

14. 2. 2008

**HAGLEY/FERRYMEAD COMMUNITY BOARD
12 DECEMBER 2007**

**A meeting of the Hagley/Ferrymead Community Board
was held on 12 December 2007 at 3pm**


PRESENT: Bob Todd (Chairperson), John Freeman, Yani Johanson,
David Cox, Tim Carter, and Rod Cameron

APOLOGIES: Apologies for absence were received and accepted from
Brenda Lowe-Johnson

The Board reports that:

PART A – MATTERS REQUIRING A COUNCIL DECISION

1. APPLICATION FOR CHANGE TO CITY PLAN – HAGLEY AVENUE



General Manager responsible:	General Manager Strategy and Planning, DDI 941-8177
Officer responsible:	Team Leader City Plan
Author:	Peter Eman, Senior Planner, City Plan

PURPOSE OF REPORT

1. This report describes an application to the Council for a change to the City Plan and recommends the process for dealing with the application in terms of the provisions of the Resource Management Act 1991 (RMA).

EXECUTIVE SUMMARY

2. The application is to rezone 420-426 Hagley Avenue, three properties on the corner with Moorhouse Avenue, from Living 4B to Business 3B with some amended rules.
3. The purpose of this report is not to consider the requested plan change on its merits. Rather, it is to recommend which of several options under the RMA is to be used in processing the application. The consideration of the merits of the application will occur after submissions have closed, if the decision on this report is to select one of the process options that lead to public notification.
4. The process options available to the Council are to accept the request as a private plan change and publicly notifying it for submissions and a hearing at the cost of the applicant, to adopt the change as the Council's own change and accept the responsibility and costs of processing it, to treat it as a resource consent application, or to reject the request due to it falling within one of the limited grounds set out in the Act. 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 the application or decide that it should be treated as a resource consent, 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.

1 Cont'd

Should the Council accept and notify the change at the expense of the applicant there will be no direct costs to the Council as the Council's costs would be recovered. However, there would be an impost on staff time.

Should the Council adopt the change as its own then the Council will need to absorb all the costs, which are may run to \$50,000 or more.

In terms of legal considerations, 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. It is a process which is very familiar to Council and should create no particular risks or liabilities if followed correctly.

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

6. Yes.

LEGAL CONSIDERATIONS

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

7. Yes, refer to (5) above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. Statutory Council process.

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

9. Yes

ALIGNMENT WITH STRATEGIES

10. Statutory Council process.

Do the recommendations align with the Council's strategies?

11. Statutory Council process.

CONSULTANT FULFILMENT

12. Statutory Council process.

STAFF RECOMMENDATION

It is recommended that the Council agree to accept the plan change pursuant to Clause 25 of the 1st Schedule to the Resource Management Act 1991 and publicly notify it accordingly.

BOARD RECOMMENDATION

The Board recommend that the Council adopt the staff recommendation.

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BACKGROUND AND DISCUSSION

The Application

13. A copy of the application is attached. It seeks to rezone 420-426 Hagley Avenue, three properties on the corner with Moorhouse Avenue, from Living 4B to Business 3B with some amended rules.

RMA Timeframes

14. The application was received on 5 June 2007. Further information was requested and that was received on the 17 October. Under the RMA the Council was required to make a decision whether to accept the application or otherwise by 29 November 2007. Due to a lack of meeting dates following the elections an extension has been made until 1 February 2008.

Description of proposal and site

15. The plan change site consists of three properties, each containing a house. It has a total area of 1690m² and has frontage to both Moorhouse Avenue and Hagley Avenue. The adjoining property to the east is also zoned Living 4B, but is used for a motel. It also has frontage to both Hagley and Moorhouse Avenues. Further east on Moorhouse Avenue and across Moorhouse Avenue the land is zoned Business 3. The land further north along Hagley Avenue is zoned Living 4B up to Hagley Community College. It is used mainly for low to medium density housing, although immediately adjoining the motel is a child care centre. Hagley Park is on the opposite side of Hagley Avenue.
16. The existing Living 4B zone of the site is intended to provide for high density residential development. The requested plan change proposes to rezone the application site to Business 3B, which is a Business zone intended as a transition zone between central city Living zones and Business 3 zones. The application proposes to amend two of the rules that normally apply in the Business 3B zone in terms of the requirements that would apply to this site. The proposed amendments are an increase in the permitted plot ratio from 1.0 to 1.3 (allowing more bulk of building relative to the size of the site) and a limitation on retail activities to a maximum of 150m² (both inside and outside).
17. The applicant considers that the plan change site is not suitable for residential use because of the business activities and traffic in the locality, and that its use for the business activities permitted by the Business 3B zone would be more in accord with the objectives and policies of the City Plan, while still being compatible with surrounding land uses and zones. The merits of this will be considered by the Council at later stages of the process if the application proceeds to notification.

