

# **Proposed District Plan Change 10**

## **AMENDMENTS TO SUBDIVISION PROVISIONS**

**Publicly Notified:  
Submissions Close:**

**20 October 2007  
20 November 2007 at 5.00pm**

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## Part 1: Introduction

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### 1.1 The Purpose & Scope of Proposed Plan Change 10

The City of Lower Hutt District Plan (hereafter referred to as the 'District Plan') has been fully operative for over three years since 18 March 2004. In this time Plan users and administrators have identified some technical implementation issues when assessing and determining resource consent applications for subdivisions.

The purpose of Proposed Plan Change 10 is to address key implementation issues arising from the current subdivision provisions in the District Plan.

The scope of Proposed Plan Change 10 is confined to address current implementation issues with the existing subdivision provisions. Proposed Plan Change 10 does not seek to change any objectives, policies or any associated text.

The proposed amendments affect the rules in Chapter 11 (Subdivision) as well as a rule in Chapter 14I (Earthworks). In addition, the definition of 'allotment' in Chapter 3 (Definitions) is proposed to be deleted and some minor grammatical corrections to the text throughout Chapter 11 (Subdivision) are also proposed.

A change to the District Plan is considered necessary to resolve the implementation issues identified, as well as to refine the rules to more effectively and efficiently achieve the objectives of the Plan as they relate to subdivision controlled by the District Plan.

### 1.2 Structure of this document

This document contains six parts.

**Part 1** is this introduction.

**Part 2** contains a copy of the public notice of Proposed Plan Change 10, which was advertised in the Dominion Post on Saturday 20<sup>th</sup> October 2007 and the Hutt News on Tuesday 23<sup>rd</sup> October 2007.

**Part 3** states the amendments proposed. The matters contained in Part 3 are generally the matters which are able to be submitted on by any member of the public.

**Part 4** shows how the District Plan will look if Proposed Plan Change 10 is made operative without any further amendment. Part 4 has been prepared for illustrative purposes only and submissions should not be made on this part of the document.

**Part 5** is a copy of the *Section 32 Evaluation* prepared for Proposed Plan Change 10, as required by section 74 of the Resource Management Act 1991.

**Part 6** contains a copy of a submission form (Form 5).

All six Parts of this document are publicly available from Hutt City Council as detailed in Part 2 of this document.

### 1.3 The Process of Proposed Plan Change 10

The process for preparing Proposed Plan Change 10, to date, can be summarised as:

**September - November 2006** Review by Hutt City Council Officers

**January - February 2007** Discussion document, incorporating revisions from Hutt City Council Officers and a Draft Plan Change, prepared and distributed to stakeholders for consultation, including a stakeholder workshop

**September 2007** Proposed Plan Change, incorporating revisions from stakeholder consultation, adopted by Council's District Plan Committee for public notification

**October 2007** Proposed Plan Change notified

Upon notification, all interested persons and parties have an opportunity to make further input through the submission process.

The process for public participation in the consideration of this proposal under the Act is as follows:

- ▶ After the closing date for submissions, Hutt City Council must prepare a summary of the submissions and this summary must be publicly notified; and
- ▶ There must be an opportunity to make a further submission in support of, or in opposition to, the submissions already made; and
- ▶ If a person making a submission asks to be heard in support of his or her submission, a hearing must be held; and
- ▶ Hutt City Council must give its decision on the proposal (including its reasons for accepting or rejecting submissions); and
- ▶ Any person who has made a submission has the right to appeal the decisions on the proposal to the Environment Court.

### 1.4 Reasons for District Plan Change

While, from a purely legal point of view, the process of subdivision has in itself no direct effects on the environment, subdivision typically involves the consequential construction of roads, installation of infrastructure, land modification, and vegetation planting/clearance that all potentially may result in adverse effects on the environment. In addition, the process of subdivision commonly initiates a change in land use, which in turn, can have further adverse effects, such as changes to character, landscape and urban and rural amenity. Even if such development does not occur immediately, the process of subdivision creates expectations of such uses and the associated property rights.

The subdivision consent process is often the most effective method for addressing many of the consequential adverse effects on the environment, and for creating any necessary guidance or impositions on property rights to avoid, remedy or mitigate such effects.

While the current objectives and policies and rules provide a generally effective management framework, a Plan Change is necessary for two key reasons -

- ▶ First, the current format of the subdivision rules is not fully effective in achieving the objectives in the Plan; in particular, the present format does not provide an effective level of certainty for the Council and Plan users.
- ▶ Second, the current subdivision rules exclude earthworks associated with a subdivision from compliance with the general land use standards for earthworks, leaving an inconsistency in approach, particularly in steep hillsides subject to development.

## **1.5 Rules Format**

The rules for subdivision in Hutt City are contained in Section 11.2 of the District Plan. This Section is structured and written in a similar manner to other rule sections in the District Plan. However, the *“Matters in which Council Seeks to Control and Standards and Terms”* is written in a different manner. For each Matter of Control, it lists:

- Performance Objectives;
- Performance Criteria; and
- Compliance Standards.

Confusion has arisen in the implementation and administration of these three parts of the rules, as they are not explicitly clear in terms of their ability for Plan Users to determine compliance with the standards and assessing an application.

For example, for each Activity Area, one of the standards for subdivision is *“Compliance with the relevant objectives and policies of the Activity Area”*. This standard cannot be effectively enforced, as compliance with broadly expressed objectives and policies cannot be objectively ascertained.

## **1.6 Management of Earthworks Associated with Subdivision**

Among other matters, the subdivision rules seek to manage the effects from earthworks associated with site development works undertaken during the subdivision phase. This approach is not proving effective in achieving the overall objectives in the Plan, due to Rule 14I 2(ii) that enables earthworks carried out as part of subdivision consent to be excluded from complying with the land use performance standards for earthworks. Therefore, this approach limits Council’s ability to manage the effects from earthworks; in particular, the effects associated with large-scale earthworks for residential and rural-residential subdivisions, as these are now increasingly occurring in marginal, steeper areas of the City.

## **1.7 Management of Rural Subdivision Allotment Shapes**

The current rules may not always provide effective management of the shape of rural allotments, with the consequence that ribbon-type development can occur along rural roads, and/or inefficiently shaped lots can be created.

## **1.8 Minor Non-Compliances with Technical Standards**

Consultation with stakeholders highlighted frustration with the District Plan in the way that it currently manages minor non-compliances with the technical standards for subdivision, such as accessway widths and stormwater disposal, which presently require resource consent as a full discretionary activity.

## **1.9 Esplanade Reserve Widths**

The current requirements for esplanade reserves do not specify a minimum width, with the consequence that not only is there uncertainty about what an appropriate width may be, but also an inappropriate width (i.e., a very thin esplanade reserve with little practical use) may not be able to be remedied through the controlled activity resource consent process.

## **1.10 Minor Corrections and Amendments**

A Plan Change for the above matters provides an opportunity to make a number of minor amendments to the subdivision provisions to improve the clarity and workability of the rules.