



## DISTRICT PLAN SUBCOMMITTEE

17 April 2019

Order Paper for the meeting to be held in the  
Council Chambers, 2nd Floor, 30 Laings Road, Lower Hutt,  
on:

**Wednesday 24 April 2019 commencing at 5.30pm**

### Membership

Deputy Mayor Bassett (Chair)

Cr MJ Cousins (Deputy Chair)  
Cr T Lewis

Cr S Edwards  
Cr C Milne

For the dates and times of Council Meetings please visit [www.huttcity.govt.nz](http://www.huttcity.govt.nz)



## DISTRICT PLAN SUBCOMMITTEE

<b>Membership:</b>	5 elected members Certification under the Making Good Decisions Training, Assessment and Certification Programme for RMA Decision-Makers is encouraged.
<b>Quorum:</b>	3
<b>Meeting Cycle:</b>	Meets on a six weekly basis, as required or at the requisition of the Chair
<b>Reports to:</b>	City Development Committee

### PURPOSE

To prepare, monitor and review the City of Lower Hutt District Plan.

The District Plan Subcommittee sets the District Plan Work Programme and monitors its implementation.

The District Plan Subcommittee recommends to the City Development Committee (for Council approval):

- District Plan changes and District Plan variations prior to notification.
- Private District Plan Change requests for Council to *Accept, Adopt or Reject*.

Council makes decisions to notify District Plan changes (and variations).

District Plan Hearing Panels (see below) are appointed by the Chair, in conjunction with the Chief Executive. Hearing Panels comprise elected members and/or independent commissioners. All Hearing Panel members must be certified under the Making Good Decisions programme.

District Plan Hearing Panels make recommendations to the City Development Committee (for Council approval) on the Proposed District Plan provisions and matters raised in submissions.

Council makes its decision on the provisions and matters raised in submissions. The Council decision may be appealed to the Environment Court.

Council gives final approval to make District Plan changes operative, in accordance with clause 17 of Schedule 1 of the Resource Management Act 1991.

## **DISTRICT PLAN HEARING PANEL**

<b>Membership:</b>	<b>Members are appointed for specific projects by the Chair in conjunction with the Chief Executive.</b> <b>All members must hold current certification under the Making Good Decisions Training, Assessment and Certification Programme for RMA Decision-Makers.</b> <b>The Chair must in addition hold Chair certification.</b> Note: 34A Delegation of powers and functions to employees and other persons (1A) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under Part 1 or 5 of Schedule 1,— <ul style="list-style-type: none"><li>(a) the local authority must consult tangata whenua through relevant iwi authorities on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and</li><li>(b) if the local authority considers it appropriate, it must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.</li></ul>
<b>Quorum:</b>	<b>1</b>
<b>Meeting:</b>	<b>As required</b>
<b>Reports to:</b>	<b>City Development Committee</b>

## **PURPOSE**

To make recommendations (with reasons) to the City Development Committee (for Council approval) on Proposed District Plan provisions and matters raised in submissions.

The District Plan Hearing Panel has all the powers necessary to conduct a hearing for this purpose.

When a District Plan Hearing Panel has an even number of members, the Chair has a casting vote.

## **NOTE:**

- The Ministry for the Environment advocates that Councils offer specialist RMA training in areas of law which are difficult to grasp or where mistakes are commonly made. This is to complement the Making Good Decisions RMA training that MfE runs (which is an overview and basic summary of decision making, rather than an in-depth training in specific areas of the RMA). Therefore in order to facilitate this, the RMA training run for councillors that wish to be hearings commissioners is mandatory.

Reasons for the importance of the training:

- 1 Hearings commissioners are kept abreast of developments in the legislation.
- 2 Legal and technical errors that have been made previously are avoided (many of which have resulted in Environment Court action which is costly, time consuming and often creates unrealistic expectations for the community).
- 3 The reputation of Council as good and fair decision makers or judges (rather than legislators) is upheld.

**HUTT CITY COUNCIL**

**DISTRICT PLAN SUBCOMMITTEE**

Meeting to be held in the Council Chambers, 2nd Floor, 30 Laings Road, Lower Hutt

on

Wednesday 24 April 2019 commencing at 5.30pm.

**ORDER PAPER**

**PUBLIC BUSINESS**

1. **APOLOGIES**

2. **PUBLIC COMMENT**

Generally up to 30 minutes is set aside for public comment (three minutes per speaker on items appearing on the agenda). Speakers may be asked questions on the matters they raise.

