

Chairperson and Committee Members

**ENVIRONMENT AND COMMUNITY DEVELOPMENT COMMITTEE**

**29 APRIL 2010**

Meeting Status: Public

Purpose of Report: For Decision

**DISTRICT PLAN REVIEW: SCOPE AND WORK PROGRAMME**

**PURPOSE OF REPORT**

1. This report provides the Committee with a summary of submissions received on the District Plan Review: Scoping Discussion Document and, based on these submissions, seeks the Committee's approval for a proposed scope and work programme for the District Plan Review.
2. This report also asks the Committee to resolve that the District Plan Review will be undertaken under the provisions of Section 79(1) of the Resource Management Act 1991 (as amended in 2009) rather than the 'full review' provisions of Section 79(4) of the Resource Management Act 1991.

**SIGNIFICANCE OF DECISION**

3. The Council's Significance Policy is not triggered by this report.

**BACKGROUND**

4. Territorial authorities are required by the Resource Management Act 1991 (as amended in 2009) to review provisions of District Plans that have not been changed in the past 10 years. The Council's District Plan was made operative in August 1999; therefore a review of any provisions that have not changed since then was required to have commenced by August 2009.
5. The Council began its District Plan Review in September 2008 following agreement by the Environment and Community Development Committee at its 3 September 2008 meeting that the review would begin early to allow for an extensive community consultation process and multi-staged series of discussion papers and draft documents (SP-08-290 refers). The Committee resolved to follow a full-consultation process that would lead to a new proposed District Plan being notified in the second half of 2011.
6. While initial work on the District Plan Review took place in late 2008 and throughout 2009, including updating of monitoring data, some aspects of the Review were delayed by the need to wait for the outcome of the 2009 RMA amendment process, which was considering changes to the requirements for District Plan Reviews.
7. On 3 December 2009, the Regulatory Management Committee received a report (SP-09-746 refers) that provided an update on the District Plan Review, including timing and scoping amendments resulting in part from amendments to the RMA.

8. Attached to SP-09-746 was a draft discussion document on the scope of the District Plan Review, designed to elicit public feedback on which topics should be included and emphasised in the Review. The Regulatory Management Committee recommended to Council that it approve the general content of that discussion document for release in February 2010. Council provided its approval on 17 December 2009.
9. The Scoping Discussion Document was published at the end of February 2010 for a consultation period closing on 31 March 2010. A black-and-white copy of the discussion document is attached as Appendix One to this report.
10. The full discussion document was mailed to 395 stakeholders, mainly comprising current holders of the District Plan, but with the addition of other agencies, organisations and individuals who had expressed a prior interest in the District Plan Review, or were considered to be likely to have an interest in the Review.
11. In addition, a four-page summary document was included in the 3 March edition of the Kāpiti News, which is distributed district-wide. Additional advertising took place in the Kāpiti Observer and Paekākāriki Xpressed, as well as on BeachFM.
12. The full discussion document and summary document were made available on the Council website, along with an online submission form, as well as at Council libraries and service centres, and by request through the Call Centre.
13. A series of four evening information sessions were hosted by Community Boards in March, where staff presented a summary of the discussion document and answered questions from the public. These took place as follows:
  - 15 March: Waikanae Senior Citizens Hall
  - 16 March: Paekākāriki Community Board Meeting: St Peters Hall
  - 17 March: Paraparaumu / Raumati: Kāpiti Community Centre
  - 18 March: Ōtaki Memorial Hall
14. The submissions period closed on 31 March 2010. A total of 85 submissions were received. The rest of this report analyses the submissions and, based on this feedback, recommends a scope and work programme for the District Plan Review.

