

# **Western Bay of Plenty District Council**

## **Change to the District Plan – First Review**

### **Plan Change 34 Additional Dwellings – Significant Issues, Objectives and Policies**

#### **Section 32 Report**

Prepared by: Tony Clow, Policy Analyst Resource Management

## 1.0 Introduction

### 1.1. General Introduction and Background

Prior to July 1994 when the Operative District Plan (2002) was notified, rural properties were allowed one primary dwelling and one granny flat that had to be removed when it was no longer needed. Problems with monitoring and enforcement (in relation to the granny flats) lead to a change in approach and under the Operative District Plan (2002), two additional dwellings per lot were allowed as a Controlled Activity in the Rural Zone subject to there being a minimum of two hectares per dwelling (including the primary dwelling and any minor dwellings) and the total number of all dwellings being limited to three.

This rule allowed for family members and farm and orchard workers to live on-site and although used for this purpose, the rule was also frequently used for other purposes such as rentals. This resulted in the proliferation of additional dwellings in the Rural Zone and a number of unintended effects such as the loss of rural character and amenity, loss of productive land, increased conflict and reverse sensitivity, and increasing pressure on roads.

This rule was subsequently reviewed under the District Plan Review and it was proposed that additional dwellings become a Non-Complying Activity in the Rural Zone (Non-Complying Activities are activities generally not wanted or anticipated within a zone). Council's decision was to adopt this rule and the reasons for the decision are shown below. **Notes:** This rule is now fully operative in the Operative District Plan (2012). The minor dwelling (granny flat) rule was reintroduced prior to the District Plan Review and this is frequently used for family members or worker accommodation.

#### ***Reasons***

*It is considered that in addition to additional controls on rural subdivision to protect rural amenity and rural land for primary production a review of the additional dwelling rules are necessary.*

*The current rules have resulted in adverse effects on the rural zone and the majority of additional dwellings that have been established are not for rural purposes.*

*There will still be an ability for productive farms to either subdivide to create an additional title and have a permitted dwelling if additional dwellings are necessary apply for a Non Complying Resource Consent providing it can be demonstrated to Council that the additional dwelling is necessary for rural purposes."*

Although these reasons clearly showed why additional dwellings were made a Non-Complying Activity and in what situations a Non-Complying Resource Consent should be granted, this message wasn't conveyed in the District Plan by way of any guiding significant issues, objectives or policies. This has lead to uncertainty for both those preparing and processing applications regarding why the rules were changed and under which circumstances an

additional dwelling would be appropriate and able to be granted resource consent.

## **2.0 Resource Management Act 1991**

### **2.1. Section 32**

Before a proposed plan change can be publically notified the Council is required under section 32 ("s.32") of the Act to carry out an evaluation of alternatives, costs and benefits of the proposed review. With regard to the Council's assessment of the proposed plan change s.32 requires the following:

- (3) An evaluation must examine-*
  - (a) the benefits to which each objective is the most appropriate way to achieve the purpose of the Act; and*
  - (b) whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.*
  
- (a) For the purposes of [[the examinations referred to in subsections (3) and (3A)], an evaluation must take into account-*
  - (a) The benefits and costs of policies, rules or other methods; and*
  - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

The benefits and costs are defined as including benefits and cost of any kind, whether monetary or not. This report must evaluate the extent to which the proposed plan change is the most appropriate way to achieve the purpose of the Act.

### **2.2. Section 74**

In accordance with Section 74(2A) of the Act, Council must take into account any relevant planning document recognised by an iwi authority lodged with Council. None of the Iwi Management Plans that have been lodged with Council raise any issues of relevance to this Plan Change.

## **3.0 Consultation**

Council engaged with the public to request input prior to the writing of this report, this was done by notices in our local newspapers and a specific information page on the Council website relating to the proposed changes. Council also engaged with the surveying and planning community in the Western Bay of Plenty and Tauranga area via the "Surveyors Newsletter". No feedback was received in response to these.