3. **CONFLICT OF INTEREST DECLARATIONS**

4. **RECOMMENDATION TO CITY DEVELOPMENT COMMITTEE**

**District Plan Review** (19/310)

Report No. DPS2019/2/64 by the Divisional Manager District Plan 6

5. **DISTRICT PLAN UPDATE** (19/38)

Report No. DPS2019/2/49 by the Divisional Manager District Plan 9

6. **QUESTIONS**

With reference to section 32 of Standing Orders, before putting a question a member shall endeavour to obtain the information. Questions shall be concise and in writing and handed to the Chair prior to the commencement of the meeting.

Donna Male  
**COMMITTEE ADVISOR**

**09 April 2019**

File: (19/310)

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**Report no: DPS2019/2/64**

## **District Plan Review**

### **Purpose of Report**

1. To recommend that Council agrees in principle to commence a comprehensive review of the City of Lower Hutt District Plan.

### **Recommendations**

That the District Plan Subcommittee recommends to the City Development Committee that Council:

- (i) agrees in principle to commence a comprehensive review of the City of Lower Hutt District Plan;
- (ii) instructs staff to report on the scope and resources required to complete a comprehensive review of the City of Lower Hutt District Plan;
- (iii) continues District Plan changes that are underway until they are completed; and
- (iv) carries over unspent funds from the District Plan budget 2018-19 into the District Plan budget 2019-20.

### **Background**

2. The City of Lower Hutt District Plan became operative in 2003. Since that time, Council has carried out a 'rolling review' of the District Plan, undertaking various plan changes to respond to issues arising such as legislation changes or new community aspirations.
3. The Resource Management Act requires that a review of district plan provisions must begin within 10 years of the provisions becoming operative. The rolling review approach has achieved this requirement for parts of the plan but not for significant other parts.
4. Reviewing portions of the plan in a rolling review often means that flow on effects into other parts of the plan are not addressed. Over time the number of outstanding issues that need to be addressed has become significant.

5. The District Plan needs updating to give effect to higher order documents that have come into existence since the District Plan became operative. The Regional Policy Statement is one example.
6. The National Planning Standards were gazetted on 5 April 2019. They require a specific district plan structure and format, provide mandatory definitions of terms and restrict the types of zones allowable. The National Planning Standards must be given effect to within five years of being gazetted. The Planning Standards have major implications for the City of Lower Hutt District Plan. Many of the existing zones will need to be restructured to fit the requirements. Implementing the National Planning Standards is unlikely to be achievable through a rolling review approach due to the extent and reach of amendments required.
7. A comprehensive District Plan review should reflect and give effect to the strategic goals and aspirations of the Hutt City community, as expressed in Council's overarching strategies, within the context of the statutory framework set down in the Resource Management Act and higher level planning documents such as National Policy Statements, the New Zealand Coastal Policy Statement and the Regional Policy Statement for the Wellington Region.
8. The Strategy and Planning Division is in the early stages of reviewing and refreshing Council's four overarching strategies – the Urban Growth Strategy, the Infrastructure Strategy, the Leisure and Wellbeing Strategy and the Environmental Sustainability Strategy. One option being investigated includes expressing the spatial elements in a Hutt City Spatial Plan that would show intentions and aspirations for what goes where.
9. The review of Hutt City Strategies and spatial planning would require extensive community engagement. That engagement should be designed to also inform the District Plan review and would need to be supported by staff from throughout Council, including district planning and urban design.
10. The early stages of a comprehensive District Plan review would also focus on research and information gathering. More information is needed on a number of matters. Examples include:
  - Iwi interests;
  - land use planning in response to predicted sea level rise;
  - stormwater management;
  - slope stability in residential areas;
  - options for Rural Residential and General Rural zones;
  - heritage buildings; and
  - regional planning.

11. A comprehensive District Plan review would need to be scoped and appropriately planned and resourced. Significant resources would be required over say five years to provide technical input reports, engage with communities and prepare draft District Plan provisions. If Council agrees in principle with a comprehensive District Plan review, a detailed scoping report would be prepared for Council consideration in the next few months.
12. If a comprehensive review commenced, District Plan projects that are underway or anticipated would need to continue, including the processing of approvals for the RiverLink project. An update on current projects is provided elsewhere in this agenda.

### **Legal Considerations**

13. Commencing a comprehensive District Plan review would meet Council's obligations to begin reviewing the District Plan's provisions.

### **Financial Considerations**

14. The financial implications are significant. This report recommends that unspent funds from the 2018-19 year are carried over to 2019-20. This would enable ongoing District Plan changes to be continued and a comprehensive District Plan review to be fully scoped and costed for the Subcommittee's consideration.

### **Other Considerations**

15. In making this recommendation, officers have given careful consideration to the purpose of local government in section 10 of the Local Government Act 2002. Officers believe that this recommendation falls within the purpose of local government in that it sets out how Council can meet its statutory obligations to review the District Plan in a way that will meet the strategic goals and aspirations of the community, while making best use of community engagement processes.

