

LOCAL GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004

RESOURCE MANAGEMENT ACT 1991

**DECISION REPORT OF THE
RODNEY DISTRICT COUNCIL**

RDC 5 – MUL GENERAL ISSUES

Decision Regarding:

- **Proposed Variation 22 to the Rodney District Proposed District Plan 2000**
- **Proposed Plan Change 97 to the Rodney District Transitional District Plan**

On 28 June 2007 the Rodney District Council adopted the recommendations of the Joint Regional Policy Statement and District Plan Changes Hearings Panel in relation to Proposed Variation 22 and Proposed Change 97.

The recommendations in this report have been adopted as the decisions of the Rodney District Council.

31 July 2007

**Index of submissions and further submissions addressed in Report RDC 5
MUL General**

Rec Report Section No.	Sub No.	Submitter Name	Supported by	Opposed by	Hearing Report Section No.
5.3	220/3	Henderson Family Trust		259 Transit New Zealand 250 Auckland Regional Council	5.3
5.2	94/34	LM and JA Barber		250 Auckland Regional Council	5.2
5.1	90/29	Pacific Rim Builders Limited		250 Auckland Regional Council	5.1
5.2	91/34	Top Enterprise Group		250 Auckland Regional Council	5.2

RECOMMENDATION REPORT OF THE JOINT HEARINGS PANEL TO THE PLAN CHANGES NOTIFIED IN ACCORDANCE WITH THE LOCAL GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004 AND THE RESOURCE MANAGEMENT ACT 1991

PROPOSED VARIATION 22 TO THE RODNEY DISTRICT PROPOSED DISTRICT PLAN 2000 AND PROPOSED PLAN CHANGE 97 TO THE RODNEY DISTRICT TRANSITIONAL DISTRICT PLAN

RDC 5 - MUL GENERAL

1. OUTLINE

This report is part of a series of reports that contain the recommendations of the Joint Regional Policy Statement and District Plan Changes Hearings Panel ("the Panel") following consideration of submissions and further submissions received in relation to MUL General issues of the Rodney District Proposed Variation 22 to the Proposed District Plan 2000 and Proposed Plan Change 97 to the Operative District Plan 1993. Other submissions to Variation 22 and Plan Change 97 are dealt with in additional topic based recommendation reports.

The Panel was jointly appointed by the councils of the region under the Local Government (Auckland) Amendment Act 2004 ("the LGAAA"). Following consideration of all the submissions and supporting evidence presented and/or tabled by the submitters and further submitters at the hearings, and the reporting officer's report, the Panel now makes the recommendations contained in this report to the Rodney District Council ("RDC").-

To reiterate, this report contains the **recommendations** to Council of the Panel on submissions that have been made during the course of the hearings. **It is not the decision of the Council.**

There are no consequential amendments to Variation 22 and Plan Change 97 arising from the Panel recommendations discussed throughout this report.

2. BACKGROUND

Variation 22 and Plan Change 97 were notified on 31 March 2005 as a mandatory requirement of the LGAAA.

The LGAAA mandates that all councils in the Auckland Region integrate their land transport and land use provisions and ensure these are consistent with the Auckland Regional Growth Strategy ("RGS"), give effect to its Growth Concept and contribute to the land transport and land use matters specified in Schedule 5 (s39 & s40 LGAAA). This is, in effect, the purpose of Variation 22 and Plan Change 97.

The matters that the LGAAA requires to be included in changes to statutory documents support the purpose of the Resource Management Act 1991 ("RMA") in promoting sustainable management of natural and physical resources.

Variation 22 amends Chapter 8 – Residential, Chapter 9 - Business, Chapter 21 Transportation and Access, Chapter 4 – Overview and Chapter 13 - Future Development and Structure Plans. The changes include:

- amendments to objectives and polices and new objectives and polices relating to:
 - providing a more positive tone to the residential objectives and policies on intensification;
 - referring to "mixed use";
 - providing stronger integration of land use and transport matters.

- a schedule of growth areas;
- reference to the LGAAA and the “Growth Concept” contained within the Regional Growth Strategy.

Plan Change 97 amends the Operative Plan 1993 in relation to matters to do with growth, by including a rule that refers back to Variation 22 to the Proposed Plan, which is the variation that addresses and sets up a chapter to deal with regional growth issues. This approach was taken because to amend the Operative Plan to meet the requirements of the LGAAA would have been the equivalent of notifying the Future Development chapter of the Proposed Plan.

