

HUTT CITY COUNCILKOMITI AROTAKE MAHERE Ā-ROHE
DISTRICT PLAN REVIEW COMMITTEE

Minutes of a meeting held in the Council Chambers, 2nd Floor, 30 Laings Road

Lower Hutt on

Thursday 3 October 2024 commencing at 10:00 am

PRESENT:

Cr B Dyer (Chair) Cr J Briggs
 Cr S Edwards (Deputy Chair) (via audio-visual link)
 Deputy Mayor T Lewis Cr A Mitchell
 Cr K Morgan Cr N Shaw
 R Te One Mana Whenua
 Representative (Te Āti Awa,
 Taranaki)

APOLOGIES:

Mayor Barry

IN ATTENDANCE:

J Kingsbury, Director Economy and Development
 T Johnston, Head of Planning
 N Geard, Policy Planning Manager
 S Davis, Intermediate Policy Planner
 S Bellamy, Intermediate Policy Planner
 J Randall, Democracy Advisor
 H Clegg, Minute Taker

PUBLIC BUSINESS**1. OPENING FORMALITIES - KARAKIA TŪTURU: TĒNEI AU**

Tēnei au
 Tēnei au te hōkai nei o taku tapuwae
 Ko te hōkai nuku ko te hōkai rangi
 Ko te hōkai a tō tupuna a Tāne-nui-a-rangi

Ka pikitia ai ki ngā rangi tūhāhā ki te
 Tihi-o-Manono
 Ka rokohina atu rā ko Io-Matua-Kore anake
 Ka tikina mai ngā kete o te wānanga
 Ko te kete-tuauri
 Ko te kete-tuatea
 Ko te kete-aronui
 Ka tiritiria ka poupoua
 Ka puta mai iho ko te ira tāngata
 Ki te wheiao ki te ao mārama
 Tihei-mauri ora!

This
 This is the journey of sacred footsteps
 Journeyed about the earth journeyed about the
 heavens
 The journey of the ancestral god Tānenuiarangi
 Who ascended into the heavens to Te Tihi-o-
 Manono
 Where he found Io, the parentless source
 From there he retrieved the baskets of knowledge
 Te kete-tuauri
 Te kete-tuatea
 Te kete-aronui
 These were distributed and implanted about the
 earth
 From which came human life
 Growing from dim light to full light
 There was life.

2. APOLOGIES

RESOLVED: (Cr Dyer/Cr Briggs)

Minute No. DPRC 24501

"That the apology received from Mayor Barry be accepted and leave of absence be granted."

3. PUBLIC COMMENT

Comments are recorded under the item to which they relate.

4. CONFLICT OF INTEREST DECLARATIONS

Cr Edwards declared a conflict of interest in Items 5, 6 and 7 and took no part in voting on the items.

PRECEDENCE OF BUSINESS

In terms of Standing Order 10.4, the Chair accorded precedence to Item 7: Update On The Natural Features And Landscapes and Coastal Environment Chapters And Overlays For The Proposed District Plan. The item is recorded in the order in which it is listed on the order paper.

5. OPTIONS FOR THE ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER FOR THE PROPOSED DISTRICT PLAN

Report No. DPRC2024/5/277 by the Policy Planning Manager

Cr Edwards declared a conflict of interest and took no part in voting on the item.

In response to questions from members, the Policy Planning Manager advised the following:

- the Regional Policy Statement (RPS) required the identification of Significant Natural Areas (SNAs), but the government indicated they would soon not be required. While Council still needed to give effect to the RPS, there was not enough time to complete the work, so SNAs would not form part of the Proposed District Plan for now.
- Officers monitored the progress of the Resource Management (Freshwater and Other Matters) Amendment Bill, which aimed to reform the National Policy Statement – Indigenous Biodiversity (NPS-IB). While the operative and proposed RPS required the identification of SNAs, the updated NPS-IB was expected to pause this requirement for three years.
- officers followed the operative NPS-IB and RPS because Greater Wellington Regional Council's (GWRC) Plan Change 1 was still undergoing the appeal process. District Plans were required to achieve the purpose of the Resource Management Act (RMA) despite inconsistencies between the RPS, NPS-IB and the RMA.
- active open space areas like sports fields and playgrounds would not be assessed for indigenous biodiversity. Council's Parks and Reserves business unit liaised with

GWRC to protect indigenous biodiversity in Lower Hutt.

- private landowners could request that their land be zoned as natural open space to protect it for the future. The most effective way to protect private land was through a QEII Covenant.

Cr Mitchell expressed support for officers exploring alternative opportunities to support landowners to voluntarily protect their land.

