

Planning Report

Plan Change 44 – Boundary Adjustments to Create Independently Usable Titles

1.0 Introduction

- 1.1 The purpose of this report is to provide recommendations on submissions to Plan Change 44 – Boundary Adjustments to Create Independently Usable Titles.
- 1.2 Plan Change 44 proposes additional matters of control and discretion to the boundary adjustment rules to require financial contributions where boundary adjustments are used as a way to create independently usable titles that previously did not exist. Examples include small or narrow titles (such as titles created from old road closures and separation strips) not capable of accommodating a dwelling, and titles not capable of legal and physical access.
- 1.3 For a full background to the Plan Change and the proposed provisions please refer to the Section 32 Report. For a list of the proposed provisions only, please refer to the document titled “Summary of Recommendations – All Section 32 Reports”.
- 1.4 Any recommended amendments to rules in this report will be shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

2.0 Topic 1: Rules 12.3.3.1 and 12.3.3.2 – additional matter of control and discretion requiring financial contributions

2.1 Background

To prevent the boundary adjustment rules being used to create independently usable titles that did not previously exist without the need to pay financial contributions, the following matters of control and discretion were proposed to the boundary adjustment rules.

12.3.3.1 Controlled Activity Boundary Adjustments

- (a) As a Controlled Activity the boundaries between any existing land titles served by an existing legal public road currently maintained by *Council* and complying with all relevant provisions of this section of the District Plan may be adjusted subject to all newly formed *lots* also complying with the relevant provisions of this section and the minimum *lot* sizes rules that apply in

the respective zones, provided that the minimum *lot* size for the applicable zone shall not apply where:

- One or more of the existing land titles subject of the boundary adjustment is/are already non-complying in respect of the relevant minimum *lot* size; and
- The number of non-complying *lots* will not be increased by the boundary adjustment.

Council shall exercise control over the following:

- (i) The need to impose financial contributions where the boundary adjustment is deemed either to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.

12.3.3.2 Restricted Discretionary Activity Boundary Adjustments

- (a) As a Restricted Discretionary Activity the boundaries between any existing complying land titles served by an existing legal public road currently maintained by *Council* and complying with the relevant provisions of this section of the District Plan may be adjusted in a manner which renders one or more of the newly formed *lots* non-complying in respect of the minimum *lot* size for the applicable zone subject to all newly formed *lots* also complying with the relevant provisions of this section.

Council's discretion is restricted to:

- (i) An assessment of the extent to which the alignment of the existing boundary is illogical or otherwise inconsistent with:
 - Existing topographical or other physical characteristics of the land concerned;
 - Efficient and practical farm management.
- (ii) The need to impose financial contributions where the boundary adjustment is deemed either to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.

2.2 Submission Points

One submission point was in support of the Plan Change subject to an amendment. No submission points were in opposition. No further submission points were received.

The submission point made by the submitter is as follows:

2.2.1 Federated Farmers supported the additional matters of control and discretion to require financial contributions, but requested that Rule 11.3.2 (c) (ii) (Section 11 – Financial Contributions) also applied to boundary adjustments which create an independent usable title where there is no ability to connect to infrastructure services.

Rule 11.3.2 (c) (ii) is as follows:

“(c) Financial contributions **shall not** apply in the following circumstances:

- (ii) where there is no ability to connect (in accordance with *Council's Development Code 2009*) to a specific *infrastructure* (excluding roading) and the provision for such *infrastructure* is not included in any relevant *structure plan* or *LTP*.”

This rule is most commonly used in the rural zone where water, wastewater and stormwater infrastructure is not available.

2.3 Discussion

The submitter raises a valid point because it is not clear whether Rule 11.3.2 (c) (ii) makes this exemption for boundary adjustments that create independently usable titles or not. While the rule appears to make this exemption for all subdivision and development, the preceding Rule (11.3.2 (b)) which lists the activities for which “financial contributions **will** be charged” does not mention these boundary adjustments (such a requirement is proposed to be listed separately in Section 12 - Subdivision and Development Section). This causes some confusion over whether these boundary adjustments would be included under Rule 11.3.2 (c) (ii). The intention is that they are, however the best way to clarify this is to list these boundary adjustments under Rule 11.3.2 (b) as activities which “**will** be charged” financial contributions so that the exemption under Rule 11.3.2 (c) (ii) also clearly applies.

2.4 Recommendation

That the Plan Change is retained as notified except for an addition to Rule 11.3.2 (b) as follows:

“(b) Unless specified otherwise in the rule to which a particular contribution relates, financial contributions will be charged in respect of:

(v) [Boundary adjustments \(under Rule 12.3.3\) deemed to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.](#)

The following submission is therefore:

Accepted in Part

Submission	Point Number	Name
21	10	Federated Farmers

2.5 Reason

Specifically including “boundary adjustments that create independently usable titles” in the list of activities for which “financial contributions **will** be charged” (Rule 11.3.2 (b)) makes it clear that the exemption from paying financial contributions where infrastructure is not available (Rule 11.3.2 (c) (ii)) also applies to these.

3.0 Plan Change 44 - Recommended Changes to the District Plan First Review

3.1 The purpose of this part of the report is to show the Proposed Plan Change in full including any recommended changes in response to the submissions and further submissions.

3.2 Recommended changes to the District Plan First Review are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

3.3 That Rules 12.3.3.1 and 12.3.3.2 are amended as follows;

12.3.3.1 Controlled Activity Boundary Adjustments

(b) As a Controlled Activity the boundaries between any existing land titles served by an existing legal public road currently maintained by *Council* and complying with all relevant provisions of this section of the District Plan may be adjusted subject to all newly formed *lots* also complying with the relevant provisions of this section and the minimum *lot* sizes rules that apply in the respective zones, provided that the minimum *lot* size for the applicable zone shall not apply where:

- One or more of the existing land titles subject of the boundary adjustment is/are already non-complying in respect of the relevant minimum *lot* size; and
- The number of non-complying *lots* will not be increased by the boundary adjustment.

Council shall exercise control over the following;

(ii) The need to impose financial contributions where the boundary adjustment is deemed either to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.

12.3.3.2 Restricted Discretionary Activity Boundary Adjustments

(b) As a Restricted Discretionary Activity the boundaries between any existing complying land titles served by an existing legal public road currently maintained by *Council* and complying with the relevant provisions of this section of the District Plan may be adjusted in a manner which renders one or more of the newly formed *lots* non-complying in respect of the minimum *lot* size for the applicable zone subject to all newly formed *lots* also complying with the relevant provisions of this section.

Council's discretion is restricted to:

(iii) An assessment of the extent to which the alignment of the existing boundary is illogical or otherwise inconsistent with:

- Existing topographical or other physical characteristics of the land concerned;
- Efficient and practical farm management.

(iv) The need to impose financial contributions where the boundary adjustment is deemed either to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.

3.4 That Rule 11.3.2 (b) is added to as follows:

b) Unless specified otherwise in the rule to which a particular contribution relates, financial contributions will be charged in respect of:

(v) Boundary adjustments (under Rule 12.3.3) deemed to create an independently usable title which did not previously exist or to significantly increase the usability of an existing title.