### **Appendices**

There are no appendices for this report.

**Author:** Andrew Cumming  
Divisional Manager District Plan

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**Approved By:** Helen Oram  
Acting General Manager City Transformation

**02 April 2019**

File: (19/38)

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**Report no: DPS2019/2/49**

## **District Plan Update**

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1. This brief report summarises the current work being undertaken on the review of the District Plan. The report was deferred from the 29 November 2018 meeting of the District Plan Committee, and has been subsequently updated.

### **Recommendation**

That the report be noted and received.

### **Plan Change 52 Alignment of the District Plan with the New Zealand Heritage List**

2. At its meeting of 19 September 2018 the District Plan Committee considered a plan change proposal to align the District Plan with the New Zealand Heritage List. This involved adding three buildings to the list of heritage buildings and structures in the District Plan, amending the listing of two buildings and deleting one building.
3. The Committee recommended notification of proposed Plan Change 52, which was approved for notification at the Council meeting of 9 October 2018. Public notification occurred on 16 October 2018. Submissions closed on 16 November 2018.
4. Five submissions were received, four in support and one in opposition. Four further submissions were received, both in support and in opposition to original submissions.
5. A hearing was held on 16 April 2019 before a Hearing Panel comprising independent commissioner Lindsay Daysh and Cr Simon Edwards. The Hearing Panel's recommended decision, once available, will be presented to Council.

### **Natural Hazards**

6. Council has collaborated with Upper Hutt City Council, GNS Science and Urban Edge Planning to use improved information from the “It’s Our Fault” work of GNS Science to update the best known position of the Wellington Fault Line and the area affected, as well as the way the District Plan deals with land use along the Wellington Fault Line.
7. The GNS’s initial report-back was provided in a Councillor workshop held on 23 August 2018. Following the workshop, a communications and engagement plan is being developed for consultation with affected landowners prior to a formal District Plan change that will adopt a risk-based approach to managing land use.
8. Further analysis of the refined maps showed that 132 properties currently included in the Wellington Fault Special Study Area as included in the District Plan will no longer be affected by the new Wellington Fault Overlay. 777 properties will be affected to the same or a lesser extent and 14 properties will have an increased area affected by the new overlay. No new properties will be affected by the refined Wellington Fault Overlay.

### **Greenfield Development in Kelson**

9. The land at the northern end of Major Drive was identified as a potential greenfield development in the Urban Growth Strategy (UGS). To realise its development potential a plan change will be required to rezone the land from Rural Residential (2 ha per dwelling). Officers have had several meetings with the landowners and their consultants to discuss development options. The property recently changed hands. Officers have engaged with consultants acting for the new owners and were expecting information from them to support a plan change.
10. The consultants have now advised that the property owners wish to advance the project by way of a private plan change request. Once received, a private plan change request would be presented to the Subcommittee and Council for a decision on whether to accept or adopt the proposal.

### **Greenfield Development in Stokes Valley (Shaftesbury Grove)**

11. The land at the end of Shaftesbury Grove was identified as a potential greenfield development in the UGS.
12. Officers are in contact with consultants acting for the property owners and are expecting information from them to support a plan change.
13. Once suitable information is available, a plan change proposal will be prepared for the consideration of the Subcommittee.

### **Proposed Plan Change 43 - Residential and Suburban Mixed Use**

14. Proposed Plan Change 43 is intended to enable residential growth by providing for intensification and greater housing choice within the existing urban environment.
15. Following the close of submissions, officers are preparing the section 42A report recommending decisions on submissions for consideration by a

hearing panel. A hearing date will be sought for July/ August 2019. All submitters will have the opportunity to speak to and present evidence in support of their submission.

### **Proposed Plan Change 36 - Notable Trees**

16. Plan Change 36 reviews the Notable Trees Chapter as well as blanket tree and vegetation protection provisions throughout the plan. The plan change was triggered by changes to the RMA invalidating blanket tree protection provisions.
17. The Council decision on Proposed Plan Change 36 Notable Trees and Vegetation Removal was appealed to the Environment Court by the East Harbour Environmental Association (EHEA) in July 2016.
18. Parts of the relief sought were struck out by the Environment Court because they were out of scope. That scope decision was appealed to and upheld by the High Court.
19. The Environment Court hearing on the remaining point of appeal began on 24 May 2018. The hearing was adjourned so that the Court can deal (via section 293 of the RMA) with an issue it identified within the District Plan, ie, that the catch-all rule in residential zones gave unlisted activities non-complying activity status.
20. The Court agreed to consider a Council proposal to resolve the issue by amending the list of permitted activities in residential zones. The Court required Council to publicly notify the matter to enable submissions on the proposal. Public notice was given in the Hutt News and as an inclusion with the rates invoice that was sent to all rate payers on 20 November 2018.
21. Council was then required to summarise and comment on the 19 submissions received and provide the submissions and report to the Court and all parties to the appeal.
22. Following a Judicial Conference on 27 March 2019, the Court has decided to allow the s293 submitters to join the full proceedings as s274 parties if they wish to.
23. The matter is likely to proceed to a Court hearing in the next few months.

