change. But notes that land zoned Rural is currently being reviewed to determine whether it has the correct zone classification.
- 9.7 The Committee agreed that Rule 58 and Rule 59 should be deleted as requested by Submitter 10. The Committee also noted that hazardous substances and hazardous facilities have not been reviewed through phase 2 of the District Plan Review. This part of the review is to be done at a later date.

#### **10.0 Section 32 Evaluation**

As there have been no significant amendments to Plan Change 26, the S32 has not been re-evaluated. Refer to Appendix 4.

#### **11.0 STATEMENT OF DECISIONS AND REASONS**

- 11.1 Refer to Appendix 1 to this report for the Councils decisions and reasons relating to each submission.
- 11.2 Refer to Appendices 2 and 3 for the Plan Change text and maps following decisions on submissions.

#### **12.0 Appendices:**

- 1. Decisions on Submissions and Reasons for Decisions
- 2. Marked-up Version of Plan Change 26 following Decisions on Submissions
- 3. Planning Maps altered by Decisions on submissions.
- 4. Sections 32 Evaluation

Signature of Chairman

Councillor Sue Westwood

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