

**9. NOTIFICATION OF COUNCIL PLAN CHANGE 8 TO CITY PLAN – REZONING OF 191 WIGRAM ROAD (MUSGROVES SITE) FROM BUSINESS 5 TO BUSINESS 4**

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**PURPOSE OF REPORT**

1. This report is seeking a Council resolution on whether or not to proceed with public notification of proposed Plan Change 8 – Rezoning of 191 Wigram Road (Musgroves site) from Business 5 to Business 4.

**EXECUTIVE SUMMARY**

2. The proposed plan change seeks to change the zoning of the Musgroves site at 191 Wigram Road (Lot 6 DP 73928, comprising 11.1553 ha) from Business 5 (B5) to Business 4 (B4).
3. In 1995 Musgrove Bros Limited lodged a submission to the then Proposed City Plan seeking the rezoning of the subject site from Rural to Business 5. This land was also encompassed by the Good Shepherd Convent Trust and Others submission requesting the rezoning of a substantial area of land in the locality to a mix of Living zones. In 1999 the Council's decision rezoned the Musgroves site from Rural to Living 1A Deferred. Subsequently Musgrove Bros Ltd lodged a reference with the Environment Court against the Council's decision. The referrer sought Business 5, or alternatively, Business 4 zoning.
4. The Council officers proceeded to negotiate a settlement for a B4 Zone on the basis that it would be a more suitable zone in terms of the objectives and policies of the Plan and its location adjacent to the newly rezoned Living land. Before an agreement was reached it was determined that the Council was unable to rezone the Musgroves site to B4 as it was beyond the scope of the original Musgroves Bros submission. Instead, the B5 zoning with conditions was agreed to by both parties and the Council agreed to consider the B4 zoning within 18 months of the City Plan being made operative.
5. The City Plan was made partially operative on 21 November 2005. The Council has reassessed the zoning status of the Musgroves site in terms of Section 32 of the Resource Management Act, in accordance with its agreement.
6. The attached report concludes that the proposed change of zoning to B4 is a more efficient and effective means of achieving the City Plan's objectives and policies than the current B5 provisions.

**FINANCIAL IMPLICATIONS**

7. There are no direct financial considerations beyond staff time covered by existing unit budgets.

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

8. The costs of public notification are able to be covered by existing unit budgets.

**LEGAL CONSIDERATIONS**

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

9. Section 32 of the Resource Management Act requires the Council to undertake an analysis of the costs and benefits of any potential plan change so that the Council can be satisfied that the proposed plan change is a more efficient and effective method of achieving the Plan's objectives and policies than the current provisions.
10. There is a legal process set out in the RMA which must be followed. It includes public notification of the plan change followed by submissions, reporting, hearings, decisions and possible appeals. It is a process which is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

11. Supports the LTCCP City Plan measure of 10 variations or plan changes being prepared and notified annually.

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

12. As above.

#### **ALIGNMENT WITH STRATEGIES**

13. The attached Section 32 report demonstrates that the proposed plan change more effectively and efficiently meets the objectives and policies of the City Plan than the current provisions.
14. The proposed plan change does not conflict with the recently adopted Urban Development Strategy.

#### **Do the recommendations align with the Council's strategies?**

15. As above.

#### **CONSULTATION FULFILMENT**

16. The City Council has consulted all near neighbours, the local residents groups, the relevant community board, Environment Canterbury and the local tangata whenua about the proposed rezoning at the beginning of the review process in late 2006. Aidanfield Holdings Ltd, the developer of the neighbouring residential properties, and the owner of the site expressed their support for the proposed plan change. Environment Canterbury expressed their concern over the issue of the use of hazardous substances on the site and the potential for contamination of the underlying aquifer. Their concerns have been addressed in the proposed provisions regarding the storage and use of hazardous substances on the site as well as the proposed groundwater protection provisions. It is noted that public notification of the proposed Plan Change will enable the community to have their say through submissions and a public hearing.

#### **STAFF RECOMMENDATION**

It is recommended that the Regulatory and Planning Committee recommends that the Council:

- (a) Adopt the attached assessment under Section 32 of the Resource Management Act.
- (b) Publicly notify Plan Change 8 to the City Plan.