## CONSIDERATIONS

### Aim of Discussion Document

15. The Scoping Discussion Document had two objectives: 1) to raise awareness of the District Plan Review and its process and timelines; and 2) to elicit feedback on proposed focus areas for the Review. Much of the material in the Scoping Discussion Document was provided for awareness-raising purposes. The rest was to propose and explain focus areas for the Review. Pages 11 and 12 of the Discussion Document listed the following proposed focus areas in three categories:

**(1) 'Big-picture' conceptual thinking (including issues, objectives and policies) - possibly a 'major rethink' -- specifically:**

- Rural land use and productivity

- Paraparaumu Town Centre
- Implications of State Highway 1 decisions
- Landscape
- Residential amenity / character
- Industrial / Commercial Employment Land
- Climate change
- Renewable energy

**(2) Regulatory details (e.g. rules and standards) and technical information -- possibly major changes, but potentially within the existing conceptual framework of objectives and policies -- specifically:**

- Waahi Tapu sites
- Parking requirements
- Coastal hazards
- Flooding
- Noise
- Review of Subdivision and Development Principles and Requirements
- Native tree protection and ecological sites
- Earthworks
- Reserves contributions (development impact fees for parks and reserves)
- Control over cell phone towers (in accordance with the National Environmental Standard)
- Establishment, upgrading, maintenance, operation and repair of network utilities
- Streamlining the resource consent process

**(3) User-friendliness of the final Review document, including structure and formatting**

16. It is important to note that these focus areas are proposed as topics for emphasis, so that Council resources can be efficiently used in the Review. In addition to any chosen focus areas, the RMA requires that any part of the District Plan that has not been changed since 1999 must at least undergo some review and be notified for submissions. Such a 'light' review in the case of non-focus areas would probably result in the provisions being notified with minor changes or no change at all, unless in the course of the Review it becomes apparent that there are more significant changes required.
17. The feedback form for the Scoping Discussion Document essentially asked whether the Council had proposed the right set of focus areas. The first six questions, as shown on the last page of Appendix One, were:
- Have we identified the right list of issues to focus on? (yes/no plus comments)
  - What issues do you agree need to be addressed?
  - What issues have we missed?
  - What issues do you think should be reviewed only lightly or not at all?

- Which issues should receive the most emphasis in the review?
  - What else would you like to tell us including any useful examples?
18. The remaining questions were about respondents' desire to receive further updates on the District Plan Review.

### **General Summary of Discussion Document Responses**

19. A summary of all submissions is attached as Appendix Two to this report. Because a privacy disclaimer was not provided with the hard copy feedback form, names of individuals are not listed, but organisation names are.
20. The responses to each question often overlapped with responses to other questions; therefore to avoid repetition and improve clarity the summary table in Appendix Two does not list answers to each question separately. Instead a summary of the feedback is provided. Copies of the full submissions (excluding names) are available to Elected Members upon request from this report's author.
21. Before providing question-by-question analysis, some general themes can be summarised from the submissions.
22. First, not all respondents limited their comments and proposed focus areas to topics that can be addressed by the District Plan. Several expressed opposition or support to the Government's proposed expressway through the District, and others emphasised the importance of sorting out water supply for the District. This is understandable, due to the current high profile of these issues in the public arena.
23. Second, some submitters did not follow the format of the Discussion Document's feedback form, which in some cases made it difficult to interpret the responses. Sometimes the responses do not answer the questions asked, or provide answers to different questions. A common type of response provided a list of issues that the respondent was interested in, without considering or commenting whether the Council's list of focus areas was right or wrong, or whether any focus areas were missing. There were also numerous responses that simply suggested one or two main focus areas, then asked to be kept informed during the District Plan Review, rather than answering all questions.
24. Third, and most importantly, the submissions seem to generally suggest that the Council's proposed focus areas are supported. Few submissions suggested that any of the proposed focus areas be removed. More common were suggestions to add a new focus area, or extend a proposed focus area to a wider topic. These are discussed more in the following section.

### **Question-by-Question Summary of Discussion Document Responses**

*Question One: Have we identified the right list of issues to focus on?*

25. This was a yes/no question with room for comments. The majority of responses (43) said that Council had identified the right list of issues to focus on, while only 15 said Council had not. It is important to note, though, that not all of the 'yes' responses were unequivocal; many suggested refinements to the list of focus

areas. Similarly, many of the ‘no’ responses indicated that they agreed with some of the proposed focused areas, but not all. As such, this is a difficult question to interpret fully on its own. Some respondents obviously felt that it was a difficult question to answer as well; 25 of 85 did not respond at all, and two responded “yes and no.”

