

16. PROPOSED REZONING OF SPECIAL PURPOSE (AWATEA) ZONE

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

PURPOSE OF REPORT

1. This report updates progress on the investigation of a plan change to rezone land at Awatea and discusses a resolution of the Riccarton/Wigram Community Board requesting urgent progress on this issue.

EXECUTIVE SUMMARY

2. In 1999, in its decisions on submissions to the Proposed City Plan, the Council decided to not zone the area known as the Awatea Block for urban purposes, but stated an intention to further investigate the issue, and said a variation to the City Plan to rezone the block "should" be introduced by 1 October 2001. However the Council identified nine specific environmental outcomes that needed to be investigated and resolved as part of the zoning. For a variety of reasons, those nine matters have not all been satisfactorily resolved. Following previous reports, the Council has accepted that the anticipated date could not be met. Other dates have been proposed for the variation over the years but not met. Work to resolve the issues has continued intensively, however, as part of the preparation of the South-West Area Plan.
3. The investigations are very well advanced and staff have recently completed the first comprehensive land use options plans for the area. As a result of that further variations of these options are being explored which will consider alternative ways of responding to some of the significant development constraints in the area. These have yet to be discussed with residents and stakeholders. Current investigations centre upon stormwater, roading, sewerage and the Carr's Road Raceway, and potential land use options.
4. Discussions have occurred with Awatea landowners throughout the period since 1999 and the residents kept informed about progress. However resident frustration has always existed, culminating in a legal attempt in 2006 through the Environment Court to force the Council to proceed with the rezoning. Although that was not successful, Council officers undertook to meet regularly with the residents, and three meetings took place in the latter part of 2006. The matter has come to a head again recently, with the Council introducing a plan change to rezone part of the adjacent Wigram Block for residential purposes. Although consultation has taken place on this specific issue, the Awatea landowners did not see the Awatea Block as being substantially different from Wigram and consider Awatea should have been rezoned at the same time. This has culminated in a resolution from the Riccarton/Wigram Community Board as follows

"The Board recommends to the Council that an analysis be carried out of Volume 3, Part 8, Section 8 Special Purposes (Awatea) Zone of the Operative City Plan in terms of section 32 of the Resource Management Act. This analysis shall consider appropriate zoning of the Special Purpose (Awatea) Zone to allow development of the area. This analysis shall be completed within 6 months."
5. While the concerns of the Board and community are acknowledged the timeframes are now moving such that suggesting a formal timeframe in which to complete the process would be unhelpful, as it could unrealistically restrict the time for necessary investigation to be completed and artificially constrain the period of dialogue which staff consider the project is about to enter into. Specifically this is because the Council and the community will need to be able to explore a range of options and be able to reconcile these against various landowner expectations, councils UDS objectives, and to test the consequences in terms of the resource management implications of some of the options that could be explored. This report outlines progress to date and the issues that remain as the options are refined and evaluated.
6. The report also describes how Awatea is identified in the draft Urban Development Strategy as one of the first priorities for future upgrading and describes the wider context of infrastructure upgrades required to enable development in the South-West.

7. It is recognised that the recommendation expresses the frustration of the Board and the community. It is proposed that a timetable for finalising the options, consulting with the residents and stakeholders be prepared and that this be used to provide a greater measure of certainty around the remainder of the process going forward. It is anticipated that the first options could be discussed with residents within two months and that there be a report back to the Council by September 2007 as to progress with those discussions.

FINANCIAL IMPLICATIONS

8. Preparing a plan change for Awatea is expected to cost in the vicinity of \$150,000, on the basis that much of the final documentation be contracted to a planning consultant. At present there would be insufficient funds in the City Plan budget for this work to be commenced in this financial year or completed in the next, and no available resource to do the work in-house without significant disruption of other projects

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

9. All the work involved is provided for in various unit budgets, but not in the short term. Funding would be available to commence the plan change work in the 07/08 financial year and complete it in 08/09.