#### **RICCARTON/WIGRAM COMMUNITY BOARD CONSIDERATION**

The Riccarton/Wigram Community Board considered the above report at its meeting on 5 August 2008.

The Board resolved that the staff recommendation be adopted.

## **BACKGROUND AND DISCUSSION**

### **The Plan Change**

17. The purpose of Plan Change 8 is to rezone the Musgroves site at 191 Wigram Road, from Business 5 (B5) to Business 4 (B4). The subject site comprises 11.1553 ha and is occupied in part by a recycling business for demolition building materials which was established in 1972 through a resource consent process.
18. The current Business 5 zone provides for larger scale industrial uses with associated adverse effects such as high traffic generation, noise and hazardous substances. The uses associated with the zone may conflict with the neighbouring residential activities and give rise to reverse sensitivity.
19. The proposed Business 4 zone is intended to accommodate light industrial activities, warehousing, service industries, some commercial activities like offices and limited retail activities. The zone standards exclude or control activities with a potential to have detrimental impact on adjoining living zones through stricter limits on the scale of buildings, noise and other nuisance effects. The higher standards of amenity within Business 4 zones are making them more compatible with adjoining sensitive zones such as living zones.
20. Rezoning of the site to B4 will allow the existing business activity to operate as a permitted activity without the need for resource consent applications. Development of the remainder of the site according to B4 standards would provide for activities better suited to the site specific constraints and more compatible with the surrounding sensitive zones. In reflection of the characteristics of the land and the associated constraints the plan change introduces alternative, site specific standards and a development plan outlining some of the requirements and restrictions affecting future re-development of the site.
21. The main justification for the change is the fact that the current B5 zoning was never considered an acceptable zone for this site and was only the result of a lack of scope within a court reference. Comments received from various departments of the Council and commissioned reports provide grounds for the site specific provisions. These are discussed below in the Description of Issues.
22. A copy of the proposed plan change is attached.

### **Description of the Site**

23. The Musgroves site adjoins a Living 1A zone to the south west and south east, Open Space 2 zone to the north east and Special Purpose (Wigram) zone (Areas A and B) to the north east. The areas marked 'A' are being considered for re-development for industrial/commercial and residential activities as part of the South-Western Area Plan for Christchurch urban growth with residential development being proposed across Wigram Road from the site.
24. The south-eastern part of the site is subject to the Transit New Zealand designation for the Southern Motorway extension which will separate the site from the Living zones in the Aidanfield development. The proposed Aidanfield Drive extension will separate the site from Broken Run subdivision on the south-west boundary. Eventually the site will be surrounded by residential development across the roads on three sides and an open space zone on the fourth.
25. Council records identify the Musgroves site, a former quarry back-filled with uncontrolled material, as land subject to potential geotechnical hazard risks associated with ground instability, subsidence, landfill gas, soil contamination and potential for ground water contamination. This may impose constraints on the development of the site and specific investigation of remediation options will need to be undertaken at the time of development.
26. Careful management of the development of the site and of stormwater disposal will be required in order to avoid any surface and in-situ contaminants entering the groundwater and/or the Heathcote River system. The storage and handling of hazardous substances on the site is also restricted due to the potential for groundwater contamination.

27. The site is currently not connected to sewer system. The Musgroves site is part of the Halswell contribution scheme for sewer which is designed to a capacity suitable for residential zoning. Wastewater discharge from the site is therefore limited to a volume consistent with residential development rather than "wet" industrial activities often associated with B5 zoning.
28. The existing B5 provisions contain site specific rules relating to setbacks, landscaping, wastewater and groundwater protection aimed at avoiding, mitigating or remedying adverse effects of possible B5 industrial development on the Musgroves site.

