



**MARLBOROUGH SOUNDS
RESOURCE MANAGEMENT PLAN**

Private Plan Change No. 15

Oyster Bay, Port Underwood

Report prepared by Marlborough District Council

Notified 30 November 2006

What is a Private Plan Change?

1. The Resource Management Act 1991 (RMA) provides an opportunity for individuals to apply to the Marlborough District Council (the Council) for their own change to the Marlborough Sounds Resource Management Plan (the Plan).
2. The Council has received such a request from Connell Wagner Limited on behalf of Oyster Bay Developments Limited. Part II of the First Schedule of the RMA sets out the procedural matters for dealing with such requests. The process for dealing with private plan change requests is very similar to the process the Council follows for its own changes to the plan, following the First Schedule of the Resource Management Act 1991.

What is the Proposed Plan Change for?

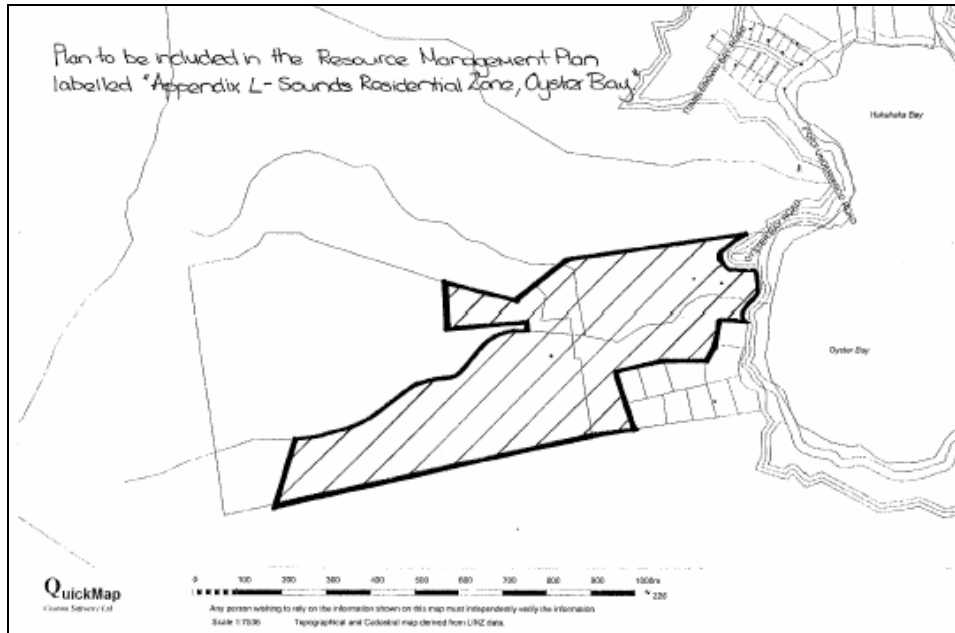
3. This current proposed plan change is to rezone approximately 26 hectares of land, legally described as Lot 6 DP 11879 and a portion of Pt Sec 11 Blk XII Arapawa SD in Oyster Bay, Port Underwood from Rural 1 to Sounds Residential Zone. The Council has prepared a schedule of changes that provides details of the proposed changes that will be made to the Plan.

What information is available on the plan change?

- This report
 - RMA s32 report prepared by Connell Wagner Limited
 - Appendices to the s32 report
 - Schedule of Changes
 - Submission form
4. The Council has prepared this report that documents the background and consultation undertaken by the Council during the period of accepting the plan change for processing on 6 April 2006 and notification on 30 November 2006. This report explains the history of events from the lodgement of the request to notification of the proposed plan change.
 5. The requestor has provided a s32 report (and appendices) prepared by its consultant, Connell Wagner Limited, (with appendices). This report and the s32 report, when read together, provide the basis for the proposed schedule of changes to the Plan.

Background

6. On 6 October 2005, the Council received a request from Connell Wagner Limited on behalf of Oyster Bay Developments Limited for a private plan change request to the Plan. The requestor, Oyster Bay Developments Limited comprises S. K. & R. M. Fitzgerald and D.L. and E.E. Thomson.
7. The request was to rezone approximately 26 hectares of land, legally described as Lot 6 DP 11879 and a portion of Pt Sec 11 Blk XII Arapawa SD in Oyster Bay, Port Underwood from Rural 1 to Sounds Residential, as shown on the map below. The subject site is owned by S. K. & R. M. Fitzgerald and D.L. and E.E. Thomson. The proposed plan change also sought to schedule the site in a new appendix 'L' and restrict the height of the buildings within that area to 7.5 metres under Sounds Residential zone rule 30.1.3.1.



