



I hereby give notice that an ordinary meeting of the Governing Body will be held on:

Date: Thursday, 27 August 2015
Time: 9.30am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Governing Body OPEN ADDENDUM AGENDA

MEMBERSHIP

Mayor	Len Brown, JP	
Deputy Mayor	Penny Hulse	
Councillors	Cr Anae Arthur Anae	Cr Dick Quax
	Cr Cameron Brewer	Cr Sharon Stewart, QSM
	Cr Dr Cathy Casey	Cr Sir John Walker, KNZM, CBE
	Cr Bill Cashmore	Cr Wayne Walker
	Cr Ross Clow	Cr John Watson
	Cr Linda Cooper, JP	Cr Penny Webster
	Cr Chris Darby	Cr George Wood, CNZM
	Cr Alf Filipaina	
	Cr Hon Christine Fletcher, QSO	
	Cr Denise Krum	
	Cr Mike Lee	
	Cr Calum Penrose	

(Quorum 11 members)

Crispian Franklin
Democracy Advisor

24 August 2015

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**** This meeting will be webcast live – www.aucklandcouncil.govt.nz ****

Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.

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10.1	Notice of Motion to revoke a Governing Body resolution	5

Notice of Motion to revoke a Governing Body resolution

File No.: CP2015/17788

Purpose

1. This report sets out background information and legal considerations relevant to the Notice of Motion to revoke a 2014 Governing Body decision to recommend to the Minister that the 545 Oruarangi Road site be declared a Special Housing Area (SHA).

Executive Summary

2. The Oruarangi land now declared by Order in Council to be an SHA is privately owned. It is land that the Environment Court directed Council in 2012 to zone as “future development zone,” despite the then legacy Council and others having argued in the Court that the land should be zoned public open space. The Proposed Auckland Unitary Plan (PAUP) reflects the 2012 Environment Court’s direction.
3. Following the 2014 Governing Body decision to recommend the Oruarangi SHA to the Minister, the Oruarangi Road, Mangere special housing area was declared by the Housing Accords and Special Housing Areas (Auckland) Amendment Order 2014 (Amendment Order), dated 30 June 2014. That Amendment Order was then incorporated into the Housing Accords and Special Housing Areas (Auckland) Order 2013 (relevant extract of the Order at Attachment A).
4. As a matter of law, the council cannot revoke an Order in Council declaring any area a SHA. Only the Minister can recommend the revocation of an SHA. Section 18 of the Housing Accords and Special Housing Areas Act 2013 (HASHAA) provides that an Order in Council revoking an SHA may only be made on recommendation of the Minister. The Minister **must and may only** recommend the making of a revocation order if the Minister is satisfied that one or both of specified criteria exist, namely:
 - a. the SHA no longer meets the mandatory criteria in s16(3) of HASHAA, namely:
 - Adequate infrastructure to service qualifying developments (QDs) in the SHA exists or is likely to exist; and
 - There is evidence of demand to create QDs in specific areas of the region; and
 - There will be demand for residential housing in the SHA.
 - b. the region or district in which the SHA is in ceases to be a scheduled region or district.
5. The Housing Project Office (HPO) does not consider that any of the criteria under which the Minister could disestablish the SHA exist in this case. As Auckland is a region specified in schedule 1 of HASHAA that is identified as having significant housing supply and affordability issues for the purposes of HASHAA, this second limb is not applicable.
6. The Minister has advised that he does not consider there is a basis to revoke the Order in Council declaring the Oruarangi Road SHA (Attachment B).

Recommendation/s

That the Governing Body:

- a) note the contents of this report.

Comments

Background to zoning of Oruarangi SHA (545 Oruarangi Road, Mangere)

7. The Oruarangi Special Housing Area (SHA) at 545 Oruarangi Road Mangere sits within an area known by the former Manukau City Council as the Mangere Gateway Heritage Area. The subject land, which adjoins the Otuataua Stonefields Historic Reserve, was zoned Mangere Puhinui Rural in the 2002 Manukau Operative District Plan.
8. The land in the SHA is in the private ownership of Gavin H Wallace Limited.
9. Manukau City Council wanted the land to be public open space and sought to have it designated as such. The land owner appealed the Council's notice of requirement to declare the land public open space.
10. Appeals were heard before the Environment Court in 2011 and 2012. The new Auckland Council defended the position of the former Manukau City Council to maintain the notice of requirement for the public open space at the Environment Court. Other parties, notably Makaurau Marae Maori Trust Board Incorporated and Te Kawerau iwi Tribal Authority Incorporated, were also parties to the appeal and both opposed urban development of the subject land.
11. On 15 June 2012 the Environment Court issued a decision on the appeals and it effectively cancelled the notice of requirement for public open space and directed the Council to zone the land for "future development zone". The Court determined that the public work (the public open space designation) "is not reasonably necessary to achieve the Council's objectives" and that "a well thought out structure plan could recognise significant features and values and could address landscape [amongst other matters]".
12. The Council was directed by the Court, in consultation with all other parties to the appeals, to make the appropriate changes to the Auckland Council District Plan (Manukau Operative Section). That was done and the changes were confirmed in Environment Court decisions dated 20 December 2012.

