

ItemFile: 351/13-010

4 November 2020

## Proposed Private Plan Change 52 to the Upper Hutt City Council District Plan (2004) Rezoning of 20 Stroma Way, Mount Marua

### Purpose of report

1. The purpose of this report is to seek Council's decision on private Plan Change 52 lodged by Leith Consulting Ltd on behalf of Barretts Block Developments Ltd ['PPC52'].

The s42A Report and Recommended Decision is attached as Attachment 1 to this report.

### Recommendations

It is recommended that Council:

- (i) Approves PPC52 with modifications in accordance with clause 29(4) of the First Schedule of the Resource Management Act 1991 for the reasons set out in the S42A Report and Recommended Decision (Attachment 1).
- (ii) Adopts the Recommended Decision on the provisions and matters raised in submissions on PPC52 in accordance with clause 29 of the First Schedule of the Resource Management Act 1991.
- (iii) Gives notice of its decision on PPC52 in accordance with clauses 11 and 29(5) of the First Schedule of the Resource Management Act 1991.
- (iv) Resolves that, if no appeals are received by the close of the appeal period, PPC52 be made operative in accordance with clause 20 of the First Schedule of the Resource Management Act 1991.
- (v) Authorises officers to correct minor errors to the operative Plan Change if required.

### Background

2. In March 2020 Leith Consulting Ltd on behalf of Barretts Block Developments Ltd lodged a private Plan Change request seeking the rezoning of the land at 20 Stroma Way (the "site"). The proposed changes provide for limited additional development of the site at a rural lifestyle density level.
3. The site is located on the western side of Stroma Way in Mount Marua. It is legally described as Lot 101 DP 523671 and has a total area of 22.3ha. The site has been used for grazing in the past and is partly planted in pine trees. The site is elevated and gently rolling in topography. It accommodates a series of spurs and gullies, which generally fall in a north-westerly direction from the ridgeline to the north-western boundary of the site and beyond. According to the private Plan Change application the plan change site represents the final stage of possible development within the Mount Marua area.

4. The site is currently zoned Rural Hill Zone and is subject to the Southern Hills Overlay Area and Protected Ridgelines. The private Plan Change request proposes the rezoning of the site to Rural Lifestyle Zone with corresponding site specific provisions and the introduction of a Structure Plan for the site.
5. The private Plan Change provides a section 32 evaluation and an evaluation of environmental effects which have been informed by the following expert assessments:
  - Landscape and Visual Impact Assessment by Boffa Miskell Ltd (peer reviewed by Isthmus on behalf of Council);
  - Geotechnical Investigation by Abuild Consulting Engineers Ltd;
  - Infrastructure Assessment by Cuttriss Consultants Ltd; and
  - Transportation Assessment by Harriet Fraser Traffic Engineering & Transportation Planning.

## Proposed Changes

6. Private Plan Change 52 seeks to rezone the subject site at 20 Stroma Way from Rural Hill Zone to Rural Lifestyle Zone and introduces a Structure Plan for the site.
7. The current Rural Hill zoning of the site requires a minimum net site area of 20ha per site and the site is also subject to the Southern Hills Overlay Area of the District Plan which provides additional protection for identified visual, landscape and ecological values and identifies protected ridgelines.
8. Under the proposed Rural Lifestyle zoning the minimum net site area requirement would be reduced to 1ha and the proposed Structure Plan provides for a 14 lot subdivision of the site.
9. The Structure Plan relates solely to the plan change site and provides certainty regarding the intended form and layout of future subdivision. It describes the intentions for development and the anticipated outcomes. It also contains three sets of principles that need to be considered at the subdivision and land use consents stage of the development. These sets of principles relate to Earthworks and Sediment Control, Landscape and Visual Impact and Stormwater and Natural Hazards. The Structure Plan Map shows the location of the access road as well as the location and access to identified building platforms. Finally the Structure Plan contains a Landscape Masterplan that identifies areas of vegetation retention and management as well as areas of future planting and revegetation.
10. The private Plan Change proposes changes to the following chapters:

District Plan Chapter	Proposed Amendments
Chapter 5 - Rural Zone	<ul style="list-style-type: none"> <li>• Addition to explanatory text - Objective 5.3.1</li> <li>• New Policy 5.4.13</li> </ul>
Chapter 19 - Rural Zone Rules	<ul style="list-style-type: none"> <li>• Additional controlled activity condition - Rule 19.6</li> <li>• Additional access standard – Rule 19.8</li> <li>• New standard for new buildings within the Structure Plan Area covering height, location and external appearance – new rule 19.11A</li> <li>• Additional water supply, stormwater and wastewater standard – Rule 19.12</li> <li>• Additional matters for consideration for subdivision and scale, bulk, location and appearance of buildings – Rule 19.26</li> </ul>

Chapter 23 - Rules for Earthworks	<ul style="list-style-type: none"> <li>• Additional matter of discretion – Rules 23.18 and 23.19</li> <li>• Additional matter for consideration – Rule 23.23</li> </ul>
Chapter 28 - Southern Hills Overlay Area and Protected Ridgelines	<ul style="list-style-type: none"> <li>• Additional matters of discretion – Rules 28.6 and 28.7</li> <li>• Additional matter for consideration – Rule 28.8</li> </ul>
Part 4 - Appendices	<ul style="list-style-type: none"> <li>• Addition of a new chapter containing the Structure Plan to Part 4 (Chapter XX – Mount Marua Structure Plan)</li> </ul>
Planning Maps	<ul style="list-style-type: none"> <li>• Zoning Changes to Urban Map 21 and Rural Maps 19 and 26</li> </ul>

11. No further changes are requested by private Plan Change 52.

## The Statutory Process

12. On 10 June 2020 Council resolved to accept the private plan change request and thereby start the statutory process.
13. PPC52 was publicly notified on 15 July 2020. The submission period closed on 14 August 2020 and three submissions were received. The Summary of Decisions Requested (Summary of Submissions) was publicly notified on 9 September 2020 and the further submission period closed on 24 September 2020. No further submissions were received.

### Submissions and Decisions Requested

14. As outlined above 3 submissions and no late or further submissions were received on PPC52.

Subm. No.	Submitter Name	Support / Oppose	Wish to be heard
1	Fire and Emergency New Zealand	Neutral	Yes
2	KiwiRail Holdings Limited	Support with Amendments	Yes
3	Andrew Mark	Support	No

15. Fire and Emergency New Zealand (FENZ) point out that the operative District Plan references the out of date Fire and Emergency New Zealand Code of Practice (1992) and therefore request the addition of a standard that references the current Fire and Emergency New Zealand Code of Practice SNZPAS 4509:2008.
16. KiwiRail support the private plan change in general but KiwiRail consider that it does not address potential reverse sensitivity effects and should therefore incorporate provisions that provide protection from adverse effects from established rail operations. KiwiRail therefore requested an amendment to the Structure Plan to include comprehensive provisions to manage potential reverse sensitivity effects within 100m of a Rail Network Boundary.
17. Mr Andrew Mark supports the private plan change as it is a local and natural extension of established lifestyle development in the area and requests that it be approved.
18. After the close of submissions the plan change requestor has been working with submitters to address and resolve the matters raised in submissions. As a result of these discussions the following confirmations have been received from submitters:

- On 30 October 2020 FENZ have advised that the matters raised in their submission have been sufficiently addressed and that they no longer wish to be heard.
- Also on 30 October 2020, KiwiRail confirmed that as a result of further information and clarification provided by the requestor the issues raised in their submission have been resolved and that they withdraw their submission on PPC52.

19. The plan change requestor has agreed to further amendments to the plan change as notified to incorporate an up to date reference to the relevant Fire and Emergency New Zealand Code of Practice as requested by FENZ.