LEGAL CONSIDERATIONS

10. Attempts have been previously made in the Environment Court to force the Council to proceed with this rezoning. A letter has been received to the effect that the residents are considering High Court action. Following further discussions, this possible High Court action has been put on hold by the residents.
11. The Council has a duty under section 32 of the Resource Management Act 1991 (the RMA) to carry out an evaluation of any rezoning proposal as follows.
 - (3) An evaluation must examine—
 - (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

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

12. Yes. The nub of the Council's position, which was accepted by the Environment Court, is that the Council cannot proceed with a rezoning until it is satisfied, pursuant to section 32 of the Resource Management Act that that would be appropriate.
13. The purpose of the Act is sustainable management. The objectives of the City Plan reflect that purpose. A rezoning is largely a set of rules. The effect of section 32 is that the Council must be satisfied, on good grounds, that rezoning the land would be a suitable environmental outcome.
14. To do this it needs to be fully informed about the environmental effects of the proposed rezoning. Until the background investigations have been completed, the Council will not know if the area is suitable for urban growth and cannot meet its duty under section 32.
15. A more appropriate resolution would be to establish defined but workable timeframes to ensure that the option evaluation and recommendation to council is actively achieved.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. The ongoing investigations align with the LTCCP through various Activity Management Plans which apply to the South-west Area Plan and the City Plan activities.

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

17. City Plan, South-west Area Plan and Urban Development Strategy activities

ALIGNMENT WITH STRATEGIES

18. The work being undertaken is closely aligned to the draft Urban Development Strategy. This strategy identifies the south west area as a priority growth area. There are issues for the Council in terms of the timing of delivery of infrastructure to meet both the landowners expectations for development as well as the UDS. This is being addressed at present through investigations in respect of the current timing of projects as well as exploring opportunities for private developer agreements (PDAs) under councils DCP policy.

CONSULTATION FULFILMENT

19. There has been extensive consultation with local landowners and other interested parties over many years about the Awatea rezoning issue. Further consultation will be required in terms of the development options proposed and later during the preparation of a plan change.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Not accept the recommendation of the Riccarton/Wigram Community Board to carry out a section 32 analysis on rezoning the Awatea Block for urban growth within six months.
- (b) Continue to carry out and complete background investigations under the South-West Area Plan programme.
- (c) Receive a staff option update report by September 2007.

BACKGROUND (THE ISSUES)

The Wigram Plan Change

20. Plan Change 12 to the City Plan has recently been publicly notified. It rezones a part of Wigram Airfield from Special Purpose (Wigram) to Living 1, Living 3 and Business 1. This will enable further residential development of unused parts of the airfield. Only 100 lots are able to be developed until the sewer system is upgraded. The Awatea Residents Association considered this unfair, as they consider that Awatea is largely the same and should have been re zoned at the same time or first as the Council had a prior commitment to Awatea, and that the Wigram development will use up available infrastructure capacity and thus delay the development of Awatea. This is a substantial misunderstanding of the true position. Prior to the notification of Change 12 staff explained the Wigram situation to Awatea representatives on at least two occasions and have done so again more recently.
21. It needs to be understood that as well as its commitment to Awatea, the Council also had a commitment to the owners of Wigram, Ngai Tahu Holdings. That commitment came from the same source, the City Plan review. However Ngai Tahu had lodged an appeal in the Environment Court. The appeal was settled by consent. The settlement required the Council to investigate the rezoning of Wigram in 2 stages, the first being the area in Change 12, and the second being the rest of the airfield. Dates for these investigations were agreed to. The Council was able to proceed earlier with Change 12 because it is a much smaller and less complex site, some of the complicating factors at Awatea do not apply to Wigram, and because of substantial assistance from Ngai Tahu who carried out at its expense some of the necessary technical investigations including traffic and stormwater.
22. Most of the land in Change 12 will need to remain deferred until the sewer system is upgraded. A small amount of existing capacity was found, enough for 100 households. The accelerated sewer upgrade that is proposed to enable any later next stages of development at Wigram is being explored with Ngai Tahu through the use of a PDA which will see them making a significant upfront commitment to increasing sewer capacity to service the Wigram area. Some of the upgrades required can be designed to also service Awatea.
23. In addition prior to the rezoning the land in Change 12 had already been able to be developed for industrial purposes under the former Special Purpose Wigram Zone, unlike Awatea where the interim land uses are as for the Rural 2 zone. The fact that insufficient sewer capacity existed even for Wigram reflected its previous use as a single site (airfield) development.

