

Dunedin City District Plan

**PROPOSED DISTRICT PLAN CHANGE 12**

**Code of Subdivision – District Plan Reference**

Section 32 Report

September 2010

## **SECTION 32 REPORT**

### **Proposed District Plan Change 12: Code of Subdivision – District Plan Reference**

#### **1 PURPOSE OF REPORT**

Before a proposed plan change can be publicly notified the Council is required under section 32 of the Resource Management Act 1991 (the Act) to carry out an evaluation of alternatives, costs and benefits of the proposed change.

As outlined in section 32 of the Act the evaluation must examine:

*the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and  
whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.*

*An evaluation must also take into account:  
the benefits and costs of policies, rules, or other methods; and  
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.*

*Benefits and costs are defined as including benefits and costs of any kind, whether monetary or non-monetary.*

*A report must be prepared summarising the evaluation and giving reasons for the evaluation. The report must be available for public inspection at the time the proposed change is publicly notified.*

This report summarises the evaluation of Proposed Plan Change No. 12: Code of Subdivision – District Plan Reference to the Dunedin City District Plan as required by the Act. It should be read together with the text of the Plan Change itself.

#### **2 CONTEXT**

Section 18 of the District Plan, the Subdivision section, contains objectives, policies, rules and methods to ensure the effective and practical undertaking of subdivision within Dunedin City. The subdivision and development of land has a large technical component, particularly in regard to the construction of roading and service infrastructure which becomes Council-owned on deposit of the subdivision plan. The Code of Subdivision provides the standards for construction of this infrastructure. The District Plan recognises the role of the Code of Subdivision in the subdivision process, referring to the Code in Methods 18.4.1 'Code of Subdivision' and 20.4.3 'Dunedin City Council Code of Subdivision', and in Assessment Matter 18.6.1(y).

#### **3 PROPOSED PLAN CHANGE**

Proposed Plan Change 12 affects Method 18.4.1 and Assessment Matter 18.6.1(y) in Section 18: Subdivision Activity of the District Plan, and Method 20.4.3 in Section 20: Transportation of the District Plan.

##### **Method 18.4.1 Code of Subdivision**

*'The Code of Subdivision is not part of the District Plan. The code contains guidelines as to the preferred standards for any physical works associated with subdivision activity and will be considered as an assessment matter in considering consent applications.'*

##### **Assessment Matter 18.6.1(y)**

*'The matters contained in the Code of Subdivision.'*

### **Method 20.4.3 Dunedin City Council Code of Subdivision**

*"Implement the Dunedin City Council Code of Subdivision which sets technical standards to ensure that road amenity is protected, road safety issues are addressed, and provision is made for cyclists and pedestrian links and areas."*

The Code of Subdivision has been updated and effectively replaced by the Code of Subdivision and Development which was established through a Local Government Act process. As a consequence there must be a Plan Change as the Code of Subdivision is no longer relevant. Proposed Plan Change 12 will remove direct reference to the Code of Subdivision from the District Plan as an Assessment Matter 18.6.1(y), and will replace it with reference to the Code of Subdivision and Development as part of Methods 18.4.1 and 20.4.3.

## **4 ISSUES**

The main issue is keeping Council standards for infrastructure associated with subdivision or development current. The current Code of Subdivision is now 15 years old and does not reflect best practice or current Council thinking. A new Code of Subdivision and Development has been created and been consulted on through a Local Government Act 2002 process. Removing reference to the current Code of Subdivision, and/or inserting reference to the new Code of Subdivision and Development, requires a plan change.

Part 3 of the First Schedule to the RMA covers the incorporation of documents by reference in plans and proposed plans. Any subsequent change to the Code of Subdivision and Development will also require a plan change.

## **5 APPROPRIATENESS OF EXISTING DISTRICT PLAN MECHANISMS**

Section 32 of the Act requires that the Council is satisfied both that the objectives of the District Plan are the most appropriate means of achieving the purpose of the Act and that the policies, rules and methods are the most appropriate means of achieving the Plan's objectives.

The proposed plan change does not introduce any new objectives, policies, methods or rules to the Plan. It will amend the reference in Methods 18.4.1 and 20.4.3, and remove Assessment Matter 18.6.1(y).

## **6 SCOPE OF PROPOSED PLAN CHANGE**

The scope of the proposed plan change neither alters nor calls for submissions on any of the existing resource management issues, objectives, policies, methods or rules in the Plan. The scope of the change is limited to amending Methods 18.4.1 and 20.4.3 and removing Assessment Matter 18.6.1(y) from the District Plan as these refer to an external document which has not been approved through a Resource Management Act 1991 process.

