

6. **PROPOSED PLAN CHANGE: PRIVATE PLAN CHANGE TO AMEND L3 PROVISIONS, AND INTRODUCE A B1 ZONED AREA AND OUTLINE DEVELOPMENT PLAN FOR THE CITY BLOCK BOUNDED BY PACKE STREET, PURCHAS STREET, MADRAS STREET AND CANON STREET ('THE ORION BLOCK')**

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PURPOSE OF REPORT

1. The purpose of this report is to seek a resolution on how to proceed with a private plan change application relating to residential and commercial zoning at the former Orion site at Packe Street, St Albans.

EXECUTIVE SUMMARY

2. The application is to amend a number of provisions within the City Plan as these relate to the Orion Block, to: provide for higher density residential development; introduce a Business 1 zoned area on the south-western quadrant of the block; and provide linkages throughout the site through the application of an Outline Development Plan ('ODP'). The documentation attached to the Plan Change request refers to this as introducing a 'Traditional Neighbourhood Development'.
3. The purpose of this report is to:
 - generically outline the proposed Plan Change;
 - provide some detail as to the private Plan Change process; and finally
 - to seek a resolution of Council on whether or not to proceed with public notification of proposed Plan Change 31.
4. In terms of process, the Council is obliged to consider the request for a Plan Change under the due process set out in the RMA. The Council has the option 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.

It is noted that declining this application on the grounds that the City Plan has not been operative for two years is no longer a valid option, given that both the existing zoning, and Living 3 ('L3') and Business 1 ('B1') provisions have been operative for a period exceeding two years. Where the Council has concerns about the merits of a private Plan Change, the only statutory recourse that the Council has to debate the merits at a hearing and seek amendments to the Plan Change is to make a submission on the Plan Change to ensure that the Council's concerns are within the scope of submissions.

5. It is noted that there are some issues of concern with this application. Some issues have been resolved by agreement but the applicant is unwilling to make further changes at this stage. The Council can make a submission on the plan change and staff will report to the Committee with any recommended submissions at as future meeting.

FINANCIAL IMPLICATIONS

6. The financial considerations will differ depending on how the Council chooses to handle this application. Should it reject the application it is possible that the applicant would challenge this decision in the Environment Court, which would be a costly process for the Council regardless of the outcome. Costs cannot be predicted accurately but could be in the vicinity of \$50,000 for this preliminary step.
7. Should the Council accept and notify the change at the expense of the applicant there will be a no direct costs to the Council as the Council's costs would be recovered. However there would be an impost on staff time.
8. Should the Council adopt the change as its own then the Council will need to absorb all the costs, likely to run to at least \$50,000.

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

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

LEGAL CONSIDERATIONS

10. There is a legal process set out in the RMA which must be followed. It includes initial consideration of what process to follow, then notification, submissions, reporting, hearings, decisions and possible appeals.

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

11. The process mentioned above is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Regulatory Services' ongoing programme of improvements (pages 145 and 146 of the LTCCP) to enhance the City Plan includes plan changes, as part of planning and providing for the sustainable management, development and protection of natural and physical resources of the city, as required by section 5 of the Resource Management Act 1991. Also Economic Development (p117 and 118 of the LTCCP) seeks to promote and manage regional economic development.

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

13. Yes

ALIGNMENT WITH STRATEGIES

14. The Plan Change is aligned with the Greater Christchurch Urban Development Strategy that seeks to manage metropolitan urban growth through consolidation and intensification.

Do the recommendations align with the Council's strategies?

15. Yes.

CONSULTATION FULFILMENT

16. The applicant has consulted with City Council officers, and some Community Board members and Councillors in early 2007. A further briefing of the Community Board is to take place on 18 June 2008. Under the RMA, consultation with parties affected by a private plan change is not mandatory.
17. In this instance, the applicant has considered that the requirement under Clause 5 of the First Schedule to, upon public notification, send a copy of the public notice and further information on the plan change to all parties considered to be directly affected by the plan change, would serve as adequate notice of the application.
18. It is anticipated that the applicant will arrange meetings with affected landowners once the application is notified, if they are so requested.

STAFF RECOMMENDATION

It is recommended to the Council that it:

- (a) Agree to accept the plan change application as a private plan change application pursuant to Clause 25 of the 1st Schedule to the Resource Management Act 1991 and publicly notify it accordingly.
- (b) That in accordance with Council policy the cost of processing the plan change be at the applicant's expense.