3. THE PANEL AND THE HEARINGS PROCESS

3.1 The Joint Hearings Panel

The Panel was comprised of the following members:

Cr Paul Walbran (Chair)
 Cr Wyn Hoadley (Deputy Chair)
 Cr Carolynne Stone
 Cr Neil Morrison
 Cr Bill Smith
 Lindsey Rea
 David Hill
 Alan Watson

The members of the Panel included regional councillors, city and district councillors, a community board chairperson and two independent commissioners.

The councils of the region jointly delegated to the Panel their powers, functions and duties to hear submissions and make recommendations (under s41(1) and (2) LGAAA, and s24A RMA) on the following 15 proposed plan changes:

<p>AUCKLAND REGIONAL POLICY STATEMENT Proposed Change 6 - Giving Effect to the Regional Growth Concept and Integrating Landuse and Transport. Proposed Change 7 – Metropolitan Urban Limits</p>	<p>MANUKAU CITY DISTRICT PLAN Proposed Plan Change 12 – Manukau’s Growth.</p> <p>NORTH SHORE CITY DISTRICT PLAN Proposed Plan Change 12 - Redraft of parts of the North Shore City District Plan - Required by the Local Government (Auckland) Amendment Act 2004.</p>	<p>RODNEY DISTRICT PLAN Proposed Variation 22 to the Proposed District Plan 2000 Proposed Plan Change 97 to the Operative Transitional District Plan 1993.</p> <p>WAITAKERE CITY DISTRICT PLAN Proposed Plan Change 13 – Hobsonville Airbase; Proposed Plan Change 14 – Hobsonville Village Centre; Proposed Plan Change 15 – Massey North; Proposed Plan Change 16 – Managing City Growth; Proposed Plan Change 17 – New Lynn; Proposed Plan Change 18 – City Wide Urban Design Rule</p>
<p>AUCKLAND CITY DISTRICT PLAN – Operative Isthmus Section Proposed Plan Modification 175 - Giving Effect to the Regional Growth Concept</p>	<p>PAPAKURA DISTRICT PLAN Proposed Plan Change 10 – ARPS Changes to the Operative District Plan.</p>	
<p>FRANKLIN DISTRICT PLAN Proposed Plan Change 20 - Changes Pursuant to Local Government (Auckland) Amendment Act 2004.</p>		

3.2 The Hearings Process

The proposed plan changes were notified by local authorities by 31 March 2005, in accordance with section 39 of the LGAAA. Given the number of proposed plan changes and the predicted volume of submissions to be dealt with, the Panel agreed that submissions were to be separated into categories. The categories used are detailed in the following table:

Category	Topic	Number of Submissions	Number of submitters and further submitters
A	General Growth	1575	266
B	Infrastructure / Natural Resources / Rural / Countryside Living	1098	174
C	Business Issues & Retail Location	290	93
D	Transport	534	115
E	MUL Issues (Not Hobsonville/Massey North)	79	85
F	Housing Lobby Identical Submissions	996	520
G	Swanson / Penihana	251	229
H	MUL Hobsonville and Massey North	1041	197
I	New Lynn	332	48
J	Urban Design WCC 18	281	32
K	Howick	60	29
M	ARC Miscellaneous	8	32
W	WCC 16 & 18 (Miscellaneous)	20	12
TOTAL		6565	1832

Hearing Reports were generated by each local authority in the region under Schedule 1 of the RMA for each category – 50 reports in total. Public hearings were notified and held for each category, addressing all submissions deemed by the relevant Hearing Reports to fall within that category. In total, there were 46 hearing days, commencing on 27 April 2006. A further 12 days were utilised for site visits and deliberations. The Panel allocated time at the end of each hearing day to conduct preliminary deliberations. Additionally, more in-depth interim deliberations were held at the end of each topic. The last day of deliberations following the hearings was on 21 May 2007.

The Panel obtained legal advice in relation to the scope of the hearings process and other key issues raised prior to and during the hearings.

In forming its recommendations, the Panel focussed on the purpose of the LGAAA – to integrate land use and land transport provisions to ensure consistency with the growth strategy, give effect to its Growth Concept and contribute to the matters specified in Schedule 5 of the LGAAA. Under the legislation, local authorities were mandated to notify changes to the RPS and all District Plans to achieve this purpose – a substantial process.

The LGAAA came into effect on 1 July 2004 and notification of changes was required from all local authorities by 31 March 2005. It is relevant that, while District Plans are required to give effect to the RPS, the proposed changes to the RPS were notified at the same time as the proposed amendments to the District Plans.