8. The information supplied to support the plan change request included an assessment of the environmental effects and appendices containing a landscape report, an engineering assessment report for flood hazard, stormwater drainage and water supply, wastewater treatment and disposal report and a traffic assessment (Reference 23967.70, Revision 1).
9. The Council requested further information on 3 November 2005, relating to the possible flood hazard, effects on wastewater disposal (including a request for a site and soil evaluation), evaluation of archaeological sites, water supply, roading and traffic, coastal structures and further analysis and reporting of s32 requirements of the RMA.
10. New supporting information addressing the further information requested was supplied on 23 February 2006, that replaced the documentation lodged with the original request (Reference 23967.70(8925), Revision 3). The request remained the same, that is to rezone approximately 26 hectares of land, legally described as Lot 6 DP 11879 and a portion of Pt Sec 11 Blk XII Arapawa SD in Oyster Bay, Port Underwood from Rural 1 to Sounds Residential, to schedule the site in a new appendix 'L' and restrict the height of the buildings within that area to 7.5 metres under Sounds Residential Zone rule 30.1.3.1.
11. The new application, including the further information, was presented to the Council on 6 April 2006, to decide whether to reject, accept or adopt the request in whole or part for processing, or whether to proceed to process the request as a resource consent application.
12. The Council agreed to accept in whole, the request as modified following receipt of the further information, pursuant to clause 25(2)(b) of the RMA. After accepting the application the Council had a four month timeframe within which to conduct consultation pursuant to clause 3 of the First Schedule, RMA and prepare the application for notification in consultation with the requestors and its agent, Connell Wagner Limited. On 4 August 2006, staff under delegated authority, extended the timeframe to notify the request to 6 December 2006.

Consultation undertaken prior to notification

13. The Council commenced consultation with statutory bodies and other parties, in accordance with clause 3 of the First Schedule Resource Management Act 1991 on 11 May 2006, asking for

comments by 12 June 2006. The Council received five comments. The comments identified concerns from the neighbouring residents about the scale of subdivision that would result from rezoning the land to Sounds Residential Zone densities of 4000m² (minimum), and the consequential effects on amenity to the existing residents, how wastewater disposal would be dealt with, whether there is sufficient water to supply the new and existing allotments, power supply upgrading requirements, road safety on Port Underwood Road, pressure on the wharf facility at Oyster Bay and how flooding maintenance would be carried out.

Preparation of the request for notification

14. At the same time as the above consultation was happening, the Council continued to prepare the plan change request for notification in consultation with the requestor. Throughout this process the following issues were confirmed as needing further clarification before notification:
- (a) Determination of need for more Sounds Residential zoned land and the appropriateness of the Oyster Bay location relative to other areas in the Marlborough Sounds.
 - (b) Water supply
 - (c) Wastewater disposal
 - (d) Possible road safety issues on Port Underwood Road
 - (e) Flood hazard
 - (f) Other
- (a) *Determination of need for more Sounds Residential land and the appropriateness of the Oyster Bay, Port Underwood location relative to other hazard free areas.*
- (i) One of the matters that is required to be considered is whether more land should be zoned for Sounds Residential purposes. The request states that there is a market for smaller size lots for holiday homes in the Sounds. The comments are based on anecdotal evidence, and leaving it to supply and demand to determine the future up-take of the land once it is subdivided.
 - (ii) The Council requested further evaluation of this need for Sounds Residential Zoned land. The requestor's agent submitted an economics report prepared by Brown, Copeland & Co Limited dated 8 May 2006. This report is attached with the appendices to the s32 report (Appendix G).
- (b) *Water Supply*
- (i) The Council granted resource consent U991233, for the taking of water for a community water supply for a previous subdivision of the adjoining land. An updated assessment submitted to the Council on 29 May 2006 shows that there is sufficient water available for domestic needs based on a take of 1 m³/day and a storage tank of 7.5m³ for each allotment. The arrangement for distribution to current and future allotments would need to be established.
- (c) *Wastewater disposal.*
- (i) An initial assessment by staff noted that a site and soil evaluation had not been undertaken. This assessment has been submitted and shows that the land is suitable for on-site effluent disposal, provided that a secondary level of treatment is provided and that the treated wastewater is distributed by way of sub-surface irrigation. One key point noted from the assessment is that the land application areas be located away from potential flood hazard areas and or be adequately protected from flooding.

(d) *Traffic and roading*

- (i) There are possible road safety and reverse sensitivity issues, with regard to the existing heavy traffic movements that occur along Port Underwood Road, between Oyster Bay and Waikawa. The traffic report submitted with the request indicated, that there is sufficient capacity on the existing road to absorb the additional traffic movements that would be generated from the development and that would occur as a result of future subdivision of the proposed site. The Council sought clarification as to whether the assessment took into account the subdivision that could occur as of right to controlled subdivision levels. These reports are contained in Appendix A.

(e) *Flood hazard*

- (i) The Marlborough Sounds Resource Management Plan shows on planning map 103 in Volume 3, a flood hazard over part of the site. The requestor's agent has been working closely with the Council's Rivers and Drainage Engineers to further clarify the full extent of the flood hazard. It has been agreed that with mitigation works in place, to at least a 1:50 year flood return period standard, the land could be considered for residential development.

