

13. CITY PLAN CHANGE - THE FERRYMEAD BUSINESS 4 ZONE

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| General Manager responsible: | General Manager Regulation and Democracy Services, DDI 941-8549 |
| Officer responsible: | Environmental Policy and Approvals Manager |
| Author: | David Mountfort |

PURPOSE OF REPORT

1. This report is to draw attention to a potential legal issue in the report of the Hagley/Ferrymead Community Board of 28 June 2006

EXECUTIVE SUMMARY

2. The Hagley/Ferrymead Community Board has recommended that the Council urgently initiates a City Plan change of the Ferrymead Business 4 zone to a special zone that retains control over built development through Restricted Discretionary Activity status with design guidelines and assessment matters.
3. If adopted this could be taken as meaning that the variation should be prepared and notified without further formality, contrary to the requirements of Section 32 of the Resource Management Act 1991.

FINANCIAL AND LEGAL CONSIDERATIONS

4. No financial implications. Section 32 of the RMA requires an analysis of the costs and benefits of any proposed change to the City Plan be carried out before the Council decides to adopt and publicly notify it. To date that has not occurred although work to date could be regarded as progress towards it.

STAFF RECOMMENDATION

It is recommended that the Council not adopt the part of Item 16 of the Hagley/Ferrymead Community Board's report of 28 June 2006 which refers to the Ferrymead Business 4 zone and that the matter continue to be dealt with in the current investigation being carried out of a possible City Plan change.

BACKGROUND ON CITY PLAN CHANGE OF THE FERRYMEAD BUSINESS 4 ZONE

5. At its meeting on 28 June 2006 the Hagley Ferrymead Community Board passed the following resolution, following consideration of a notice of motion submitted by Yani Johanson:

“That in response to the Business 4 Zone Supplementary Report produced by Boffa Miskell for the Council, the Hagley/Ferrymead Community Board recommends that:

The Council urgently initiates a City Plan change of the Ferrymead Business 4 Zone to a special zone that retains control over built development through Restricted Discretionary Activity status with design guidelines and assessment matters.”

6. Boffa Miskell Ltd has recently provided two reports to Council relevant to City Plan provisions for Ferrymead. In its initial report the firm recommended that the Council introduce height limits and greater boundary setbacks in all Business 4 zones, and in particular, create a new zone for Ferrymead with:
- Built development a restricted discretionary activity with assessment criteria and possibly design guidelines. Discretion would be restricted to siting and layout, building design style and materials, views over and through the zone and landscape treatment. Assessment matters were also suggested.
 - Consider amending the definition of Plot Ratio to include parking structures.
 - Add a development standard height limit of 11m and a critical standard of 15m.
7. In its supplementary report of 31 March 2006 Boffa Miskell revised its earlier recommendation and suggested that the Council consider investigating, through a consultation programme with the community and landowners, the desirability of rezoning Ferrymead to a mixed use zone as well as imposing the height limits and discretionary design controls.
8. The resolution from the Board appears to be urging the urgent adoption of part of the first recommendation.
9. It should be noted that if adopted, this resolution would require the immediate preparation and notification of a plan change without carrying out the required section 32 analysis. That would be contrary to the Resource Management Act. It is possible, although unlikely, that the section 32 analysis would not confirm Boffa Miskell's initial recommendations.
10. Both reports have been presented to the Council at seminars. As a result staff have requested Boffa Miskell to prepare separate estimates for the two pieces of work, ie the Business 4 heights issue and the Ferrymead rezoning issue. Preliminary estimates are that the first project will cost around \$52,000 and the second project over \$200,000. The second project would be very expensive to do properly because of the need for economic analysis and traffic modelling. The Planning Strategy Unit has some funds set aside for planning work for Ferrymead but the two projects would still be a very heavy impost on the City Plan budget.
11. Both projects are on the City Plan work programme as Priority 1 matters. The first project will be proceeding and the second is under review because of the cost. The work suggested by the Community Board could either be added to the first project or carried out as part of the second project if it proceeds. It would not be cost effective to proceed with it on a standalone basis and would risk confusing the community when the other work proceeds. Urgency is not required as the work will be proceeding in some form shortly.