*Question Two: What issues do you agree need to be addressed?*

26. An analysis of the submissions shows that all of the proposed focus areas received support from at least 10 respondents -- in some cases dozens. Several respondents responded that they agreed with all the proposed focus areas. This is consistent with the responses to Question One, which indicated that most respondents thought Council’s list of proposed focus areas was correct.
27. Some responses to this question appear to have mistakenly focused on areas for the most emphasis, as they only listed one or two focus areas.
28. Several responses included focus areas that were not proposed initially by Council, or that would expand existing focus areas. These responses have been considered in the context of Question Three below (‘What issues have we missed?’).

*Question Three: What issues have we missed?*

29. A total of 48 responses suggested the Council had missed some topics as proposed focus areas. Many of these were already intended to be included within the proposed topic areas, while others can be seen as logical extensions to the proposed focus areas (see Appendix Three for a summary). Others seem to be stand-alone topics, distinct from any Council-proposed focus areas.
30. The next section of this report, “Recommended Scope for District Plan Review,” proposes how these extensions and additions could be addressed.

*Question Four: What issues do you think should be reviewed only lightly or not at all?*

31. Only nine proposed focus areas had any responses suggesting light or no review. Climate change was the only topic that received more than one response suggesting light or no review, with only four such responses. For all the proposed focus areas, including climate change, the number of responses that agreed with those focus areas far outweighed the responses suggesting light or no review.

*Question Five: Which issues should receive the most emphasis in the review?*

32. No particular proposed focus areas stand out as needing particular emphasis over other focus areas. The few topics that received a relatively high number of responses to this question were: implications of State Highway One decisions, climate change, and native tree protection / ecological sites.
33. Based on the varied responses, it is proposed to start by weighting all focus areas equally. If the magnitude of the problems or the complexity of potential solutions suggests this needs to be adjusted later in the Review process, the adjustment can be done at that time. To formally assign particular emphasis to certain focus areas over others at this stage would be placing too much weight on responses to this question which were varied and sometimes difficult to interpret.

*Question Six: What else would you like to tell us, including any useful examples?*

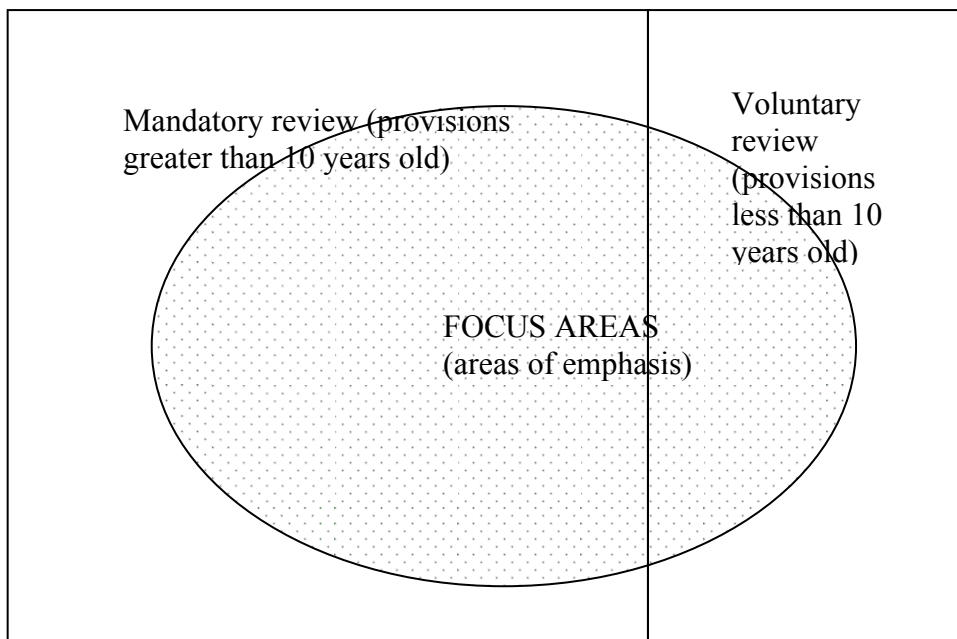
34. Less than half of respondents (40 of 85) answered this question. Of those that did, most simply underscored their support or opposition to reviewing certain topics, or provided additional detail on their rationale. Few respondents provided information on other Councils' approaches or other specific external material that our Council should consider.