### **Seaview Marina**

24. Officers are continuing to develop draft plan provisions in consultation with the Seaview Marina Board and key stakeholders such as the Lowry Bay Yacht Club, the Seaview Marina Users Group and the oil companies.
25. A natural hazards assessment and a visual assessment have now been received.
26. Officers are considering how the Marina is able to be accommodated in the format and zone structure proscribed in the National Planning Standards. (More details on the National Planning Standards can be found below.)

27. A plan change proposal will be presented to the Subcommittee for consideration in due course.

### **RiverLink - Hutt River Flood Management**

28. The project associated with upgrading the Hutt River stopbanks from Melling to Ewen Bridge is now known as RiverLink. The three major partners in the project are Hutt City Council, Greater Wellington Regional Council and the New Zealand Transport Agency (NZTA).
29. The three partners are about to jointly appoint a consultant team to confirm the project design and apply for the approvals required, which include regional resource consents associated with river works and Notices of Requirement to designate land to provide authorisation under the District Plan. The designations may also assist with land acquisition under the Public Works Act 1981.
30. Council, via the District Plan Division, will coordinate the processing of all applications for approvals including regional resource consents and Notices of Requirement.
31. Consequential changes to the District Plan may also be required to enable Council's intentions for the riverbank promenade and associated developments.

### **National Policy Statement on Urban Development Capacity**

32. The National Policy Statement on Urban Development Capacity (NPSUDC) became operative on 1 December 2016. The NPSUDC requires Council to ensure the City has sufficient development capacity for residential and business development over three, 10 and 30 year timeframes.
33. Under the NPSUDC Council must carry out a housing and business development capacity assessment estimating demand, development capacity and infrastructure capacity as well as monitor a range of indicators.
34. Council's obligation to monitor and report on a range of indicators commenced on 1 July 2017. Officers are preparing a web page to present the indicators and link to relevant information such as the National Policy Statement (NPS) and Council implementation projects including residential intensification and greenfield development.
35. Officers are engaging with neighbouring councils, the Ministry of Business, Innovation and Enterprise and the Ministry for the Environment (MfE) on how to comply with the requirements of the NPSUDC. Wellington City Council is leading a joint project to develop an appropriate model and methodology for implementation.
36. The modelling work is on-going. The results of the work will be presented to Council in due course.

### **National Planning Standards**

37. MfE is developing National Planning Standards to standardise much of the content and appearance of district plans throughout the country. The first

suite of draft standards has been released in June 2018 for feedback. Officers provided comments to MfE by the due date of 17 August 2018.

38. The finalised first set of National Planning Standards was formally gazetted on 5 April 2019.
39. The first suite of standards include district plan structure and format including chapter and rule formats, zones and overlays and defined terms. Councils are given a time frame of five years (until April 2024) to implement the planning standards.
40. The standards have sweeping implications for the ongoing review of the District Plan. It would be highly impracticable to implement the National Planning Standards via a rolling review process within the next five years. A full review of the District Plan would be required to implement the new prescribed plan structure, format, definitions, chapters and rule format.

#### **Notice of Requirement from NZTA for an upgrade to State Highway 58**

41. Designation TNZ4 is an existing designation of the District Plan that authorises an upgrade to State Highway 58. However, the designation authorises the upgrade to a specific design (for a four-lane highway).
42. The NZTA has amended the design for the upgrade. The amended design retains the existing two-lane highway, but realigns the carriageway and adds a median barrier. The amended design would result in a reduction in the volume of earthworks, area of vegetation clearance, and height of cuts in the hillside that are required to undertake the upgrade.
43. As NZTA needed to alter the design, they needed to notify Council of the requirement to alter the designation. This notification was received by Council on 11 June 2018.
44. Officers assessed the proposed alteration to the designation and determined that the alteration to the designation did not need to be publicly notified and that there were no affected persons in relation to the alteration. On 13 July 2018, officers acting under delegated authority issued a recommendation that NZTA should confirm its requirement, subject to conditions.
45. NZTA has accepted the recommendation and confirmed the designation.

#### **Appendices**

There are no appendices for this report.

**Author:** Andrew Cumming  
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**Approved By:** Helen Oram  
Acting General Manager City Transformation