Urban Growth, Infrastructure, the UDS and Staging

24. Awatea is part of the wider south-west area recognised for future urban growth in the City Plan, which also includes Wigram, Aidanfield, and several areas in and around Halswell. Collectively these areas have room for around 10,000 households and extensive industrial development. Recognising the need for integration of all these areas and for comprehensive planning, the Council commenced the South-West Area Plan (SWAP) in 2003. The Area Plan examines physical and environmental issues and opportunities. It also looks at infrastructure requirements and the financial planning for this needed through the LTCCP. The Draft Urban Development Strategy relies heavily on south-west Christchurch for future urban growth. The UDS sets out three stages. In the first stage, 2007-2016 the UDS assumes full development of the Wigram Airfield and the residential component of Awatea, approximately 5000 households. Further development is to follow in the rest of the south-west after that time in stages that run from 2017-2026 and 2026-2041. These stages are designed to correspond with planned infrastructure upgrades, but there are serious constraints that will need to be overcome to enable Stage 1 to occur in time to meet anticipated growth. These constraints are recognised in the City Plan requirements as discussed below.

City Plan Requirements

25. Prior to rezoning the Awatea Block Council needs to resolve nine issues set out in the City Plan. The remaining most significant of these matters are:

Roading

26. The precise alignment of the Southern Arterial and related road improvements such as the Wigram/Dunbars/Awatea overbridges needs to be finalised and modelling carried out. This will enable the land use layout to be designed, and will also confirm the suitability of the proposed roading improvements. It is currently estimated that these investigations may be able to be completed by about the end of 2007. Financial provision for some of these works needs to be made in the current LTCCP. Other necessary roading works, such as the extension of the Southern Arterial are to be carried out by Transit NZ. Without these improvements development at Awatea would cause unacceptable traffic congestion. Once design, layouts and financing are confirmed, it is likely that roading construction will commence about 2010 and subdivision and development could commence about that time, on the basis that the roading will be in place by the time land uses are established.

Stormwater

27. A conceptual design for stormwater management has been prepared and is being discussed with Environment Canterbury. Some technical investigations are still required and the package will have to be accepted by ECan. Following litigation relating to Aidanfield in 2005, the Council signed an agreement with ECan to the effect that no further land would be rezoned without comprehensive stormwater analysis and design having been carried out and acceptable solutions identified. It is estimated that stormwater issues may be sufficiently advanced and agreed by the end of 2007 to support rezoning.

Sewer

28. Currently there is very little sewer capacity in the whole south-west area to allow for further growth. Improvements are planned in the current LTCCP but the current planning would not allow for development until around 2016. Investigations are being carried out into whether any parts of the programme can be brought forward to allow parts of the south-west including Awatea to proceed at an earlier time. The investigations will be completed in the next few months and financial provision will have to be made to carry out earlier work. Otherwise any rezoning would have to be deferred until 2016. However as noted above staff are currently investigating the scope to accelerate delivery or to put in interim solutions that expand capacity in the current network. New funding models through the DCP are also being explored with developers, though in areas like Awatea with a relatively fractionated land tenure pattern such outcomes are more difficult to achieve