*Questions 7 through 9: Further updates*

35. The majority of respondents to this question (69 of 85) indicated they did want to receive further updates on the District Plan Review. Only 5 said they did not want to receive further updates, while 11 did not answer the question. The affirmative responses were split between those who wanted to receive updates on all aspects of the Review (65%) and those who only wanted updates on specific topics of interest to them (35%).
36. The responses to this question have been used to expand the stakeholders' database for the District Plan Review, thus contributing to the participatory process for future phases of the Review.

### **Recommended Scope for District Plan Review**

37. This section recommends a scope for the District Plan Review, based on submissions. The scope is divided into two categories:
- Recommended Focus Areas, comprising Expanded and New Focus Areas, combined with the previously proposed Focus Areas.
  - Non-Focus Areas.
38. These categories of Focus Areas vs Non-Focus Areas are about the emphasis and initial effort that is placed on reviewing different topics covered by the District Plan. They are not the same as the categories of "mandatory" vs "voluntary" review, which are instead related to the age of the provisions in the District Plan.
39. The following diagram shows the relationship between Focus Areas and the sections of the District Plan subject to mandatory vs voluntary review (note: sizes of shapes are indicative only). The diagram shows that focus areas are not limited to the pre-2000 provisions that must be reviewed; they will undoubtedly cover some provisions that have been reviewed in the past 10 years. Similarly, non-focus areas may still be subject to some level of mandatory review due to their age.



40. Each of these categories is now discussed in turn.

*Expanded Focus Areas*

41. It is recommended that some existing focus areas are expanded based on submissions. The expanded focus areas proposed are:

- **Integrated transport:** incorporating two previous focus areas (implications of State Highway 1 and parking), but allowing also for consideration of public transport, integration of transport and land use, impacts of rail upgrades on local transport networks, road safety, cycleways / walkways / bridleways (CWB) and connected communities. These topics were suggested by numerous respondents including the New Zealand Transport Agency.
- **Biodiversity:** incorporating previous focus area (native tree protection and ecological sites) but allowing also for blue / green corridors, stream health, stormwater quality, streamside vegetation, and wider biodiversity considerations. This was suggested by numerous respondents including the Department of Conservation.
- **Open Space:** incorporating previous focus area (reserves contributions) but looking more widely at what land should be protected or acquired for various open space purposes (including community gardens, natural burials, etc.). This fits well with the current development of a Council Open Space Strategy.
- **Economic health and vitality:** incorporating previous focus area (industrial and commercial land) but widening the focus to all things affecting a community's economic health (not just land but amenity, etc.)

- **Cell phone towers and other radio frequency emissions:** incorporating previous focus area (control over cell phone towers) but including other sources of radio frequency emissions as well.
42. The table in Appendix Three lists all the additional topics suggested by respondents that could be linked to an existing proposed focus area. In many cases the existing focus area is already intended to include these topics, while in other cases the existing focus area has been expanded to include these topics, as described above.

#### *New Focus Areas*

43. The following are topics that respondents said Council had ‘missed’ which could not be linked to an existing focus area but which are considered to require a stand-alone focus area.
- **Growth management** (general): this is a large issue but needs to be considered in light of changes to infrastructure networks and the latest population and employment projections. It can include looking at the linkage between urban growth and infrastructure constraints such as water supply, as well as density and infill issues, and the possibility of re-zoning additional land for growth.
  - **Urban design:** again, this is another large issue but needs to be at the forefront of the review so that Council continues to follow through on its commitment to the Urban Design Protocol. It can include providing additional design guides for things like Large Format Retail and Town Centres.
  - **Housing choice and affordability:** this goes beyond “residential amenity / character” and is a key concern in the District due to diverse and changing demographics.
  - **Contaminated sites:** this is a specific issue that needs to be reviewed as the Government is proposing a National Environmental Standard on contaminated sites.
  - **Heritage:** this relates to the protection of natural heritage such as native trees, as well as to built heritage and archaeological sites. It was suggested by New Zealand Historic Places Trust as a focus area.
44. There were a variety of other new focus areas suggested by respondents that are not recommended by staff to be focus areas at this time. Many of these (e.g. Aquatic Centre, water supply, sewage and stormwater, and green waste) are Council capital projects that are not primarily affected by the District Plan. Others (e.g. fluoridation, library services, rates and macrons for Maori words) are Council operational matters upon which the District Plan has little or no impact, and still others (e.g. nudity on beaches) are matters dealt with by bylaws rather than the District Plan.
45. Additional topics proposed by respondents will still be addressed where possible, even though they will not be focus areas in themselves. In addition, responses relevant to Council’s other major projects like the Water Supply project and negotiations with NZTA on the Expressway plans have been forwarded to Council