RESOLVED: (Cr Dyer/Cr Mitchell)

Minute No. DPRC 24502

“That the Committee:

- (1) *notes the content of the report;*
- (2) *directs officers to prepare an Ecosystems and Indigenous Biodiversity chapter for the proposed District Plan under Option 3, specifically:*
 - (a) *protection of indigenous vegetation in Residential Zones (continuing the current approach of the Operative District Plan);*
 - (b) *protection of indigenous vegetation on public land in the Natural Open Space Zone;*
 - (c) *provisions to promote restoration and increase of indigenous biodiversity; and*
 - (d) *information requirements where resource consent is required for activities that have a more than minor impact on biodiversity; and*
- (3) *directs officers to investigate a workstream that would ensure the District Plan is updated to fully implement the requirements of the Resource Management Act, including national policy statements and the Regional Policy Statement for the Wellington Region.”*

6. UPDATE ON RURAL ZONES AND THE HIGHLY PRODUCTIVE LAND OVERLAY FOR THE PROPOSED DISTRICT PLAN

Report No. DPRC2024/5/279 by the Intermediate Policy Planner

Cr Dyer acknowledged a letter from Dan Jackson, which had been circulated to members. The letter is attached as page 7 to the minutes.

Speaking under public comment, **Ken Jackson, speaking as an individual and on behalf of Nigel Thomas and Camp Wainui**, raised concerns about Council’s mapping. He pointed out that it designated large areas of the Hutt Valley as highly productive land and he questioned whether this information was current. He favoured a voluntary system that would protect significant areas on private land.

Cr Edwards declared a conflict of interest and took no part in voting on the item.

The Intermediate Policy Planner elaborated on the report.

In response to questions from members, the Policy Planning Manager advised that ‘Māori customary harvesting rights’ were proposed as a permitted activity on land owned by Mana Whenua or publicly owned land. He said it required the prior permission of the land owner on privately owned land.

RESOLVED: (Cr Dyer/Deputy Mayor Lewis)

Minute No. DPRC 24503

"That the Committee receives and notes the report."

7. **UPDATE ON THE NATURAL FEATURES AND LANDSCAPES AND COASTAL ENVIRONMENT CHAPTERS AND OVERLAYS FOR THE PROPOSED DISTRICT PLAN**

Report No. DPRC2024/5/280 by the Head of Planning

Speaking under public comment, **Ken Jackson, speaking as an individual and on behalf of Nigel Thomas and Camp Wainui**, expressed concern that Council's previous identification of Significant Natural Areas (SNAs) would extend to Outstanding Natural Landscapes (ONLs). He believed the proposed rules would prevent land development, rendering it economically unviable and devaluing land. He asked for a halt on ONL work until landowner consultations were completed and noted that some maps did not meet the criteria for exceptional quality. He also expressed concern about iwi customary harvest rights on private land. He thanked Council's Planning team for their assistance.

Speaking under public comment, **Don McCreary** expressed concern about a proposal to place an Outstanding Natural Landscape Overlay (ONLO) over half of his 200-hectare property, which he believed would limit his farming and tourism activities. He believed there was a requirement under Policy 25 of the RPS for consultation with landowners when mapping took place but said that had not happened. He pointed out that while his productive land and house site were included in the ONLO, much of the natural and native bush regeneration on his property was not. He advised that he would request remuneration if the ONL became law.

In response to questions from members, Don McCreary explained that if the proposal proceeded, it might become difficult to build structures on his land due to the lack of guaranteed consent. He believed that many farming practices could be restricted and that he would have to apply for consent to conduct farming operations. He advised that he was likely to face major losses.

Speaking under public comment, **Darcy Clarke** believed the ONLO designation over his land lacked a scientific basis. He stated that the Ministry for Primary Industries deemed much of his land unproductive. He mentioned the costly resource consent required for farming activities, with no guaranteed success. He explained that the lower 290 acres of his land consist of low-value scrub, which should not be included in the ONLO. He acknowledged a slight ONLO boundary adjustment but noted that grassland and pine areas remained within the ONLO. He highlighted that part of his land had reverted to native forest and was protected from farming use. He advised that he had engaged a lawyer and consulted with a Federated Farmers specialist in this field and a Landscape Architect. He requested that Council waive consent and consulting fees if the ONL became law.

In response to questions from members, Darcy Clarke explained that restrictions on land use within an ONL would be expensive to operate under. He expressed a wish to work with Council and believed a detailed scientific review of ONLs was required.

Speaking under public comment **Jane Wootton read a statement on behalf of Craig Innes and the Wainuiomata Community Association.** The statement suggested that the maps used to identify SNAs were based on information at least 10 years old. The statement noted that the government had signalled that all Class 3 land would be removed from the Highly Productive Land list. The statement questioned why almost no publicly owned land was on the list of ONLs. Craig Innes had requested information under the Official Information Act but had yet to receive a response

In response to members' questions, Jane Wootton proposed reducing the amount of privately owned land designated as ONLs while increasing the amount of publicly owned land.

Speaking under public comment, **Julie Martin** believed a SNA had been removed from her land several years ago. She did not believe that her land qualified for an ONL classification. She considered that Council was imposing overly restrictive rules on her land.

Emma Craig, Landscape Architect from Boffa Miskell, and Corinna Tessendorf, Consultant Planner from Urban Edge Planning, were in attendance for the item.