Due to the relatively short timeframe and substantial changes envisaged by the LGAAA, there has been a mixed approach from local authorities, with different levels of detail reflected in the various proposed plan changes. This had the potential to frustrate the purpose of the LGAAA in terms of achieving integration across planning documents. Given the ambitious task set by the LGAAA, the Panel has taken the decision to concentrate its efforts on ensuring the RPS gives effect to the Growth Concept and meets the purpose of the LGAAA. The Panel considers that, once the RPS reflects the aims of the LGAAA, the District Plans will be required to give effect to the RPS and consequential amendments to the Plans will follow accordingly.

The Panel noted that many of the submissions focussed only on the plan changes and variations notified under the LGAAA. These changes were in many instances “filling the gaps” that existed in the current planning documents. When considering the Panel’s recommendations it is necessary to take into account the changes notified under the LGAAA, the existing District Plans, and other changes that have been notified both before and during the LGAAA process. The Panel was advised that work that each council currently has in train provides an indication of each council’s longer term plans.

The Panel also noted that many of the submissions lodged under the LGAAA were made in respect of the RPS and simply stated that the District Plans should be amended to reflect any changes to the RPS. The Panel considers that the issues raised in these submissions are best addressed after local authorities release the decision reports and any appeals to RPS Change 6 and RPS Change 7 are concluded. It will then be clear to what the District Plans must give effect.

This approach was not universal across the region or for all issues raised by the submissions. Some proposed District Plan changes were substantial, for example, those put forward by Waitakere City. In such cases, the Panel has dealt with the proposed changes in the same level of detail as the proposed RPS changes.

The Panel considers that the approach outlined above is practical and realistic, and will give local authorities time to prepare the necessary changes and carry out consultation with local communities. Ultimately, the objectives of the LGAAA can best be achieved by allowing the process in respect of the RPS to run its course, with subsequent amendments to District Plans in the context of a clear and robust RPS. Legal advice to the Panel has confirmed this approach.

3.3 Evidence

The Panel has received extensive and detailed evidence from submitters during the hearings process. The Panel has carefully considered this evidence and the substantial number of submission points put before it. This recommendation report does not attempt to comprehensively summarise each submission point and/or piece of evidence as this would result in an unduly lengthy report without substantially adding to the recommendations.

3.4 Integration

A key element of the LGAAA is the requirement for “integration” in a number of aspects. These include “*giving effect, in an integrated manner, to the growth concept*” and “*contributing, in an integrated manner, to the matters specified in schedule 5* “. Changes that seek to achieve these requirements must, in relation to each other, be integrated (s40 LGAAA). Schedule 5 also refers to “*facilitating integrated transport management*”, and “*integrating transport and land use policies*”.

Integration is therefore required within each of the planning instruments, and across all planning instruments in the Auckland Region. The Panel recognises the importance of integration to the LGAAA process and has been very mindful of this in its deliberations.

The Panel has made a number of recommendations on matters which provide integration across the planning documents, for example the recommendations to include material on the following:

- recommendations in relation to corridors
- recognition of regionally significant infrastructure
- integrated transport assessments
- Appendix H on densities required to support public transport

These, and other matters, are discussed further in the Panel Key Issues Recommendation Report.

4 PANEL KEY ISSUES RECOMMENDATION REPORT

In response to the extensive detail and evidence presented, the Panel has produced a Panel Key Issues Recommendation Report (the "Key Issues Report") setting out its direction on the issues it considers to be key to the LGAAA process. This report is overarching of issues and is not separated into different categories, as with the recommendation reports. The recommendation reports for each proposed plan change and category refer back to the Key Issues Report where it assists in providing the context for specific recommendations.

The Key Issues Report is attached to and forms part of this recommendation report, and should be taken to comprise Section 4 of this report. It should be read in conjunction with Section 5 – Discussion and Recommendations.

5 DISCUSSION AND RECOMMENDATIONS

The following discussion is the Panel's recommendation, having considered all the submissions and further submissions within the reporting officer's report and evidence presented or tabled.

