

DISTRICT PLAN COMMITTEE

HEARINGS FOR DISTRICT PLAN CHANGE 9

Minutes of a meeting of the District Planning Committee held in the
Hutt City Council Chambers, Administration Building,
30 Laings Road, Lower Hutt on
Tuesday 20 March 2007 commencing at 9.45 am

PRESENT: Cr RW Styles (Chair) Cr JMK Baird
Cr C Milne

APOLOGIES: There were no apologies.

IN ATTENDANCE: Cr R Jamieson (part meeting)
Ms K Kelly, General Manager Strategic Development
(part meeting)
Mr S Duncan, General Manager
Ms V Rodgers, Environmental Policy Analyst
Mrs D Hunter, Committee Advisor

In accordance with a delegation by Council, pursuant to the provisions of section 34 of the Resource Management Act 1991, the District Plan Committee had power to act in determination of Changes to the Operative District Plan for recommendation to Council following the hearing of submissions.

DISTRICT PLAN - CITY OF LOWER HUTT

HEARINGS FOR PROPOSED DISTRICT PLAN CHANGE 9

1. APPEARANCES

There were no appearances by the submitters.

2. THE HEARING

The Environmental Policy Analyst advised that the proposed plan change was due to additions and changes to the New Zealand Historic Places Trust registration lists. The proposed plan change was publicly

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notified and in response Council received five submissions, four of which were in support of the proposed plan change.

In response to questions by the Committee, the Environmental Manager advised that the Heritage Buildings and Structures registered by the New Zealand Historic Places Trust was considered part of New Zealand's treasured historical and cultural heritage value. The list does not offer any particular protection to the building or place. In order for registered buildings to be protected, local authorities can provide rules in their District Plan. The Heritage Buildings and Structures chapter of Hutt City Council's District Plan does provide this protection.

The Committee questioned how often was Hutt City Council required to review its District Plan and whether or not Hutt City Council could have a reference to the plan to have a rule which mirrored imaged the Historic Places Trust register. The Environmental Policy Analyst advised she would check with Hutt City Council Legal Counsel to determine whether or not this could be done under the Resource Management Act 1991 and that she would advise the Committee accordingly.

The Chair adjourned the meeting at 10.10 am.

3. DELIBERATIONS OF THE COMMITTEE

Introduction

- [1.] Proposed District Plan Change 9 – Update of Heritage Appendix 1 and 2 Chapter 14F Heritage Buildings and Structures, introduces two new additions to Appendix Heritage 1, being the Eastbourne Borough Council Omnibus Service Garage (bus barns) and the Lower Hutt Civic Centre Area. The proposed plan change also transfers Rona Bay Wharf and Collett House from Appendix Heritage 2 to Appendix Heritage 1. Some technical amendments of legal descriptions, addresses and the like are also incorporated where there is a need for these to be updated or corrected.
- [2.] The proposed plan change came about due to additions and changes to the NZHPT registration lists. Appendix Heritage 1 contains all buildings and structures that are registered with the NZHPT. The plan change seeks to bring into line Appendix Heritage 1 with the NZHPT list.

Statutory Provisions

- [3.] Part II of the RMA underpins the exercise of all functions, duties and powers. Section 5 is fundamental to any assessment. The

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approach in section 5 is to weigh the matters in section 5(2) in order to reach a broad judgement as to whether a policy or rule would promote the sustainable management of natural and physical resources.

- [4.] Section 6 states that historic heritage is a matter of national importance:

Matters of National Importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a)...

...

(f) *The protection of historic heritage from inappropriate subdivision, use and development.*

- [5.] Section 7 matters are also relevant to the matters at hand:

(a) ...

(b) *The efficient use and development of natural and physical resources;*

(c) *The maintenance and enhancement of amenity values; and*

...

(f) *Maintenance and enhancement of the quality of the environment.*

- [6.] Section 31 outlines the functions of the Council under the RMA and includes the control of any actual or potential effects of the use, development, or protection of land including for the purpose of avoidance or mitigation of natural hazards.

