

18. PROPOSED PLAN CHANGE 20 – PRIVATE PLAN CHANGE TO REZONE 250 CRANFORD STREET AND 215 INNES ROAD FROM LIVING 1 TO BUSINESS 1

General Manager responsible:	General Manager, Regulation and Democracy Services, DDI 941 8462
Officer responsible:	Unit Manager Environmental Policy and Approvals
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PURPOSE OF REPORT

1. This report describes a private plan change application to the Council for a change to the City Plan and the process which must be followed under the Resource Management Act 1991 (RMA).

EXECUTIVE SUMMARY

2. The application is to rezone 250 Cranford Street and 215 Innes Road, St Albans, from Living 1 to Business 1 (see location map – **Attachment 3**) .
3. The purpose of this report is not to consider the application on its merits. Rather, it is to recommend which of several options under the RMA is to be used in processing the application.
4. The Council has the option of declining this application on the grounds that the City Plan has not been operative for two years and other reasons (see **Attachment 1**), of accepting the application as a private application and publicly notifying it for submission and hearing at the cost of the applicant, or of adopting the change as the Council's own change and accepting the responsibility and costs of processing it. The Council is obliged to consider this request under the due process set out in the RMA.

FINANCIAL IMPLICATIONS

5. The financial considerations will differ depending on how the Council chooses to handle this application. Should it reject (or partly reject) the application it is possible that the applicant would challenge this decision in the Environment Court, which would be a costly process for Council regardless of the outcome. Costs cannot be predicted accurately but could be in the vicinity of \$20,000 for this preliminary step.
6. Should the Council accept and notify the change at the expense of the applicant there will be a no direct costs to Council as the Council's costs would be recovered. However there would be an impost on staff time.
7. Should the Council adopt the change as its own then Council will need to absorb all the costs, likely to run to at least \$15,000

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

8. The recommendation will have no cost to Council and therefore will not impose on the LTCCP budget.

LEGAL CONSIDERATIONS

9. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed set out in the RMA.

Have you considered the legal implications of the issue under consideration?

10. The process, mentioned above, which is very familiar to Council, should create no particular risks or liabilities if followed correctly.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. City Development - ongoing programme of improvements (page 145 of the LTCCP) to enhance the planning documents of the City, to ensure an attractive built environment and minimise adverse effects on the environment.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

12. Yes.

ALIGNMENT WITH STRATEGIES

13. Yes.

Do the recommendations align with the Council's strategies?

14. Yes.

CONSULTATION FULFILMENT

15. The applicant has consulted with adjoining neighbours, no concerns were raised (see **Attachment 3: The Application**)

STAFF RECOMMENDATION

It is recommended that the Board recommends to Council to:

- (a) Agree to accept the plan change application as a private plan change pursuant to Clause 25 of the 1st Schedule to the Resource Management Act 1991 and publicly notify it accordingly.

BACKGROUND AND DISCUSSION

The application

16. This application seeks to rezone 250 Cranford Street and 215 Innes Road (subject sites) from Living 1 to Business 1. These sites adjoin an existing Business 1 zoned area located at the corner of Innes and Cranford Rd.

Resource Management Act Timeframes

17. The application was received in full on 7 May 2007 (in terms of completing the community consultation). Further information was requested on 16 May on traffic matters. Further information was received on 25 May 2007. Additional information was requested on 18 June 2007 in terms of the effects of turning traffic on the intersection. The applicant met with the Council about this issue and the application was amended accordingly on 19 July 2007. Under the RMA, the Council is due to make a decision whether to accept the application or otherwise by 21 September 2007.

Description of proposal and site

18. The subject sites are located adjoining the existing Business 1 zone at the intersection of Cranford Street and Innes Road (minor arterial roads). 215 Innes Road is located between a non-residential use (doctors surgery) and Business 1 zone. 250 Cranford Street is located directly across the road from non-residential site (orthodontist) and next to a residential dwelling. 212A Knowles, a residential dwelling, adjoins the rear of both sites. Other non-residential uses within the immediate vicinity includes an accountant at 249 Cranford Street.
19. Residential dwellings and associated buildings are currently located on the sites. The combined area of both sites is 1481m². The total area for the entire Business 1 site would increase from approximately 1246m² to 2727m².
20. The purpose of this plan change is to allow the flexibility of comprehensively redeveloping the entire Business 1 zone with the anticipation that visitors car parking would be able to be provided on site. Currently the Business 1 zone has no on-site visitor car parking (only staff car parking) and little convenient on-street car parking. There is 'no parking' yellow dashed lines along the shop frontage on Cranford Street due to the shops location at the intersection of Innes Road/Cranford Street.