Abbreviations Used In This Report

Auckland Regional Council - ARC

Auckland Regional Policy Statement – ARPS / RPS

Metropolitan Urban Limits – MUL

Rodney District Council - RDC

Local Government (Auckland) Amendment Act 2004 – LGAAA

5.1 Chapter 4 4.3.3 Future Development on Land

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
90/29	Pacific Rim Builders Limited	Amend proposed provisions where necessary, and in particular section 4.3.3, to provide development of the submitters land (Lots 2,3 and 6 DP 170202, CT 103D/368, 103D372 refer Appendix 1 of the submission) at Wellsford without the need to go through a new structure plan process (see also submissions 90/1 - 90/28).	Opposed By: 250 Auckland Regional Council

Discussion:

The submission by Pacific Rim Builders Limited seeks to provide for the submitters site in Wellsford (Lots 2, 3 and 6 DP 170202, CT 103D/368, 103D372) as a business area able to be utilised for commercial/business activities now without the need to go through a new structure plan process, or, amend the plan to provide additional areas for industrial/business growth in Wellsford that will meet the needs of the submitter without the need to go through a new structure plan process.

The submitter tabled evidence at the hearing and referred to the evidence presented on 10 August 2006 in relation to General Growth Issues. It was stated in the tabled evidence that the submitter is currently in the process of seeking a resource consent for a light industrial development on land in Centennial Drive Wellsford. The evidence presented at the 10 August meeting indicated that the land had a split zoning of rural and industrial therefore resource consent was required to use the rural part of the land for industrial activity. It was submitted that in the midst of the resource consent process Proposed Plan Change 6 to the RPS was introduced which it is argued seeks to impose a generalised restriction on growth outside the MUL that does not consider the rural land resource and the need for some commercial activities to take place in the rural area.

The key point of the submission is that it is considered that the amendment to the RPS makes consideration of the resource consent application for industrial activity in a rural zone more difficult. The issue is therefore with the RPS rather than with Variation 22.

The submissions are opposed by the ARC because they seek to allow urban development or expansion in rural areas. This is contrary to the variation and the ARPS.

The land that is the subject of this submission is located within the limits of a “rural and coastal settlement” as defined in the RPS, i.e. Wellsford. It is also within the Wellsford structure plan area and part of the land is already zoned industrial. The remainder is zoned rural due to stability issues.

It is considered inappropriate to add specific sites such as this to the list of growth areas set out in section 4 shown in Variation 22. Wellsford is also in the Schedule included in the RDC Variation 22. The appropriate process is for the landowner to approach the Council to discuss the rezoning of the land to industrial. As set out in Section 4.1.2 of the Keys Issues Report it is indicated that it is not appropriate to consider site specific requests for MUL shifts through the LGAAA process. This also applies to extensions to rural and coastal settlements.

Recommendation:

- 5.1.1 Submission 90/29 is rejected.
- 5.1.2 The further submissions made in support of or opposition to the submissions noted above, are accepted or rejected in whole or in part, accordingly.

5.2 Chapter 4 4.3.3 Structure Plan Process

N0.	Submitter	Summary of Decision Sought	Further Submitter/s
94/34	LM and JA Barber	Amend proposed provisions where necessary, and in particular section 4.3.3 to give effect to the relief referred to above, in particular the development of the submitters land (lots 1 and 2 DP 198748) at Silverdale without the need for a new structure plan process.	Opposed By: 250 Auckland Regional Council
91/34	Top Enterprise Group	Amend proposed Plan Change provisions where necessary, and in particular section 4.3.3, to give effect to the relief referred to above, in particular the development of the submitters land (Lot 2 DP 74321) at Silverdale without the need for a new structure plan process.	Opposed By: 250 Auckland Regional Council

Discussion:

These submissions are seeking to amend section 4.3.3 which is in Chapter 4 Overview of the Rodney Proposed District Plan.

The submissions by LM and JA Barber and Top Group Enterprises set out the same general points of submission. The submissions consider that the RPS and subsequent changes to the Rodney District Plan are draconian and seek to impose a generalised restriction on growth outside the MUL that does not consider the characteristics of the rural resource, the ability of the rural land resource to sustain countryside living, consumer preferences, changing technology or the need for commercial activities to take place in rural areas. In particular the submission considers the carte blanche and severe restrictions on urban activities locating in the rural area, is unreasonable.

The submission by Barber gives the example relating to their land of the difficulty to rezone the land for countryside living or commercial development.

The submission by Top Enterprises cites the example of their site on which they wish to establish a lavender farm and associated café/shop on the site near Silverdale and consider the ability to do so is restricted by the policies in the RPS. These are therefore likely to result in unnecessary changes to the Rodney Proposed District Plan. These will result in unreasonable changes and make it difficult to amend the zoning to countryside living or commercial/business purposes.

The submissions are opposed by the ARC because they seek to allow urban development or expansion in rural areas. This is contrary to the variation and the ARPS.