- [7.] Section 74 requires the Council to change its plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32 and any regulations.

- [8.] Section 76 enables the Council to include rules in the District Plan, for the purpose of carrying out its functions under the Act, and to achieve the objectives and policies of the Plan. In making a rule the Council:

"...shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect;...."

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The following passage from the Environment Court decision *Wakatipu Environmental Society v Queenstown Lakes District Council* (2000, NZRMA 59] is applicable to a District Plan in general:

“A district plan must provide for the management of the use, development and protection of land and associated natural and physical resources. It must identify and then state (inter alia) the significant resource management issues, objectives, policies and proposed implementation methods for the district. In providing for those matters the territorial authority (and on any reference to the Environment Court) shall prepare its district plan in accordance with:

- *its functions under section 31;*
- *the provisions of Part II;*
- *section 32;*
- *any regulations;*

and must have regard to various statutory instruments.”

[9.] The following passage from the Planning Tribunal’s decision *Nugent v Auckland City Council* (1996, NZRMA 481) summarises the requirements derived from section 32(1):

“...a rule in a proposed district plan has to be necessary in achieving the purpose of the Act, being the sustainable management of natural and physical resources (as those terms are defined); it has to assist the territorial authority to carry out its functions of control of actual or potential effects of the use, development or protection of land in order to achieve the purpose of the Act; it has to be the most appropriate means of exercising that function; and it has to have a purpose of achieving the objectives and policies of the plan.”

The Plan Change

[10.] Changes to Chapter 14F - General Rules - Heritage Buildings and Structures

1. Replace existing Appendix Heritage 1 and Appendix Heritage 2 (pages 14F/5 - 14F/8 with updated Appendix Heritage 1 and Appendix Heritage 2 attached to these decisions.

New Zealand Historic Places Trust registration

[11.] Under the Historic Places Act 1983 the NZHPT maintains a register of historic places, historic areas, wahi tapu and wahi tapu areas for the following purposes:

- Inform members of the public about these places and areas
- Notify owners
- Assist these places and areas to be protected under the Resource Management Act 1991.

[12.] In February 2006 the New Zealand Historic Places Trust advised that the Eastbourne Borough Council Omnibus Service Garage and Lower Hutt Civic Centre area had been placed on the Trust register as category II historic places. Inclusion in the register means that a place or area is considered part of New Zealand's treasured historical and cultural heritage. The Service Garage building was registered under section 23(1) of the Historic Places Act as being of historical, technological and social significance or value. Category II means that the place is considered to be of historical cultural heritage value. This is distinguished from category I status, which is given to places of special or outstanding historical or cultural heritage significance or value.

District Plan

[13.] While registration provides recognition of the heritage values of a place, it does not offer any particular protection to the building or place. In order for registered buildings to be protected, local authorities can provide rules in their District Plans. The Heritage Buildings and Structures chapter of the District Plan includes historic places within the city in both NZHPT categories I and II in Appendix Heritage 1. One of the objectives of this chapter is 'to ensure that the heritage values of the identified heritage buildings and structures are not unnecessarily lost through demolition or relocation, or compromised by any additional work'.

[14.] The rules in this chapter allow for internal redecoration, repair or alteration and minor exterior repair, alteration and maintenance, provided that a building permit is not required, as permitted uses. Any other work on the buildings listed in either Appendix Heritage 1 or 2 is a Restricted Discretionary Activity as follows:

14F 2.2 Restricted Discretionary Activities

- (a) *Any other alteration, repair or modification of any building or structure listed in Appendix Heritage 1 & 2.*

14F 2.2.1 Matters in which Council has Restricted its Discretion and Standards and Terms

- (i) *The Nature and Extent of the Works and the Necessity of those Works.*

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(ii) *The Effect of the Works on the Heritage Value of the Building or Structure.*

Assessment will be made of the following relevant factors:

- *The extent to which the original building will be adversely affected by the work.*
- *The extent to which the design and external appearance of the building will be adversely affected.*
- *The scale of the work in proportion to the original building.*
- *The compatibility of the style, materials and colouring of the new work and its integration with the original building.*
- *Restoration of heritage features that may have already been removed from the building.*
- *The extent to which the works comply with the guidelines in Appendix Heritage 3.*