staff responsible for those projects. In short, all submissions will be addressed even if they do not directly influence the scope of the review.

*Combined Revised Focus Areas*

46. Based on the submissions received, as summarised above, the recommendation is that the following list of focus areas be approved (Note: refer to the scoping discussion document Appendix 1 for more detail on the originally proposed focus areas, shown here with an asterisk):

- Rural land use and productivity\*
- Paraparaumu Town Centre\*
- Landscape\*
- Biodiversity
- Open Space
- Residential amenity / character\*
- Climate change\*
- Renewable energy\*
- Integrated transport
- Economic health and vitality
- Growth management
- Urban design
- Housing choice and affordability
- Heritage
- Contaminated sites
- Waahi Tapu sites\*
- Coastal hazards\*
- Flooding\*
- Noise\*
- Review of Subdivision and Development Principles and Requirements\*
- Earthworks\*
- Cell phone towers and other sources of radio frequency emissions
- Establishment, upgrading, maintenance, operation and repair of network utilities\*

- Streamlining the resource consent process\*
- User-friendliness of the final Review document, including structure and formatting\*

47. This list is repeated in Appendix Four for easy stand-alone reference.
48. Some topics were initially proposed as “regulatory details” while others were presented as “big picture” topics with a possible “major rethink.” This distinction was only a starting point for discussion; it is possible that a topic in the ‘regulatory details’ category may need a ‘major rethink’, or that a ‘big picture’ topic may turn out to only need adjustment of rules and standards. Therefore at this point the distinction has been removed. All the topics listed above should be considered focus areas with equal weighting in the District Plan Review.
49. Because the list of focus areas has now been expanded from 21 to 25, and some focus areas have been expanded, the workload for the District Plan Review has been correspondingly increased. The risks of this are lessened by the advantages of an integrated District Plan Review. Work on one topic can assist with work on a related topic, and the overall workload can be adjusted so that topics that prove more problematic than others can be given more resources relative to others.

*Non-Focus Areas to Undergo Mandatory Review*

50. As mentioned earlier, the District Plan Review must not limit itself to the Focus Areas proposed above. In addition to any chosen focus areas, the RMA requires that any part of the District Plan that has not been changed since 1999 must at least undergo some review and be notified for submissions. Such a ‘light’ review in the case of these non-focus areas would probably result in the provisions being notified with minor changes or no change at all, unless in the course of the Review it becomes apparent that there are more significant changes required.
51. An example is the “Dust and Odour” Permitted Activity Standards which apply to various zones in the District Plan. Since ‘dust and odour’ has not been identified as a proposed focus area, but the provisions have not been changed since 1999, Council staff will look at the provisions to see if any obvious improvements can be made, and then the provisions will be notified as is or with changes as part of the revised District Plan content in late 2011.

*Non-Focus Areas to Undergo Voluntary ‘Light’ Review*

52. While not required to do so, the Council can choose to review any provisions that have been changed since 1999. If they are not Focus Areas, however, the initial approach should be that of a ‘light’ review. Such a light review across the entire District Plan would ensure that any grammatical or formatting errors are corrected, clarity is improved if necessary, and any other obvious improvements are made.
53. Any changes resulting from this light review, or in response to subsequent comments on the unified draft District Plan, would require that the affected sections be notified in the subsequent stage, as part of the proposed District Plan Change(s) resulting from the District Plan Review for formal submissions under the RMA.