### **Description of Issues**

29. The attached Plan Change 8 provides details of the proposed changes to the City Plan. The Section 32 assessment accompanying the plan change provides a description of the site and its environs and the full background and reasons for the proposed changes. The proposed rezoning is sought to provide for viable development options for the site and for the on-going operation of the existing business. The rules are amended in reflection of the site specific conditions and limitations thus ensuring better environmental outcomes.
30. The greater setback from roads and landscaping requirements specific to the Musgroves site are proposed to be carried over to the B4 zone rules to mitigate adverse effects of larger scale buildings and maintain a higher standard of visual amenity. An increased setback of 70m is introduced from the boundary with the proposed Southern Motorway as the final width of the constructed motorway will exceed the currently designated area. There is provision to reduce the setback to the standard 6m from the road boundary once the land required for the Southern Motorway has been purchased and the new legal boundary established.
31. The Musgroves site currently adjoins a residential subdivision along its south-western boundary. Future plans will see Aidanfield Drive extended along that boundary therefore separating the site from the Living zone with a road. The plan change increases the setback requirement along that boundary to 10m to align it with the B4 setback requirement for the road boundaries opposite a Living zone. The proposed exception of 4.5m reduced setback for residential units is also consistent with the current B4 rule.
32. The standard B4 rule requires that 10% of a site is set aside for landscaping. This Plan Change introduces an additional requirement for a 4.5m average width and a 1.5m minimum width of the landscape strip along the frontage of Wigram Road, future Aidanfield Drive extension and the Southern Motorway. This will provide an adequate buffer between the site and the surrounding sensitive zones and allow for a higher standard of amenity.
33. The existing groundwater protection and wastewater rules for Musgroves are proposed to be carried over to the B4 provisions. Trade waste disposal rate remains constrained by the available sewer capacity. It is recognised that the works to develop the site have the potential to adversely affect the quality of groundwater and the Heathcote River system through the potential to mobilise in-situ contaminants to the underlying groundwater aquifer. Investigation of remediation measures and a site management plan will be required at the time of carrying out the works. There are sufficient rules in the City Plan and regulations under the Building Act to ensure that any potential adverse effects of site development on the groundwater are avoided or mitigated.
34. The ground contamination on this former quarry site precludes the discharge of roof and impervious surfaces runoff water to the ground. Stormwater disposal on the Musgroves site shall be based on a first flush treatment and detention basin system designed in accordance with the development plan shown in Part 3, Appendix 10. This will maintain the groundwater quality, avoid discharge of any contaminated stormwater directly into the Heathcote River system and prevent downstream flooding of the river at peak times.

35. A transportation assessment carried out on behalf of the Council (refer Attachment 3) has revealed that the proposal has the potential to produce some adverse effects on the surrounding road environment which will require mitigation. The projected high number of vehicle movements generated by the B4 activities on the Musgroves site could create congestion, cause delays at the Wigram Road intersection with the internal site road and compromise the safety of the receiving road environment. To mitigate such potential adverse effects vehicle access to Wigram Road and the future Aidanfield Drive extension is limited to one access point to each. Additionally, the Wigram Road intersection design incorporates right and left turning lanes and a physical seagull island on Wigram Road so that right turning traffic from the site is not opposed by north-bound traffic on Wigram Road. A high traffic generator rule is introduced as a means of staging the development until the Southern Motorway extension is open to traffic and able to reduce the demand and traffic volume on Wigram Road. These measures will also ensure that the anticipated future arterial function of Wigram Road and its efficiency and safety are not compromised.

## **CONCLUSIONS**

36. The lighter industrial, business or commercial activities permitted in the B4 zone are likely to be less affected by the site specific constraints and will maximise development opportunities provided by the site. Any adverse effects of the development will be avoided, remedied or mitigated through the proposed site specific provisions relating to setbacks, landscaping, roading, hazardous substances, wastewater and stormwater disposal. The proposed rezoning will provide opportunities for a development which is more suitable for the site conditions while being more compatible with the surrounding sensitive environment.
37. Section 32 of the Resource Management Act requires the Council to be satisfied that any proposed plan change is a more efficient and effective means of achieving the Plan's objectives and policies than the current provisions. The attached Section 32 report concludes that this is the case for the proposed amendments to the City Plan. Public notification of the plan change will also fulfil Council's earlier commitment to review the zoning of the Musgroves site. Should the Council resolve to publicly notify the proposed plan change then those changes will be available for the community to make submissions on. The submitters will then be able to present their submission at a public hearing following which the hearing panel will be obliged to make a recommendation to the Council on whether or not the plan change should be accepted, amended or rejected.