BACKGROUND AND DISCUSSION

The Application

19. A copy of the Plan Change is attached. The purpose of the Plan Change is to provide for residential development of greater height than permitted and an associated Business area for that block bounded by Packe Street, Madras Street, Purchase Street and Canon Street. The imposition of an Outline Development Plan, and the mixed zoning proposed, is suggested by the applicant's consultants to represent a Traditional Neighbourhood Development '(TND)', which it is suggested, forms a more sustainable and integrated land use for the area than its current Living 3 zoning.
20. The site is a combination of some 43 separate titles, all of which are zoned Living 3 within the City Plan. The total land area is approximately some 4.326 ha. The site was previously a MED depot and then an Orion works depot. These activities vacated the site some years ago, and the associated buildings were demolished.
21. There is a small cluster of Living 3-type residential units to the south-west of the site which will retain their un-amended Living 3 zone provisions, as will the Orion substation and the church at the south eastern corner of the block. These properties are not owned by the applicant and are outside the area covered by the Plan Change.
22. The proposal intends to retain a Living 3 zoning for the majority of the site (some 3.1 hectares). The Plan Change will not affect the zone provisions for this area, apart from an increase to the permitted height limits, and an exemption from the rules relating to continuous building length. The increased height provisions would only relate to the central 'spine' area of the block and would allow a total height of 14m, and hence some effects from the increased height of buildings, compared to the current permitted maximum height of 9m with a flat roof or 11m with a pitched roof.
23. The proposal also intends to introduce a 1.08 ha Business 1 zoning on the south-western central quadrant of the block. The information accompanying the application indicates that this zoning would be used to facilitate the development of a 'small' supermarket, approximately the size of the Richmond New World on Stanmore Road, of some 1,600m² GLFA (1,740m² GFA), and up to 15 small shops, so as to meet demand from the residential development generated from the remainder of the Plan Change.
24. A number of miscellaneous aspects of the Plan Change request include the provision of shared open space, tennis courts and a swimming pool, the latter two "*would be available for residents and guests*". The tennis courts and swimming pool would be identified in the ODP as 'Area C – Recreational Activities' but would retain an underlying L3 zoning.

Resource Management Act Timeframes

25. The application was initially received on 10 August, 2007. Further information was requested on 25 September 2007 and the revised change was received on 14 December 2007. Additional information as subsequently requested in relation to amendments made, together with Transport Modelling was received on 24 April 2008. The RMA timeframe for requesting additional information had been extended under S.37. Under the RMA, the Council is required to make a decision on whether or not to accept the application for notification by 20 June 2008.

Processing of Private Plan Changes

26. The decision to publicly notify a private plan change application does not signal whether or not the Council agrees with the merits of the Plan Change or the likely effects that may be generated as a consequence of the Plan Change. The decision on whether or not to publicly notify a private plan change application simply rests on the Council being sure that it considers that it, and the public, would have sufficient information so as to determine whether they consider themselves to be affected by the proposal so that such parties can decide whether to participate in the subsequent statutory submission and hearings process.

27. There is no suggestion from the applicant that the Council should “adopt” the Plan Change as its own.
28. Pursuant to Clause 6 of the First Schedule, the Council may make a submission on the Plan Change to ensure that its position with regard to any matters raised are considered at the subsequent hearing to determine the outcome of the Plan Change request. The decision on whether or not to make a submission is based on the merits of the Plan Change and is quite different from the decision to notify a Plan Change which rests simply on the applicant having provided sufficient information to enable the Plan Change to be understood. A further report on a possible Council submission will be made at a later date.
29. It is noted that unlike a Council adopted Plan Change, a privately requested change to the City Plan has no statutory effect until the decision on the merits of the Change has been released by the Council and any subsequent Environment Court references have been resolved.
30. The processing of private plan changes is set out in Clauses 21-29 of the 1st Schedule to the RMA, with these clauses summarised below:

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. The Council has requested further information in this case.
Clause 24	The Council may modify the proposal but only with the consent of the applicant.
Clause 25	The Council must consider the request, and make a decision to either: <ul style="list-style-type: none"> • “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 the Council accepts the change it must publicly notify it within four 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).

31. There are very narrow grounds in the Act for rejecting an application. Clause 25 of the 1st Schedule (Attachment 1) identifies grounds by which the Council may reject a Plan Change request, on the basis that the request:
 - Is frivolous or vexatious;
 - Considers matters that have been considered by the local authority within the last two years;
 - Is not in accordance with sound resource management practice;
 - Would make the plan inconsistent with Part 5; or that
 - The relevant provisions of the Plan have been operative for less than two years.

THE OPTIONS

32. The options that will be presented to the full Council with regard to this Plan Change 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

33. The recommended option is Option (b); there do not appear to be valid reasons for rejecting the plan change in terms of a decision on notification.
34. Overall, the ability for a comprehensive land development in association with an ODP that could ensure internal pedestrian and cycle permeability and provide for some level of mixed use within what is considered a large urban block would have some merit. This would, of course, need to be tempered by a number of caveats as to the acceptability or otherwise of the potential traffic, retail and urban design impacts that could occur as a consequence of the proposal could be raised in a submission by the Council. Also of relevance is the ability for the planning mechanism as put forward to provide sufficient certainty that an integrated development will actually be delivered as a consequence of the Plan Change.
35. The application should be accepted for notification and considered on its merits, following public notification and the receipt of submissions.