The PAUP and 545 Oruarangi Road

13. The Auckland Council identified the subject land as a Future Urban zone in the PAUP and also identified it as sub-precinct D. The sub-precinct D requires a structure plan for the subject land. The PAUP, as publicly notified in September 2013, requires a structure plan and clearly identifies that the structure plan on the subject land must take into account significant culture heritage and landscape values; and must include consultation with mana whenua. This approach is consistent with the 2012 Environment Court decisions.

Timeline for assessing Oruarangi SHA request

14. It took approximately 6 months from the formal request on 1 November 2013 (by Harrison & Grierson on behalf of the owner Gavin H Wallace Ltd) for an SHA at 545 Oruarangi Road before the Governing Body recommended on, 1 May 2014, that the Oruarangi SHA be one of 41 SHAs in tranche 3 being recommended to the Minister of Housing.
15. The SHA assessment included:
 - a. A Māngere-Ōtāhuhu Local Board workshop in November 2013
 - b. A Māngere-Ōtāhuhu Local Board meeting 19 March 2014
 - c. A combined Auckland Development Committee / Local Board Chairs Special Housing Area Workshop on 31 March 2014 (4 slides on Oruarangi including clear identification of proximity to the Papakainga and Otuataua Stonefields).
 - d. The formal Auckland Development Committee meetings that considered tranche 3 SHAs, including Oruarangi, were held on 2 April and 14 April 2014. (The powerpoint presentation on 14 April 2014 contained 5 slides on Oruarangi SHA and clearly identified "significant iwi concerns").

27. The Housing Project Office (HPO) does not consider that any of the criteria under which the Minister could disestablish the SHA exist in this case. As Auckland is a region specified in schedule 1 of HASHA that is identified as having significant housing supply and affordability issues for the purposes of HASHA, this second limb is not applicable.
28. The Minister has advised that he does not consider there is a basis to revoke the Order in Council declaring the Oruarangi Road SHA (Attachment B).

Consideration

Local Board views and implications

29. Staff from the Housing Project Office met with the Māngere-Ōtāhuhu Local Board in November 2013 and on 19 March 2014.
30. By resolution on 19 March 2014, the Māngere-Ōtāhuhu Local Board resolved that they did not support the suitability of the Oruarangi Road, Māngere, site as a Special Housing Area.
31. This report provides detail to respond to the NoM. If further steps are required, staff will ensure that Local Board views and preferences are sought.

Māori impact statement

32. Iwi originally wanted the area covered by the Oruarangi Road SHA to be public open space. Manukau City Council and subsequently Auckland Council pursued this approach but Environment Court hearings on the issue resulted in the land being zoned for future urban development.
33. When providing information on the proposed SHA to the Auckland Development Committee the Housing Project Office included as a key point the fact that there were significant iwi concerns about residential development in the area covered by the proposed SHA, as well as summarising the Environment Court decisions affecting the subject land.
34. As part of the preparation for an application for a plan variation and resource consent (qualifying development) within the SHA the applicant has consulted with iwi and cultural impact assessments (**CIAs**) have been prepared by Te Kawerau a Maki and Te Akitai. The CIAs have influenced and resulted in modifications to the applicant's proposal.

Attachments

No.	Title	Page
A	Housing Accords and Special Housing Areas (Auckland) Order 2013 extract	9
B	Letter from Minister of Housing	13

Signatories

Authors	Mike Moodie, Senior Solicitor, Legal Services Ree Anderson - Project Director for Housing
Authorisers	Katherine Anderson - Director Legal and Risk Dean Kimpton - Chief Operating Officer Stephen Town - Chief Executive

Schedule 9AB Oruarangi Road, Mangere special housing area

cls 4, 5

Schedule 9AB: inserted, on 31 July 2014, by clause 6(2) of the Housing Accords and Special Housing Areas (Auckland) Amendment Order 2014 (LI 2014/219).

Part 1 *Map of special housing area*



Reprinted as at
31 July 2014

Housing Accords and Special Housing
Areas (Auckland) Order 2013

Schedule 9AB

Part 1—*continued*

*Description of area declared to be Oruarangi
Road, Mangere special housing area*

Lot and Deposited Plan	Title document	Land area (more or less) (ha)
Allotment 175 Parish Of Manurewa & Allotment 176 Parish Of Manurewa	81A/600	32.7698

Part 2

Criteria for qualifying developments in
Oruarangi Road, Mangere special housing
area

Maximum number of storeys that buildings may have:	6
Maximum calculated height that buildings must not exceed:	27 metres
Minimum number of dwellings to be built:	50
Percentage of dwellings that must be affordable dwellings:	For developments relating to 15 or more dwellings only,— (a) 10%, according to criteria A; or (b) 5%, according to criteria B.