54. If there were no changes resulting from the light review of these topics, the Council would have the option of not notifying these sections of the District Plan for submissions. This is a decision that can be made later, at the notification stage (planned for late 2011), so long as the Council has not committed to a 'full review' in the sense of Section 79(4) of the RMA. This is explained in more detail below.

**'Full Review' versus 'Review of a Provision' – the legal distinction**

55. The discussion above describes a District Plan Review that is extensive, ranging across a number of focus areas and meeting all the requirements for mandatory review of pre-2000 provisions. However, this does not mean that the District Plan Review has to be categorised as a 'full review' under the RMA, because that has a very specific meaning and process implications which may unnecessarily restrict Council's flexibility at this stage.

56. With the 2009 amendments to the RMA, Section 79 of the RMA now envisages two types of District Plan Review – a review of a provision in a District Plan under s79(1) and a full review of the District Plan under s79(4). If the Council takes the full review option, all provisions are open to formal debate at the notification stage even if they are relatively recent and the Council does not propose to change them. All provisions are notified as proposed provisions in an unchanged form, and people are able to submit on them.

57. If, however, the Council chooses to review particular provisions (e.g. all provisions except the ones recently put in place by a plan change), only those provisions captured by the review are subject to submissions, hearings, appeals, etc. Any provisions not captured by the review would remain operative and would have their own separate 10 year review date later on. Reviewing most but not all of the District Plan now sets up what is effectively a 'rolling review,' but one where most provisions of the District Plan are up for review together every 10 years.

58. The latter option (review of provisions under S79(1) rather than 'full review' under S79(4)) is suggested as the most efficient use of Council and community resources. It may be unnecessarily time-consuming and expensive to put the entire District Plan out for submissions through a 'full review' when there are some parts that have just recently become operative (in some cases through Environment Court rulings), and which neither the Council nor the community have highlighted as focus areas for the Review.

59. If the Council wishes to retain the ability to 'ring-fence' any parts of its District Plan that will have not been part of the Review, the Council needs to refer to a review of provisions under s79(1) rather than a 'full review' under s79(4).

60. A previous resolution by the Environment and Community Development Committee in September 2008 (SP-08-290 refers) states:

*57.2 That the Committee directs staff to begin undertaking of a full review of the District Plan (Option 2(a)), noting that the timeframes given in this report are only approximate.*

61. At the time of that resolution, section 79 only allowed a full review. The review was therefore commenced as a full review, despite the fact that there was no intention to substantially amend provisions of the District Plan that had only recently been operative. Now that the RMA allows for a review of particular provisions as an alternative to a full review, the officers consider it appropriate to make use of the amended section 79(1).
62. To enable this approach, it is recommended that this Committee adopt a new resolution clarifying that the Council is undertaking a District Plan Review but has chosen to progress through s79(1) (review of a provision in a district plan) rather than s79(4) (full review of a district plan).
63. The recommendations at the end of this report propose that, at a minimum, the Council review and then notify all provisions that it is required by the RMA to review (that is, any provisions 10 years old or older). The flexibility then remains to formally add other provisions to the Review prior to notification. This allows the results of the investigation into the focus areas, and the feedback received on forthcoming discussion documents, to suggest specific areas for change.
64. If, for example, a review of the ‘implications of the expressway decision’ focus area suggests the need for amendments to recent plan changes such as Plan Change 80 (Ngarara), those provisions can be added to the Review in time for notification and submissions. Other examples might be work on the ‘urban design’ focus area suggesting a change to the Medium Density Housing Guide (from 2007), or a ‘light’ review of a non-focus area revealing a significant unanticipated issue that should be addressed through the District Plan Review.
65. The decision to proceed with a ‘review of provisions’ under s79(1) rather than a ‘full review’ under s79(4) does not affect the timeline through to notification in late 2011, as this decision does not change the focus areas or staff’s intentions to at least lightly review all provisions in the District Plan. It could, however, lead to significant time and cost savings in the hearings and appeals periods, since provisions not required to be notified for submissions would remain outside the scope of those processes.