The sites referred to in the submissions are located to the west of the State Highway 1 motorway at Silverdale and are outside the Metropolitan Urban Limit.

As noted above the submission refers to section 4.3.3 of the Proposed Plan and it is unclear why an amendment to this section of the Proposed Plan is sought. In the Proposed Plan 2000 Chapter 4 is an overview chapter and section 4.3 is setting the scene of Rodney District in the regional context. Section 4.3.3 was introduced by Variation 22 and this refers in a broad sense to the Regional Growth Strategy.

It is noted that in the Rodney Proposed District Plan a number of the activities referred to by Top Enterprises are Discretionary Activities, eg sale of primary produce and restaurants.

In relation to the reference in the submission to the difficulty in establishing commercial or business activity on the land, it is noted that the Council has identified that there is a shortage of industrial land in Rodney and has released a report addressing the issue and identifying possible locations for providing additional industrial land. One of the areas identified in that report includes the land referred to above. The Council has not yet considered or adopted the report.

In any event, it is considered that considerable work would be required and a structure plan process followed as required by the RPS to determine the suitability of any additional land for development and to be in a position to put a case to the ARC to shift the Metropolitan Urban Limit. It is considered that it is essential that a structure plan process be followed in considering any future non rural use of any land outside the MUL. It is therefore considered that the submission should be rejected.

It is noted that the same submitters sought changes to the RPS to add the area to the future urban schedules in the RPS. This is addressed in ARC Report 3 Infrastructure and Rural. In that report the submissions were recommended to be rejected. It is argued that the schedules in the RPS were based on the Sector Agreements. It is also considered inappropriate to add areas to the schedules without further investigation and consultation. As set out in Section 4.1.2 of the Keys Issues Report it is indicated that it is not appropriate to consider site specific requests for MUL shifts through the LGAAA process.

Recommendation:

5.2.1 Submissions 94/34, 91/34 are rejected.

5.2.2 The further submissions made in support of or opposition to the submissions noted above, are accepted or rejected in whole or in part, accordingly.

5.3 Schedules Schedule 1B Hatfields

NO.	Submitter	Summary of Decision Sought	Further Submitter/s
220/3	Henderson Family Trust	Seeks that District Plan Changes be introduced in 2005 - 2010 to include the area shown, on the map attached to the submission, at Hatfields Beach as Future Urban.	Opposed By: 259 Transit New Zealand 250 Auckland Regional Council

Discussion:

The submission by the Henderson Family Trust sought to include Hatfields Beach as a future urban area with District Plan Changes to be introduced in 2005 – 2010. It is submitted that the provision of additional residential land with coastal outlook and proximity to Orewa and main transport routes is essential to the development of the Hibiscus Coast as a self contained urban node. It is submitted that such an area will assist in achieving the required residential capacities in the sector agreement.

Transit opposes the submission any intensification or alteration to existing zoning and or MUL's without its review of a comprehensive transport study that assess the impact of the proposed changes on the sustainable operation of the State highway network.

The submissions are opposed by the ARC because they seek to allow urban development or expansion in rural areas. This is contrary to the variation and the ARPS.

Part of the area identified is within the area covered by the Orewa West Structure Plan adopted by the Council in December 2001. In this structure plan most of the area was identified as having a rural future. Only a small part of the land subject of the submission to the immediate west of the Hatfields settlement is shown for a residential extension for which an MUL shift is required. This area has been identified in the Northern and Western Sectors Agreement as an area where the MUL could be moved. However, further work is required in relation to servicing and catchment management before any extension of the MUL would be sought. The rest of the area identified to the north is outside the structure plan area. There are no plans to consider this area for growth or to prepare a structure plan for it. The Council has identified sufficient greenfield land in the Hibiscus Coast at Silverdale North and Orewa West to meet its obligations under the Regional Growth Strategy for an additional 9,000 people as set out in the Northern and Western Sectors Agreement. A structure plan has been prepared for the area and part of the subject site was not identified for urban development through that process.

As set out in Section 4.1.2 of the Keys Issues Report it is indicated that it is not appropriate to consider site specific requests for MUL shifts through the LGAAA process.

Recommendation:

5.3.1 Submission 220/3 is rejected.

5.3.2 The further submissions made in support of or opposition to the submissions noted above, are accepted or rejected in whole or in part, accordingly.

There are no amendments to Proposed Variation 22 or Proposed Change 97 arising as a result of the recommendations contained in this report