14F 2.2.2 *Other Matters*

All Restricted Discretionary Activities must comply with other relevant Permitted Activity Conditions

[15.] Demolition or relocation of a building listed in either Appendix Heritage 1 or 2 is a discretionary activity:

14F 2.3 *Discretionary Activities*

- (a) *Any activity within a building or structure listed in Appendix Heritage 1 and 2, and not within the provisions of the Petone Commercial Activity Area or the Historic Residential Activity Area.*
- (b) *Demolition or relocation of part or all of a building or structure listed in Appendix Heritage 1 or 2.*

14F 2.3.1 *Assessment Matters for Discretionary Activities*

- (a) *The matters contained in section 104 and 105, and in Part II of the Act shall apply.*

[16.] On examination of the heritage buildings listed in the district plan it appears, although not explicitly stated, to have been the practice of Council to include buildings which are registered by the NZHPT in Appendix Heritage 1 in chapter 14F, thereby making alteration and demolition of such buildings subject to the rules of that chapter.

[17.] Taking the above into account, it is considered appropriate to list the Eastbourne Borough Council Omnibus Service Garage, the Lower Hutt Civic Centre area, Collett House and Rona Bay wharf

in Appendix 1 of the District Plan to bring it into line with the NZHPT register.

Historic value of the service garage

[18.] The service garage was proposed for registration on the grounds of its historic, technological and social significance. Due to Eastbourne's remote location and that it was precluded from the tram network, the bus service which commenced in the mid-1920s was essential to its growth and development. The importance of the bus service prompted the construction of the Eastbourne Service Garage, which is one of the first examples of a purpose designed bus service garage. It was opened in 1939 and remains close to its original condition.

Historic value of Lower Hutt Civic Centre

[19.] The Lower Hutt Civic Centre historic area has been included in the NZHPT register as it is a classic example of 1950s town planning, utilising the garden city design, which had been recommended by architects since the 1920s. In registering the building it was noted that the placement of important civic administration and public buildings together in parkland surroundings away from main street situations is extremely rare in New Zealand. Also of significance and value is the unified approach to design shown by the four main buildings within the historic area: the church, library complex, town hall complex and horticultural hall. While only the St James Church building is individually listed on the NZHPT register, the New Zealand Historic Places Trust recognises the importance of the area as a whole. The remaining buildings in the area are listed in Appendix II of the District Plan. Appendix II is the Council's own recognised list of heritage buildings and structures that are not listed with the Historic Places Trust.

Submissions

[20.] Five submissions were received and all except one were in support of proposed plan change 9. Specifically, the one submitter that opposed the plan change does not wish for the Eastbourne bus barn to be listed in Appendix Heritage 1 as the submitter considers that significant costs would be involved in repairing the structure and that these costs are not warranted as no viable use has been proposed for the bus barns. Further, the submitter considers that the Historic Places Trust only registered the building because the Council had obtained building consent to demolish the bus barns,

and that other than a small group of vocal Eastbourne residents, there is no community support or attachment for the building. The submitter also notes that no objection was raised when the Kilbirnie Bus Barns were demolished despite them being older, and also raises concern regarding the lack of knowledge the Historic Places Trust has of the number of similar buildings elsewhere in New Zealand.

[21.] The remaining four submissions in support of the proposed plan change express strong support in protecting and retaining heritage within the City. Two submissions also sought to list more buildings in the District Plan. However, this is outside the scope of this plan change, but will be addressed in a forthcoming plan change upon completion of a heritage inventory, scheduled for 2007/2008 financial year.