- (ii) The Council, in preparing the plan change, scoped out the options to deal with the presence of a flood hazard, to ensure that any mitigation works were in place before the site was subdivided for residential purposes. The options considered included:

- Creating a new Deferred Sounds Residential Zone. This would be a similar approach to the deferred township zone in the Proposed Wairau/Awatere Resource Management Plan for Rarangi. The deferred status would only be uplifted when the works had been designed and completed and signed off by the Council's Rivers Engineers. Applications for subdivision would then proceed as for Sounds Residential zoning.
- Add a new requirement to the subdivision chapter in the Marlborough Sounds Resource Management Plan under the Sounds Residential Zone section, that subdivision and development of the site cannot occur until flood mitigation works are carried out.

This would have the same outcome as putting in place a deferred zoning without having to change the plan once the works had been completed.

A resource consent application for subdivision as a controlled application would be considered if the minimum allotment and access standards for Sounds Residential were met and the mitigation works had been carried out to the Council's satisfaction, then the application would proceed as a controlled activity. The alternative approach would be that the applicant could apply for resource consent for subdivision without the mitigation works having been completed to Council's satisfaction. In this case the application would be considered as a non-complying activity.

- Create a specific new zone (often referred to as a spot zone) in the Plan for this development that would include all of the Sounds Residential Zone standards and rules and those new requirements specific to this development, for example, rules regarding mitigation of the flood hazard.

- (iii) During consultation with the principals of Oyster Bay Developments Ltd, their preferred approach has been that the works should be dealt with at the time of subdivision as conditions of consent. The Council's position, based on legal advice, has been that the works must be constructed and completed before any subdivision at the controlled subdivision standards for the Sounds Residential Zone is applied for.
 - (iv) The attached schedule of changes, firstly schedules the proposed site in Appendix J, and provides for a new standard under the Sounds Residential Zone Controlled subdivision standards that mitigation works be completed, to the Council Rivers Engineer's satisfaction, before an application for subdivision as a controlled subdivision could be applied for. The scheduled area has been excluded from the discretionary subdivision standards. Should the works not be in place before a subdivision application is applied for, then the application would be assessed as a non-complying activity.
 - (v) In addition to these new requirements, two new conditions of consent will be added to subdivision rule 27.5.2.2, to require conditions of consent to vest land (as required) in the Council, for the purpose of maintaining the flood mitigation works to protect the scheduled area and to consider the vesting of land as road reserve for the purpose of parking space for vehicles and boat trailers.
- (f) *Other*
- (i) The proposal requested that Sounds Residential Zone Rule 30.1.3.1 be amended, to limit the height of buildings to 7.5 metres based on the findings of the landscape assessment. There may be the requirement for houses to have minimum floor levels or pole foundations, therefore, the proposed rule change to limit the height to 7.5 metres has not been included as part of the plan change. The existing height limitation of 10 metres will apply.
 - (ii) Future development of the site at a Sounds Residential Zone density could place additional pressure on the wharf facility, because of the greater number of recreational boat users using the launching facilities. Because of the limited parking provisions at the wharf, there is potential conflict between cars and trailers parking along the roadside and the activities of the commercial wharf facility. The schedule of changes has provision for conditions of consent to be considered during future subdivision resource consent applications, requiring the vesting of land in the Council, as road reserve, for the purpose of providing parking for vehicles and boat trailers.

How you can be involved

- 15. Anyone is welcome to make a submission, either as an individual or on behalf of an organisation. The Council has prepared a submission form that you are welcome to use or you can prepare your own submission, so long as you are careful to provide all of the information identified on the form.
- 16. If you would like to meet with Council staff to discuss the proposed plan change, please call the Council on 520 7400 and ask for Sarah Paton or Tania Bray to arrange a time for a meeting.

What happens next?

- 17. Once the closing date for lodging submissions has passed, all submissions received will be summarised, publicly notified and made available for public inspection. Any person who wishes to support or oppose any submission, by lodging a further submission, will be entitled to do so. The Council will then hold hearings to consider submissions that have been lodged and issue decisions

on the matters raised. Anyone who has made a submission and who has indicated that they wish to be heard will have the right to attend the hearing and to present their submissions.

18. The Council will then issue decisions on submissions (including reasons for accepting or rejecting the submissions). On receiving notice of the decision, any person with a formal interest in proceedings may refer the decision to the Environment Court for further consideration, if they are in disagreement with or are dissatisfied with the decision made by the Council.
19. For further information contact, Sarah Paton or Tania Bray, phone (03) 520 7400 or fax: (03) 520 7496.

\\tmc....O:\Admin\K-Q\M135\15\15\Oyster Bay Report November 2006-SPa2.doc Saved 23/11/2006 11:03:00