### **Updated Work Programme and Timeline**

66. The intended timeline through to the notification of the combined District Plan Change by late 2011 is unchanged by the recent scoping exercise and remains as summarised in the scoping discussion document. Below is a summary of the future steps beyond today’s report:
  - May – December 2010: Discussion documents approved by Council (or the relevant Committee) and released on various topics from the agreed work programme, including overarching sustainable development topics and potential changes to the current District Plan provisions.
  - February 2011: Report back to Council (or the relevant Committee) on results of consultation

- April 2011: Unified set of draft revised District Plan provisions to Council (or the relevant Committee) for approval to release for pre-notification consultation.
  - April-June 2011: Consultation on Unified set of draft revised District Plan provisions (as well as any unchanged parts of the District Plan that must be included in the Review due to legal requirements).
  - July 2011: Report back to Council (or the relevant Committee) on results of consultation
  - October 2011: Based on previous consultation, proposed District Plan Change(s) for District Plan Review to Council (or the relevant Committee) for approval to notify
  - November 2011: Notification of District Plan Change(s) resulting from District Plan Review
67. Following notification of the Proposed District Plan Change(s), it enters the formal statutory process with two periods of public consultation (submissions and further submissions), a hearing and finally a decision which can be appealed to the Environment Court. When the current District Plan was developed, the time from notification to decision was two years with approximately six months of hearings included in this. The plan became operative approximately two years after the decision was made, following the resolution of appeals, for a combined total of four years from notification to operative status. There is no guarantee that the same timeframe would apply post-notification in the case of the upcoming District Plan review, as it depends to a large degree on the number of appeals made and how quickly they are resolved.
68. Four years from notification in November 2011 would make the revised plan operative in late 2015.
69. It is important to note that private plan changes might not cease during the District Plan Review, and these would have to be dealt with alongside the District Plan Review work programme.

#### *Achievability*

70. The timeline above is indicative only and is subject to change depending on a number of factors, including:
- the specific consultation periods and consultation methods chosen by Council at each stage in the process;
  - any changes to this overall process that the Council and/or its Committees wish to make at any stage;
  - the exact timing of future Council and Committee meetings (including in the new triennium); and
  - other workload pressures such as incoming private plan changes and town centre re-visioning work resulting from the expressway decision.

71. While indicative only, this timeline does show that at this stage it is possible to meet the original target date of notifying a new District Plan in late 2011. This is the case regardless of whether a 'full review' under s79(4) or a 'review of provisions' under s79(1) is chosen.

### **Next Steps**

72. Within the May – December 2010 period, there will be a series of discussion papers developed and released for public comment. These may occur in two rounds, with an initial set focusing on sustainability topics that cut across current or typical District Plan chapters, and a second set that proposes possible District Plan provisions (especially objectives and policies rather than specific rules and standards) building on the responses to the sustainability-related discussion documents.
73. The cross-cutting sustainability topics proposed for the initial set of discussion documents are closely related to the focus areas proposed for the District Plan Review, but there is not always a one-to-one relationship because (1) some of the focus areas of regulatory details like cell phone towers are not overarching sustainability topics in themselves but relate to wider topics like landscape; and (2) some of the cross-cutting sustainability topics like 'resilience' or 'active communities' relate to a number of proposed focus areas for the District Plan Review (including proposed expansions and additions to those focus areas), so that linkages can be made where appropriate.
74. The table in Appendix Five shows these discussion document topics along with their relationship to the proposed focus areas for the District Plan Review:
75. Workshops with Elected Members will be held in May and June on these topics, so that discussion documents can be brought back to ECD on 22 July (or possibly to RMC on 24 June) for approval.
76. Once approved, a suitable consultation period will be set (e.g. 4 to 6 weeks in August and/or September).
77. Time permitting, a report back to ECD on submission results from these discussion documents will occur on 2 September 2010, along with a possible set of revised objectives and policies for ECD endorsement prior to the local government elections on 9 October. These could then form the basis of a subsequent set of discussion documents in October – December.
78. The timeframe for achieving two sets of discussion documents before December 2010 is tight. If the 2 September ECD target date for report-back is not achieved and the local government elections present difficulties in getting endorsement of policy direction in October – December, the timeframes for the District Plan Review would need to be revisited as part of a briefing report to the incoming Council.