Description of Issues

21. Issues include traffic generation, current lack of car parking, noise and loss of residential amenity.
22. A traffic assessment (see **attached** application) has concluded that additional traffic generation will be minimal due to most vehicle trips to the expanded Business 1 area being pass-by and diverted trips. The expansion of the zone proposes to rectify the current situation in which vehicles are parking illegally along Cranford Street (yellow dashed lines) by providing visitors with parking on site. Council traffic consultants have assessed that if a full redevelopment of the site did occur that a resource consent would most likely be required and that mitigation measures to stop right hand turns from Cranford Street/Innes Road into the site would be addressed.
23. Council's Environmental Effects Team has concluded that any increase in noise is likely to be minor given that traffic noise is already generated by Innes Road and Cranford Street.
24. The rules in the City Plan currently control the height, setback from neighbours and road, continuous building length. The aim of these rules is to limit development so that it is compatible with surrounding residential amenity. This plan change will be consistent in size and location (located on street corners and are approx 2500m²) to other Business 1 zones throughout the city.

25. Council's urban design consultant has assessed the potential effects of the plan change. The consultant is of an opinion that the current Business 1 zoned building is of a good urban design standard as it addresses the street frontage and is of a size and scale that fits into the surrounding residential area. Concern has been raised by the urban designer that the increased site area of the Business 1 area and potential redevelopment may not keep these good design elements. However, this is a concern that is not limited to this plan change but to all Business 1 areas.

Processing of Private Plan Changes

26. The processing of private plan changes is set out in Clauses 21 -29 of the 1st Schedule to the RMA. In summary this provides:
- Clause 21 Any person may make an application for a change to an operative district plan. The City Plan is operative.
 - Clause 22 Request to be in writing, with reasons, Assessment of Environmental Effects and assessment under section 32 of the RMA
 - Clause 23 Further information may be required. Council has done this in this case
 - Clause 24 Council may modify the proposal but only with the consent of the applicant.
 - Clause 25 Council must consider the request, and make a decision to either
 - “accept” it and proceed to public notification, or
 - “adopt” it as if it were its own proposal, and publicly notify it, or
 - treat it as if it were a resource consent or
 - reject it.
 - Clause 26 Where Council accepts the change it must publicly notify it within 4 months
 - Clause 27 The applicant may appeal the decision under clause 26.
 - Clause 28 Applications may be withdrawn
 - Clause 29 Unless rejected, the application is put through the standard process of public notification, submission, hearing, decision, and appeal (if any).
27. There is a significant difference between “accepting” and “adopting” the application. If the application is accepted, the Council retains its independence and is able to consider it impartially at a hearing later in the process, rather like a resource consent process. The entire cost of the process can be charged to the applicant. If it adopts the application. The Council would be effectively supporting the application as if it had decided to propose the change itself. The Council would also be unable to charge the applicant for the costs.
28. There are very narrow grounds in the Act for rejecting an application. The only relevant one in this case is that the City Plan has been operative for less than two years. The Council has a formal policy on this matter, which is attached as Appendix A to this report. In summary, the Council's policy is to accept such applications and allow them to proceed through the process unless.
29. The subject matter of the application affects an important strategic or policy issue the Council is currently investigating and may preclude options being considered.
30. The proposal is for rezoning of a significant amount of land for urban growth and would pre-empt options for urban growth, being considered under the Metropolitan Christchurch Urban Development Strategy.

31. The proposal is for rezoning of land for urban growth and the site is within a Priority 1 Area Plan currently under investigation by the Council. As at August 2005 Priority 1 Area Plans include Belfast, Memorial-Russley-Hawthornden, Southwest and Upper Styx-Harewood.

The subject sites are not:

- Affected by any strategic or policy issue
- a significant amount of land
- within a Priority 1 Area Plan

THE OPTIONS

The Council's options are:

- a) Reject the application
- b) Accept the application, proceed to publicly notify and decide the application at the expense of the applicant
- c) Council adopt the change as its own and assume the responsibility for putting it through the process outlined in the RMA including all costs

THE PREFERRED OPTION

32. The preferred option is Option b. There is no status quo, i.e do nothing option. The application must be considered and either accepted, adopted or rejected. It is not a matter the Council has identified as a priority it wishes to pursue for itself. The Council has an adopted City Plan programme and this item is not on it. There is no reason known for Council to adopt it as its own priority. There do not appear to be valid reasons for rejecting it. Therefore the application should be accepted and considered on its merits, following public notification and the receipt of submissions.