Carr's Road Raceway

29. The full City Plan provisions for the full Awatea special purpose zone are set out in Appendix 1.
30. The Carr's Road raceway adversely affects existing residential areas at Halswell and would preclude further residential development in the vicinity. The club itself is restricted in its activities by the noise controls in the City Plan and would like to shift to a less sensitive site. While the affected parts of Awatea could be rezoned for industrial development, this is not necessarily the best option for parts of the block. ECan would certainly prefer as much of the area to be residential as possible. Awatea is over the unconfined part of the groundwater aquifer system and industrial development would pose a much greater risk to the aquifer. Investigations are being carried out into options for relocating the club and a report will be presented to the Council on this during 2007.
31. The kart club is a major sticking issue, particularly if council seeks to remove it from the locality prior to rezoning. While this would result in the most favourable land use option and avoid both sub-optimal land use patterns and minimize the risk of future reverse sensitivity issues plaguing the Council in the future, the timeframe to achieve it may delay development opportunities from commencing. Staff are investigating a number of land use options with differing kart club scenarios including the use of the Wigram Road realignment to act as a barrier between the club and possible neighbours. It will not be simply to resolve.

A possible timeframe for a plan change

32. Starting in 1991, various timeframes have been put forward for a plan change to be prepared. To date these have never been achieved and have always resulted in disappointment for the landowners. The Council should therefore be very cautious about setting future timeframes. The difference now is that a great deal of work has been carried out through the Area Plan and remaining issues are being actively investigated, with many of these investigations likely to be completed in 2007. The technical investigations will need to be followed by section 32 analysis, and the preparation of a comprehensive Outline Development Plan, staging programme and a full set of zoning provisions. This RMA planning work can be commenced in parallel with the technical investigations but cannot be completed until after the technical investigations. An indicative date for a notified plan change could therefore be the third quarter of 2008.
33. It is proposed to continue regular consultation with the landowners during the remaining investigations and the preparation of any resulting plan change.
34. An alternative would be to proceed with a much less specific form of zoning, with all development deferred until remaining technical issues are resolved. The deferment date would have to be at least 2016, to correspond with the current LTCCP date for the completion of the Western Relief Sewer Upgrade. Such a lengthy deferment would be unlikely to satisfy either the developers or the current landowners, and in fact would not advance matters much beyond the current Special Purpose zoning. It should also be noted that this alternative would be contrary to the UDS, to the agreement with Environment Canterbury over stormwater planning, and to a change to the Regional Policy Statement that is likely to be notified about July to implement the UDS.

THE OBJECTIVES

34. The immediate objective addressed by this report is to resolve the impasse over zoning of the Awatea Block and to establish a way forward. More generally the objective is to ensure any development of Awatea achieves a high standard of urban growth and environmental protection, is compatible with the development of infrastructure, is fully integrated with the development of the rest of south-west Christchurch and is in accordance with the Urban Development Strategy, the South-West Area Plan, the Regional Policy Statement and the City Plan.

THE OPTIONS

35.
 - (a) Do not adopt the Community Board Recommendation. Continue with the current investigations and planning under the South-West Area Plan and the City Plan programme. Give high priority to completing the process as soon as possible, and develop a project management programme to bring this about.
 - (b) Consider a preliminary form of zoning that would commit the area to urban growth but defers all growth until the completion of investigations, and the installation of appropriate infrastructure.
 - (c) Adopt the Community Board's recommendation
36. Option (a) is the only way to get sufficient information to carry out the necessary environmental effects assessment and section 32 report. Until this is done it cannot be assumed that rezoning will be possible, or what the form of it could be. However reflecting the boards concern a consultation timetable and report back programme could be established to provide a greater level of certainty to residents and stakeholders around the delivery of an update option report to council by September 2007.
37. Option (b) would offer little more than the present Special Purpose zoning, and the deferral would have to be until 2016 based on present knowledge. This is unlikely to be helpful to anyone. It would require a good deal of time and resources while achieving little. It would probably be contested vigorously by proponents of more rapid development.