#### Evaluation of the PPC52

20. Because PPC52 is a private plan change request it is subject to clause 29 of the First Schedule of the RMA. Under this clause Council is able to, and is obliged to, consider PPC52 in its entirety and is not restricted to considering only matters raised in submissions. The reason for this distinction from Council initiated plan changes is that a private plan change does not necessarily reflect a Council agreed position.
21. A full evaluation of PPC52 has been undertaken and is included in Attachment 1 to this report.
22. In summary the evaluation of the private plan change identifies two issues that arise from the proposed rezoning and require further consideration and management through the proposed Structure Plan. These issues relate to the recognition and better protection of identified draft Significant Natural Areas (SNA) on the site and the introduction of an additional principle to better provide for the mitigation of potential effects on the identified ridgeline on the site. It is considered that the proposed further amendments to the wording of the proposed new Policy and the proposed Structure Plan appropriately address these issues.
23. The plan change requestor accepted the issues raised by the further evaluation of the plan change and agreed to the proposed amendments to address these matters.

#### No Hearing Required

24. No hearing was required for PPC52 because:
- KiwiRail have withdrawn their submission on 30 October 2020;
  - FENZ have advised they no longer wish to be heard;
  - The issues raised by Council in the S42A report and the recommended further amendments were accepted by the plan change requestor.
25. None of the remaining two submitters wished to be heard and because there were no outstanding issues to be resolved, no hearing was required.

#### Recommended Decision on Submissions

26. For the reasons outlined in this report and in the attached S42A Report and Recommended Decisions, it is recommended that the following decisions are made in relation to the submissions received:

Subm. No.	Submitter Name	Relief Sought	Accept / Reject
1	Fire and Emergency New Zealand	Add reference to the current Fire and Emergency New Zealand Code of Practice SNZPAS 4509:2008	Accept

Subm. No.	Submitter Name	Relief Sought	Accept / Reject
2	KiwiRail Holdings Limited	Withdrawn	---
3	Andrew Mark	Approve the Plan Change	Accept

## Recommendations

27. As required under clause 29 Council's processing officer has reviewed the Private Plan Change as notified, considered the matters raised in submissions the S42A and, in response, recommended amendments to PPC52. The following recommended modifications have been agreed upon by the plan change requestor and Council's consultant planner:

- Amend proposed Rule 19.11A New Buildings within the Mount Marua Structure Plan Area to include a standard that refers to the current Fire and Emergency New Zealand Code of Practice Standard;
- Amend the Structure Plan to better provide for the mitigation of potential effects on the identified ridgeline on the site;
- Amend proposed Policy 5.4.13 and the Structure Plan to better provide for the protection of identified draft SNAs on the site;
- Add a requirement to the Structure Plan to provide an updated Landscape Masterplan at the time of subdivision which includes the confirmed boundaries of SNAs on the site and provides for their ongoing protection.

28. Overall the attached S42A Report and Recommended Decision comes to the following conclusion:

*Based on my assessment of the proposed private Plan Change and for the reasons provided within this report, I consider PPC52 to be consistent with Part 2 of the Act. I therefore recommend to Council that PPC52 be approved, subject to the further amendments set out in this report and summarised in Appendix 1 to this report.*

*I further recommend that the submissions received be accepted as outlined in this report.*

29. The recommended amendments are outlined and assessed in more detail in Appendix 1 and 2 to the attached S42A Report and Recommended Decision.

30. It is therefore recommended that Council approve PPC52 with modifications.

## Consultation

31. As outlined above full consultation was undertaken on PPC52 in accordance with the statutory requirements of Schedule 1 of the Resource Management Act 1991.

## Legal and Financial Implications

32. There are no legal implications arising from Council's decision in this case, noting that Council's process is prescribed by the Resource Management Act 1991.

33. There are no financial implications if Council decides to adopt the S42 Report and Recommended Decision and approves PPC52 with the recommended amendments. In the very unlikely event of an appeal, significant professional and legal costs could potentially be incurred.

## **Conclusion**

34. Private Plan Change 52 seeks to rezone the site at 20 Stroma Way, Mount Marua from Rural Hill to Rural Lifestyle Zone with the introduction of a Structure Plan. The rezoning would allow for a 14 lot subdivision of the site in accordance with the intentions and principles of the Structure Plan.
35. PPC52 was processed in accordance with the First Schedule of the RMA and Council may now either decline, approve or approve with modifications the private plan change request. As outlined above and in the accompanying S42 Report and Recommended Decision it is recommended that Council approve PPC52 with modifications.

## **Included attachments**

1. S42A report and Recommended Decision

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Approved By

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