## Conclusion

79. This report has summarised submissions on the scoping discussion document for the District Plan Review and recommended an amended scope and work programme based on these submissions.
80. The result of the submissions has been to expand certain focus areas and to add others, rather than to remove any proposed focus areas.
81. If the Council wishes to retain the option of notifying for submissions only the provisions of the District Plan that change as a result of the District Plan Review and those that are legally required to be notified because they have not been changed since 1999, it needs to be clear that this Review is not a ‘full review’ in the legal sense of Section 79(4) of the RMA. This allows the results of the District Plan Review to be treated as a Plan Change (or Changes) rather than opening up the entire District Plan document for submissions. This will require a resolution by this Committee as recommended below.
82. A target notification date of November 2011 is retained for notification of the changes resulting from the District Plan Review, but this timeframe is tight and could change, regardless of whether a ‘full review’ under s79(4) or a ‘review of provisions’ under s79(1) of the RMA is chosen.

## Financial Considerations

83. There are no financial considerations at this time.

## Legal Considerations

84. The primary legal consideration, which has been discussed above, is the need to clearly specify whether Council is undertaking a ‘full review’ in the legal sense of Section 79(4) of the RMA, or whether it wishes to process the results of the District Plan Review as a ‘review of provisions’ under Section 79(1) of the RMA. The review of provisions option was not available under the RMA at the time of the September 2008 resolution, but the RMA does not preclude the Council from amending its direction for the review to make use of that new option.

## Delegation

85. Under the Council’s current Governance Structure, the Environment and Community Development Committee has the overall delegation for the District Plan Review:

***District Plan***

*7.8 Authority to undertake the formal review of the District Plan as dictated by the statutory timeframes included in the Resource Management Act 1991.*

## Consultation

86. This report is based on the results of consultation on the District Plan Review scoping discussion document in March 2010. The rest of the District Plan Review will also be subject to similar extensive consultation.

## **Policy Implications**

87. The District Plan Review will result in extensive changes to policy via the District Plan. However, this report only seeks approval to the scope of the District Plan Review.

## **Publicity Considerations**

88. The previous discussion document on the scope of the District Plan Review was accompanied by significant publicity, including newspaper advertisements, a presence on the Council website, and public drop-in sessions. The decision on this report offers another opportunity for publicity via a news release indicating the confirmed focus areas for the District Plan Review.

## **RECOMMENDATIONS**

89. That the Committee approves the amended focus areas for the District Plan Review as listed in Appendix Four and instructs staff to develop discussion papers as described in Appendix Five of this report (SP-10-875);

90. That the Committee resolves to clarify that, while the current District Plan Review is extensive and wide-ranging, the Council is not undertaking a ‘full review’ of the District Plan under Section 79(4) of the Resource Management Act 1991 but will utilise the process under Section 79(1) of the Resource Management Act 1991, as amended in 2009, to review those provisions of the District Plan required to be subject to review by December 2011 (i.e. those that were made operative prior to December 2001);

91. That the Committee notes that additional provisions may be formally added to the District Plan Review, based in part on the results of analysis of the approved focus areas and feedback on the forthcoming discussion documents, prior to the results of the Review being notified for submissions; and

92. That the Committee resolves that its earlier instruction to staff as per SP-08-290 to undertake a ‘full review’ of the District Plan is superseded by the resolutions above.

**Report prepared by:**

**Approved for submission by:**

**Jim Ebenhoh**  
Sustainable Development Manager

**Gael Ferguson**  
Group Manager, Strategy and  
Partnerships

**ATTACHMENTS:**

**Appendix One: District Plan Review Scoping Discussion Document (Feb 2010)**

**Appendix Two: Summary of Submissions on District Plan Review Scoping Discussion Document**

**Appendix Three: Additional Topics Suggested by Respondents that Relate to Existing Focus Areas**

**Appendix Four: Revised Focus Areas for District Plan Review**

**Appendix Five: List of Possible Discussion Documents**