38. Option (c) is probably ultra vires as it anticipates the result of the section 32 analysis and allows insufficient time for the section 32 report to be completed. Quite simply, it would set all parties up for failure and more disappointment. A hastily prepared plan change that does not address all issues properly could be easily defeated by any party opposed to it.
39. As infrastructure will not be available to support development of the block for a number of years, it is considered that there is time for a properly prepared section 32 analysis and plan change

THE PREFERRED OPTION

40. The preferred option is Option (a).

ASSESSMENT OF OPTIONS

41. The Preferred Option

| | Benefits (current and future) | Costs (current and future) |
|---|--|---|
| Social | Enables landowners to have certainty over the future of their lands, and to realise on any capital gains | Slightly delays the time when landowner expectations are addressed. |
| Cultural | | |
| Environmental | Allows for issues to properly investigated | |
| Economic | Allows for efficient development and utilisation of infrastructure | |
| <p>Extent to which community outcomes are achieved: Directly Achieves the following outcomes</p> <ul style="list-style-type: none"> • A City with a sustainable and natural environment • A prosperous City • A well governed City • A City of inclusive and diverse communities • A City of healthy and active people • A liveable City <p>Impact on the Council's capacity and responsibilities: Allows to Council to achieve its environmental, resource management and infrastructure responsibilities</p> <p>Effects on Maori: Will be managed as part of the process</p> <p>Consistency with existing Council policies: Consistent with UDS</p> <p>Views and preferences of persons affected or likely to have an interest: Landowners would prefer greater speed. Complies with requirements of Environment Canterbury and Transit NZ for proper process</p> <p>Other relevant matters:</p> | | |

42. Maintain the Status Quo (if not preferred option)

Leave the land effectively in rural zoning for the present.

| | Benefits (current and future) | Costs (current and future) |
|--|---|--|
| Social | None | |
| Cultural | None | |
| Environmental | Avoids stormwater effects, effects on aquifer | |
| Economic | Reduces need to consider Carr's Road Raceway relocation | Removes opportunity for urban growth and consequent economic development |
| <p>Extent to which community outcomes are achieved: Little if any achievement</p> <p>Impact on the Council's capacity and responsibilities: Avoids the costs of planning for redevelopment and of developing the infrastructure.</p> <p>Effects on Maori: No effects</p> <p>Consistency with existing Council policies: Not consistent with UDS</p> <p>Views and preferences of persons affected or likely to have an interest: Would be opposed by many landowners</p> <p>Other relevant matters:</p> | | |

43. Adopt some sort of deferred zoning or future urban zoning

| | Benefits (current and future) | Costs (current and future) |
|---|---|--|
| Social | Slightly greater certainty | |
| Cultural | | |
| Environmental | Avoids environmental effects of immediate development | Fails to deal with existing issues such as noise, contaminated land etc |
| Economic | None | Delays opportunity to realise capital value. Additional costs of a 2 stage process |
| <p>Extent to which community outcomes are achieved: Little or no achievement</p> <p>Impact on the Council's capacity and responsibilities: Avoids the costs of planning for redevelopment and of developing the infrastructure.</p> <p>Effects on Maori: No effects known</p> <p>Consistency with existing Council policies: Inconsistent with UDS</p> <p>Views and preferences of persons affected or likely to have an interest: Little benefit to landowners. Deferred zoning would be too long to satisfy expectations. Future urban zoning would add little to present Special Purpose zoning</p> <p>Other relevant matters:</p> | | |

44. Attempt to complete project in 6 months

| | Benefits (current and future) | Costs (current and future) |
|---|---------------------------------------|---|
| Social | May give more certainty to landowners | |
| Cultural | | |
| Environmental | | Likely adverse effects due to inadequate investigation. |
| Economic | None | |
| <p>Extent to which community outcomes are achieved: If successful, might achieve the following</p> <ul style="list-style-type: none"> • A City with a sustainable and natural environment • A prosperous City • A well governed City • A City of healthy and active people • A liveable City <p>Impact on the Council's capacity and responsibilities: Avoids the costs of planning for redevelopment and of developing the infrastructure.</p> <p>Effects on Maori: No effects known</p> <p>Consistency with existing Council policies: Inconsistent with UDS</p> <p>Views and preferences of persons affected or likely to have an interest: May be favoured by landowners</p> <p>Other relevant matters: High chance of failure under the RMA process</p> | | |