Criteria A

- (1) A development relating to 15 or more dwellings meets **criteria A** for the percentage of dwellings that must be affordable dwellings if,—
 - (a) in relation to 10% of the proposed dwellings, the price at which a dwelling may be sold does not exceed 75% of the Auckland region median house price for the most recent full month of September (in relation to the relevant date) published by the Real Estate Institute of New Zealand; and
 - (b) where the application is for a subdivision consent, the applicant—
 - (i) identifies the lots of the subdivision allocated for the building of dwellings that meet the criterion in paragraph (a); and
 - (ii) specifies the mechanism for ensuring that any building built on any of those lots is a dwelling that will meet that criterion or is a building associated with such a dwelling.
- (2) For the purposes of calculating whether a development meets the 10% threshold in paragraph (1)(a),—

Part 2—continued

- (a) a proposed dwelling may be treated as if it were 2 dwellings that meet the requirements for criteria A if the price at which the dwelling may be sold would mean that the monthly mortgage payments for a household receiving the Auckland median household income (as published by Statistics New Zealand for the most recent June quarter before the relevant date) would not exceed 30% of the household's gross monthly income, based on the assumptions set out in paragraph (a)(i) and (ii) of criteria B; and
- (b) if the calculation of the percentage of dwellings that must be affordable dwellings results in a fractional dwelling of one-half or more, that fraction is counted as 1 dwelling, and any lesser fraction may be disregarded.

Criteria B

A development relating to 15 or more dwellings meets **criteria B** for the percentage of dwellings that must be affordable dwellings if,—

- (a) in relation to 5% of the proposed dwellings, the price at which a dwelling may be sold would mean that the monthly mortgage payments for a household receiving the Auckland median household income (as published by Statistics New Zealand for the most recent June quarter before the relevant date) would not exceed 30% of the household's gross monthly income, based on the assumptions that—
 - (i) the dwelling is purchased with a 10% deposit; and
 - (ii) the balance of the purchase price is financed by a 30-year reducing loan, secured by a single mortgage over the property, at a mortgage interest rate equal to the most recent average 2-year fixed rate (in relation to the relevant date) published by the Reserve Bank of New Zealand as part of the data for its key graph on mortgage rates offered to new customers for residential home loans; and
- (b) where the application is for a subdivision consent, the applicant—
 - (i) identifies the lots of the subdivision allocated for the building of dwellings that meet the criterion in paragraph (a); and
 - (ii) specifies the mechanism for ensuring that any building built on any of those lots is a dwelling that will meet that criterion or is a building associated with such a dwelling; and
- (c) if the calculation of the percentage of dwellings that must be affordable dwellings results in a fractional dwelling of one-half or more, that fraction is counted as 1 dwelling, and any lesser fraction may be disregarded.

In this Part, **relevant date** means the date that the relevant resource consent application or request to vary the proposed Auckland combined plan is made under the Act, whichever is the earlier.



Office of Hon Dr Nick Smith

MP for Nelson
Minister for the Environment
Minister for Building and Housing

13 AUG 2015

Penny Hulse
Deputy Mayor of Auckland
Private Bag 92300
Victoria Street West
Auckland 1142

Dear Penny

Re: Oruarangi Road Special Housing Area

I have been informed that some Auckland Councillors have put forward a notice of motion to revoke the Auckland Council recommendation that special housing area status be granted to 545 Oruarangi Road.

I understand there is some local opposition to housing development on the site due to cultural significance. However, and without wanting to pre-empt the decision of the Governing Body on this motion, I thought it would be useful to provide some additional information.

Under the Housing Accords and Special Housing Areas Act (the Act), Orders in Council establishing special housing areas may only be revoked on the recommendation of me, as Minister. Under section 18(3) of the Act, I must, and may only, revoke Orders in Council where:

- the criteria in section 16(3) of the Act are no longer met; and/or
- the region or district is removed from Schedule 1 of the Act.

This means I would need to be satisfied that:

- adequate infrastructure to service qualifying developments in the special housing area either **no longer** exists or is now **not** likely to exist, having regard to relevant local planning documents, strategies, and policies and any other relevant information; and
- there is **no longer** evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and
- there will **no longer** be demand for residential housing in the special housing area.

I have received preliminary advice from my officials that it is unlikely any of these criteria will apply to the special housing area at 545 Oruarangi Road.

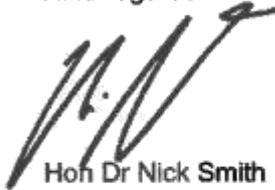
Alternatively, I would need to be satisfied that Auckland is no longer experiencing housing supply and affordability issues in order to remove it from Schedule 1 of the Act. In determining whether Auckland is no longer experiencing housing supply and affordability issues I would need to consider:

- whether, according to publicly available data, one or both of the following **no longer** apply to the region or district:
 - the weekly mortgage payment on a median-priced house as a percentage of the median weekly take-home pay for an individual exceeds 50%, based on a 20% deposit;
 - the median multiple (that is, the median house price divided by the gross annual median household income) is 5.1 or over; and
- whether the land available for residential development in the region or district is likely to meet housing demand, based on predicted population growth; and
- whether any other information indicates that there are **no longer** significant housing supply and affordability issues in the region or district.

It is plain that none of the above criteria apply to Auckland at this stage.

Therefore, there do not appear to be legal grounds for me to make a revocation order to disestablish the special housing area at 545 Oruarangi Road.

Kind regards



Hon Dr Nick Smith
Minister for Building and Housing