## **7 CONSULTATION PROCESS**

Key stakeholders have been consulted; in particular, the New Zealand Institute of Surveyors. Other Councils have been canvassed to determine how other local authorities deal with the relationship between the District Plans and their respective codes of subdivision. Kai Tahu ki Otago Limited has been consulted. Internally, Council departments which manage Council's infrastructure were asked whether or not it was preferable to have the Code of Subdivision and Development directly given reference within the District Plan.

## 8 OPTIONS FOR THE CODE OF SUBDIVISION AND DEVELOPMENT

**Option 1:** Replace all references to 'the Code of Subdivision' with 'the Code of Subdivision and Development.'

Methods 18.4.1 and 20.4.3, and Assessment Matter 18.6.1(y) will be updated accordingly.

**Option 2:** Remove direct reference to 'the Code of Subdivision' and amend Methods 18.4.1 and 20.4.3

Methods 18.4.1 and 20.4.3 amended, and Assessment Matter 18.6.1(y) removed in entirety.

**TABLE 1 – ANALYSIS OF OPTIONS TO ADDRESS ISSUE**

	<b>OPTION 1 Replace All References to the 'Code of Subdivision' with the 'Code of Subdivision and Development'</b>	<b>OPTION 2 Remove Direct Reference to the 'Code of Subdivision' as an Assessment Matter</b>
<b>Benefits</b>	<p>Environmental benefits:</p> <ul style="list-style-type: none"> <li>The standards for infrastructure are clearly set out.</li> </ul> <p>Social benefits:</p> <ul style="list-style-type: none"> <li>None identified.</li> </ul> <p>Economic benefits:</p> <ul style="list-style-type: none"> <li>Potential costs of litigation (low risk) would be avoided.</li> </ul>	<p>Environmental benefits:</p> <ul style="list-style-type: none"> <li>None identified.</li> </ul> <p>Social benefits:</p> <ul style="list-style-type: none"> <li>None identified.</li> </ul> <p>Economic benefits:</p> <ul style="list-style-type: none"> <li>Avoid any future need to undertake a Plan Change each time the Code of Subdivision and Development is updated.</li> </ul>
<b>Costs</b>	<p>Environmental costs:</p> <ul style="list-style-type: none"> <li>Less flexibility in design and implementation of new infrastructure.</li> </ul> <p>Social costs:</p> <ul style="list-style-type: none"> <li>None identified.</li> </ul> <p>Economic costs:</p> <ul style="list-style-type: none"> <li>None identified.</li> </ul>	<p>Environmental costs:</p> <ul style="list-style-type: none"> <li>Minimum standards for infrastructure design and implementation can not be guaranteed.</li> </ul> <p>Social costs:</p> <ul style="list-style-type: none"> <li>Neither Council nor developers can rely on a set standard.</li> </ul> <p>Economic costs:</p> <ul style="list-style-type: none"> <li>Potential costs of litigation arising from enforcement action to establish an appropriate standard of construction, or to justify Council's requirements as imposed by conditions of consent.</li> <li>Potential future costs as Council remedies inadequacies in infrastructure.</li> <li>Resource consents could require more stringent and detailed conditions in order to ensure the appropriate standards of construction for infrastructure are met and are enforceable.</li> </ul>
<b>Effectiveness and efficiency</b>	<p>The subdivision process, including the construction of infrastructure, would continue much as before, but with reference to the latest code document. Any failure to meet the standards of the code can be enforced under the RMA. However, any update of that document will require a Plan Change.</p>	<p>The code can be updated under the LGA more easily, and will not require a corresponding plan change of the District Plan. Standards of construction for infrastructure will be more flexible, but Council will have less ability to enforce a standard should there be disagreement between Council and developer.</p>

## **9 CONCLUSION**

The Code of Subdivision has for 15 years provided the technical requirements for the construction and implementation of infrastructure as part of the subdivision process. This is particularly important where Council are to take over the ownership and management of the infrastructure with the depositing of the survey plan. The Code of Subdivision has effectively been replaced by the Code of Subdivision and Development which was approved by Council's Hearing Committee in August 2010. The new Code of Subdivision and Development will continue to provide guidance to Council as to the appropriate standards for infrastructure.

Removing direct regulatory reference to the Code from the District Plan will allow the Code to be updated more readily, and will allow flexibility in the design of infrastructure. The Code can be changed via the Local Government Act 2002 processes.