

RESOURCE MANAGEMENT ACT 1991

PROPOSED HOROWHENUA DISTRICT PLAN

HEARINGS OF SUBMISSIONS

GENERAL INFORMATION ACCOMPANYING DECISIONS

BACKGROUND

In 2009, Horowhenua District Council (Council) resolved to undertake a full review of its District Plan made operative in 1999. The Council had in the preceding years undertaken a number of plan changes to the District Plan, the most recent of which included rural subdivision, urban growth, and outstanding natural features and landscapes. The review does not cover these most recent plan changes namely Plan Changes 20 – 22 which were not operative at the time the Proposed Plan was notified.

NOTIFICATION

The District Plan was publicly notified on the 14th September 2012 with a total of 118 submissions being received. All submissions were summarised and were notified for further submissions on 5th December 2012 and 29 further submissions were received.

PANEL APPOINTMENT

On 5 December 2012 the Council appointed Independent Commissioner Dean Chrystal and Councillors David Allan, Garry Good, Tony Rush and Leigh McMeeken to the District Plan Review Hearing Panel.

On 7 February 2013 the Council appointed Independent Commissioners Bob Nixon, Jane Black and Rob van Voorthuysen to the District Plan Review Hearing Panel.

The District Plan Review Hearing Panel were given full authority to hear and determine the hearings for the Proposed District Plan.

STATUTORY FRAMEWORK

Plan Review

The general approach for the consideration of changes to district plans was summarised in the Environment Court's decision in Long Bay¹, the relevant components of which are set out in the following paragraphs.

A plan change (review) should be designed in accordance with (section 74(1)) of the Resource Management Act (the Act):

- (a) the district council's functions under section 31;
- (b) the provisions of Part 2;
- (c) its duty under section 32; and
- (d) any regulations (section 74(1)).

When preparing a plan (change) a district council:

- (a) must give effect to any operative regional policy statement (section 75(3)(c)); and
- (b) shall have regard to management plans and strategies prepared under other Acts; and
- (c) shall have regard to the extent to which the plan needs to be consistent with the plans of adjacent territorial authorities.

¹ Long Bay – Okura Great Park Society Inc v North Shore City Council A 078/08

A district plan must state the objectives sought to be achieved, policies to implement the objectives and rules (if any) to implement the policies (s75(1)). It may also state the significant resource management issues, methods other than rules for implementing the policies, reasons for adopting the policies and methods, and the environmental results expected (s75(2)).

The rules are to implement the policies (sections 75(1)(c) and 76(1)) and the proposed policy or method is to be examined, having regard to its efficiency and effectiveness as to whether it is the most appropriate method of achieving the objectives of the plan (section 32(3)(b)) taking into account (section 32(4)):

- the benefits and costs of the proposed policies and methods; and
- the risks of acting or not acting if there is uncertain or insufficient information.

Overall the s32 test is one of appropriateness (i.e. not necessity) and the requirement is to achieve the objectives of the plan.

In making a rule the territorial authority shall have regard to the actual or potential effect of activities on the environment (s76(3)).

Decisions

Clause 10 of Schedule 1 to the Act sets out the requirements for decision. It states:

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
 - (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
 - (i) the provisions of the proposed statement or plan to which they relate; or
 - (ii) the matters to which they relate; and
 - (b) may include—
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.

SUBMISSION NUMBERS AND STRUCTURE OF DECISIONS

Submissions received were given a number; e.g. 005, 006 etc. Each issue, provision or point made in the submission was need notated as follows 5.01, 5.02, 5.03. Further submissions made in support or opposing issues raised in the original submissions are prefaced by the number 5; e.g. 500 and 501. At the end of the discussion on each section, the relevant submission points are accepted, accepted in part or rejected, with submissions in numerical order. Further submissions are referred to in the schedule of decisions on original submissions which is appended to the end of this decision as Appendix B.

The decisions have been structured in the following manner:

- Where there is no submission on a provision the provision is approved
- Where a submission(s) point is in support of a provision and there are no other submissions opposing it has been approved
- Where submission points have sought changes to provisions, there is no opposition and the changes have been recommended by the reporting officer the submission point has been accepted and the provision has been approved.
- Where there is a degree of conjecture over a provision, key issues and views have been identified and

the Panel's discussion and decision are set out.

Any further correspondence from the s42A Reporting Officer which was sought by the Panels is contained within the appendices.

All text changes are shown in Appendix A and our decisions on whether to accept, accept in part or reject submission points are shown in Appendix B.