#### **4.0 Issue – No specific significant issue, objective or policy guiding resource consent applications for additional dwellings in the Rural Zone.**

The lack of any guiding significant issue, objective or policy for additional dwellings has led to uncertainty regarding what planning issues may arise from additional dwellings and under which circumstances an additional dwelling is appropriate and may be granted resource consent.

##### **4.1. Option 1 – Status Quo – No specific significant issues, objectives and policies for additional dwellings**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Existing significant issues, objectives and policies generally address matters such as loss of productive land, loss of rural character and amenity, reverse sensitivity, and pressure on roading.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Existing significant issues do not specifically mention additional dwellings as a contributor to any of these issues. Existing objectives and policies do not show any desired outcomes specific to the change in activity status for additional dwellings or direction on when additional dwellings may be appropriate.</li> </ul>
<b>Efficiency/Effectiveness</b>	<ul style="list-style-type: none"> <li>▪ Ineffective. Although the existing framework highlights and addresses the identified issues within the wider context of development it does not highlight planning issues that may arise from additional dwellings specifically or explain under which circumstances additional dwellings may be appropriate.</li> <li>▪ Inefficient as it leads to uncertainty and implementation difficulties.</li> </ul>

##### **4.2. Option 2 – Add new significant issues, objectives and policies specifically for additional dwellings**

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Specific issues, objectives and policies would clear up any uncertainty surrounding planning issues associated with additional dwellings and the circumstances under which an additional dwelling could be established.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ A separate significant issue is not required because the effects of additional dwellings such as loss of productive land, loss of rural character and amenity, reverse sensitivity, and pressure on roading are covered in other significant issues within which additional dwellings could also be referenced.</li> <li>▪ A specific objective for additional dwellings is not required because the desired outcomes for the Rural Zone in relation to the identified effects are clearly</li> </ul>

	stated such as to “maintain rural character and amenity values associated with the low density rural environment”.
<b>Efficiency/ Effectiveness</b>	<ul style="list-style-type: none"> <li>▪ Partly effective. Existing significant issues can instead be modified to include reference to additional dwellings and objectives are sufficient for showing clear outcomes in relation to the relevant planning issues for additional dwellings. A new policy would be effective in showing the circumstances under which an additional dwelling could be established.</li> <li>▪ Efficient in that it would resolve uncertainty and implementation difficulties. Inefficient where it would result in unnecessary duplication.</li> </ul>

### 4.3. Preferred Option

The preferred option is a combination of Options 1 and 2 as neither provides the best solution.

Amend Significant Issues 2 and 6 by incorporating reference to additional dwellings, make no changes to the objectives, and add a new Policy 11.

### 18.1 Significant Issues

2. The *District's* rural land resource (including *versatile land*) is finite and productive capacity has been diminishing as a result of fragmentation into smaller *lots* through subdivision and the establishment of additional dwellings for non productive purposes. There has been increasing pressure for rural residential subdivision or 'lifestyle' use, particularly in close proximity to urban areas where much of the more *versatile land* and horticultural production is located. The challenge is to ensure that subdivision under the District Plan rules, in particular those stipulating minimum *lot* sizes, results in the productive potential of the most *versatile land* not being compromised.
6. The cumulative effect of the fragmented pattern of rural subdivision and the establishment of additional dwellings for non productive purposes has led to inefficient use of physical resources and a gradual loss of rural character and degradation in rural amenity values.

The historical approach to subdivision within the rural area has been to provide for it throughout the *District* rather than to channel it into particular locations. Housing has traditionally been provided for in a similar way by allowing additional dwellings on lots. The effect of this pepper-pot approach to rural subdivision and the provision of housing was to spread adverse effects on rural amenity and *infrastructure* widely, such that they

have been diluted. However, the cumulative effects of the large amount of rural subdivision that has occurred and the proliferation of additional dwellings for non productive purposes is now becoming evident.

### **18.2.2 Policies**

11. Additional dwellings should not be provided for except where these are essential for the management of the land for productive rural purposes.