Conclusion

[22.] In February 2006 the NZHPT included on their register the Eastbourne Borough Council Omnibus Service Garage and the Lower Hutt Civic Centre. Collett House and Rona Bay Wharf were included on the NZHPT register in 2000, but due to the process of making the Proposed District Plan operative these historic places remained listed on Appendix Heritage II, and not on the NZHPT recognised Appendix Heritage I (as these plan change seeks to amend). However, Appendix Heritage I and II are subject to the same rules in the District Plan. As it appears accepted practice of Council to list all NZHPT registered historic places in Hutt City on Appendix Heritage I, it is considered appropriate to follow suit and add the four historic places to Appendix Heritage I to reflect the current NZHPT register. Legal descriptions, addresses and the like, have also where appropriate, been amended to also reflect the register held by the New Zealand Historic Places Trust.

4. DECISIONS AND REASONS

Resolved:

Minute DP070101

“That the Committee accepts the Proposed Plan Change 9 - Update of Heritage Appendix 1 and 2 Chapter 14F Heritage Buildings and Structures; and

That in exercise of the powers delegated to it by Council pursuant to the provisions of section 34 of the Resource Management Act 1991 the District Plan Committee hereby resolves, pursuant to Schedule 1 of the Resource Management Act 1991, to make the following decisions on submissions and further submissions lodged, for recommendation to Council.”

DPC09/01 D1 – Geoffrey Mew

Decision

That the submission lodged by Geoffrey Mew be **accepted** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The submitter supported the Proposed Plan Change.

DPC09/02 D1 – Maxwell John Shierlaw

Decision

That the submission lodged by Maxwell John Shierlaw be **rejected** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The addition of the Eastbourne Borough Council Omnibus Service Garage and Lower Hutt Civic Centre Area to Appendix Heritage 1 brings Appendix Heritage 1 into line with the NZHPT list. All NZHPT listed buildings and structures are also listed in Appendix Heritage 1 which has both category I and category II buildings and structures. As outlined in the Background Report the Omnibus Service Garage has been registered under section 23 (1) of the Historic Places Act as category II, being of historical, technological and social significance or value. The addition of the Eastbourne Borough Council Omnibus Service Garage and Lower Hutt Civic Centre Area to Appendix Heritage 1 does not mean automatically that money will be allocated to these sites. Any funding will still need to be raised under the LTCCP.

DPC09/03 D1 – Graeme Ross

Decision

It is recommended that the submission lodged by Graeme Ross be **accepted** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The submitter supports the proposed plan change.

DPC09/03 D2 – Graeme Ross

Decision

That the submission lodged by Graeme Ross be **rejected** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

This plan change seeks to bring into line the heritage lists of Chapter 14F of the City of Lower Hutt District Plan with the registration list of the NZHPT. This request to include the Lower Hutt fire station on Waterloo Road is therefore outside the scope of this plan change, but this building will likely be assessed as part of the heritage inventory, scheduled for 2007/2008 financial year.

DPC09/04 D1 – New Zealand Historic Places Trust

Decision

That the submission lodged by the New Zealand Historic Places Trust be **accepted** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The submitter supports the proposed plan change.

DPC09/05 D1 – Peter Cooke

Decision

It is recommended that the submission lodged by Peter Cooke be **accepted** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The submitter supports the proposed plan change.

DPC09/05 D2 – Peter Cooke

Decision

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It is recommended that the submission lodged by Peter Cooke be **partially accepted** to the extent that the provisions of Proposed Plan Change 9 remain without change.

Reason

The demolition or relocation of part or all of a building or structure listed in Appendix Heritage 1 or 2 of the District Plan is a discretionary activity, while any external alteration, repair or modification of any listed building or structure that is not minor or that requires a building consent, is a restricted discretionary activity.

Council has committed to undertaking a heritage inventory for buildings and structures within Lower Hutt. Funding has been allocated to undertake this inventory in the 2007/2008 financial year. On completion of the inventory, new buildings and structures may be added to the District Plan heritage lists by way of the district plan change process.

It is likely that most resource consent applications for demolition or relocation of listed heritage buildings will be publicly notified. However, if it is considered that the effects on the environment are no more than minor then applications may not be notified.

4. QUESTIONS

There were no questions.

There being no further business the Chair declared the meeting closed at 6.05pm.

Cr RW Styles
CHAIR

**CONFIRMED as a true and correct record dated
This 3rd day of July 2007.**