Cr Edwards declared a conflict of interest and took no part in voting on the item.

The Chair explained that whilst the rules relating to SNAs had been removed, planning maps had not been altered. He further explained that the mapped SNA references would be removed from the Proposed District Plan process.

The Head of Planning elaborated on the report.

Emma Craig explained that a landscape evaluation report on ONLs and ONFs was prepared in 2016, followed by a joint Wellington City and Hutt City Council evaluation document in 2018. The Head of Planning added that 7,500 letters were sent to individual landowners for feedback, and site visits led to some map adjustments. Emma Craig explained that workshops with Council officers and field assessments had further refined ONL areas.

In response to questions from members, Emma Craig confirmed she had visited Darcy Clarke on his land and made minor boundary adjustments to the ONL. She said ONLs applied primarily to large tracts of land. She explained that much of the Wainuiomata Regional Park had been significantly modified, thus failing to qualify as an ONL. She confirmed that all work complied with current legislative requirements without considering potential RMA, NPS or RPS changes.

RESOLVED: (Cr Dyer/Cr Mitchell)

Minute No. DPRC 24504

"That the Committee:

- (1) notes the content of the report; and*
- (2) directs officers to complete the Natural Features and Landscapes and Coastal Environment chapters and overlays for the Proposed District Plan."*

8. INFORMATION ITEM

District Plan Review Committee Forward Programme 2024

Memorandum dated 25 September 2024 by the Democracy Advisor

The Chair advised that there would be no further reports on District Plan chapters to the Committee, with the final recommendations to Council being a cumulative sign-off of all chapters.

RESOLVED: (Cr Dyer/Cr Shaw)

Minute No. DPRC 24505

"That the Committee receives and notes the Forward Programme for the District Plan Review Committee for the remainder of 2024."

9. QUESTIONS

There were no questions.

10. CLOSING FORMALITIES - KARAKIA WHAKAMUTUNGA

Unuhia!

Unuhia!

Unuhia i te uru-tapu-nui

Kia wātea, kia māmā

Te ngākau, te tinana, te wairua i te ara
takatū

Koia rā e Rongo whakairihia ake ki
runga

Kia wātea, kia wātea!

Ae rā, kua wātea!

Hau, pai mārire.

Release us from the supreme sacredness of our task

To be clear and free

in heart, body and soul in our continuing journey

Oh Rongo, raise these words up high

so that we be cleansed and be free,

Yes indeed, we are free!

Good and peaceful

There being no further business, the Chair declared the meeting closed at 11.42 am.

Cr B Dyer
CHAIR

CONFIRMED as a true and correct record
Dated this 10th day of December 2024

Dear Lower Hutt City Council

Subject: Concerns Regarding Breaches of Legal Rights and Constraints Imposed by Highly Productive Land Overlays

I hope this message finds you well. I am writing to formally express my concerns regarding the Hutt City Council's implementation of the highly productive land overlays as part of the district plan, introduced approximately two years ago. While I appreciate the intention behind such planning measures, I believe they have led to significant breaches of my legal rights as a property owner, particularly under various statutory and common law protections.

As stated in the attached correspondence, the overlays fall under the direction of the National Policy Statement, which classifies land into categories 1-3. However, in practical terms, the notion of "highly productive land" within the Hutt Valley seems to be misrepresented, as most affected areas, including parts of Coast Rd and Moore's Valley, do not exhibit the characteristics of genuinely productive land. This misrepresentation raises serious questions about the validity of these overlays and their implications.

The proposed restrictions are excessively prohibitive and significantly limit my rights concerning future building and subdivision opportunities on my property. This not only undermines my investment and intentions but potentially violates my rights under the Resource Management Act 1991, which strives to balance the various interests in land use while considering the rights of all property owners.

I am particularly concerned about the lack of consultation and compensation offered for the limitations imposed by these overlays, which I believe contravenes the principle of fairness established under the New Zealand Bill of Rights Act 1990 and the Property Law Act 2007. The implications resemble those of Significant Natural Areas (SNAs), yet they offer even fewer pathways for use or development of my land without due cause.

Furthermore, it has come to my attention that these overlays might enable Māori customary harvesting rights on my private property. While I fully respect the cultural and historical rights of the Māori, it is imperative that property owners are informed and consulted regarding access to their land, ensuring that our legal rights remain intact.

In light of these concerns, I seek clarification on whether the Government is considering the removal of land class 3 from the highly productive land overlays. Additionally, I urge the council to reconsider the placement of Outstanding Natural Landscapes and Features, particularly regarding the six private properties affected in our district. The implications of these overlays could render our properties virtually unusable in the future, which is disproportionate and unjust. In summary, while I appreciate the efforts of Hutt City Council officers in our initial consultations, substantial change will likely require direction and cooperation from the Government. I invite you to engage further with us, either through meetings or site visits, to understand the profound impacts these overlays are having on our community and properties.

Thank you for your attention to this pressing issue.

Sincerely,
Dan Jackson