Processing of Private Plan Changes

18. 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. The Council has done this 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
 - “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 if it falls within one of the limited grounds specified.
 - Clause 26 Where the Council accepts the change it must publicly notify it within four months
 - Clause 27 The applicant may appeal the Council decision made under clause 25.
 - 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).

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OPTIONS

19. 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) Adopt the change at its own and assume the responsibility for putting it through the process outlined in the RMA including all costs; or
- (d) Treat the application as a resource consent application.

There is no status quo, i.e. do nothing option. The application must be considered and either accepted, adopted, rejected, or treated as a resource consent.

- 20. There are very narrow grounds in the Act for rejecting an application. In short they are that the requested change is frivolous or vexatious, that the issue has been dealt with in the last two years or the Plan has been operative for less than two years, or that it is not in accord with sound resource management practice or would make the Plan inconsistent with the purpose of the Act. The change is not frivolous or vexatious and the relevant part of the Plan will have been operative for two years on 22 November 2007. The legal advice we have received in respect of the matters of consistency with the purpose of the Act and sound resource management practice, is that those grounds could only be used for rejecting the application if there was no, or very little, merit in considering such a change to the Plan. The advice indicates that there is a presumption in the Act in favour of accepting plan change requests and testing them through the submission and hearing process. In this case grounds have been raised in the reasons given for the change, as outlined earlier, that at least merit consideration of the change.
- 21. With respect to the options of "accepting" and "adopting" the application, there is a significant difference between the two. If the application is accepted, the plan change remains a private change and the entire cost of the process can be charged to the applicant, rather like a resource consent process. If it adopts the application, the Council would be effectively promoting the application as if it had decided to propose the change itself and the Council would be unable to charge the applicant for the costs.
- 22. The subject of the plan change 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 apparent reason for the Council to adopt this plan change as its own priority.
- 23. In terms of the option of dealing with the application as a resource consent, the applicant is quite clear that it is not seeking consent for one particular development, but is seeking a rezoning to allow a range of potential uses of the site. As such it would be difficult to deal with the application as a resource consent. To be able to grant such resource consent would require a set of conditions that mirrored the rules applying to the Business 3B zone, effectively rezoning the site.

PREFERRED OPTION

- 24. The preferred option is Option B. - accept the application and proceed to publicly notify it.

PART B - REPORTS FOR INFORMATION



2. DEPUTATIONS BY APPOINTMENT

2.1 SUMNER RESIDENTS' ASSOCIATION – REMOVAL OF MACROCARPA TREE ON RESERVE LAND NEAR 17 WHITEWASH HEAD ROAD

Adrienne Jackson and Wendy Gilchrist of the Sumner Residents' Association expressed concern at the official record of the Board meeting of 12 September 2007, which stated that the Sumner Residents' Association had no objection to the proposal to remove the trees. They advised that the Association had not in fact been consulted on this issue.

The Association requested that the Board agree that consultation with the relevant residents' group take place before the removal of any significant tree(s) on public land.

The Association requested that the remaining macrocarpa on the cliff below Whitewash Head Road not be removed.

There was discussion about whether or not Whitewash Head Road fell within the area the Council recognises as being within the Sumner Residents' Association area.

The Chairman thanked the representatives for their submission.

The Board **decided**:

- (a) to seek a staff report with respect to the remaining tree and request that it not be felled until after the report has been considered by the Board
- (b) to request staff to investigate and advise on the accuracy of the minutes of the Board's meeting of 12 September 2007.

2.2 OBJECTION TO PROPOSALS FOR CHANGES TO WHITFIELD ROAD INTERSECTION

Mr Tim Hobbs outlined his objection to the proposed safety improvements to the Whitfield Road/ Colenso Street intersection due to the loss of two car parks. Mr Hobbs suggested the removal of a tree and the insertion of a parking bay, by way of compromise (see item 18).

The Chairman thanked Mr Hobbs for his submission.

3. CORRESPONDENCE

A letter was **received** from the Tramway Historical Society Incorporated requesting that the Board consider allowing the northern section of the Ferrymead tramline to be opened from 10am to 5pm on Sunday 6 January 2008 for the 40th anniversary of the opening of the tram line.

The Board **decided** to refer the request to the Recess Committee for consideration.

4. MOORHOUSE AVENUE – PROPOSED 'NO STOPPING' RESTRICTION 10PM – 5AM

The Board considered a report on a proposal to install 'no stopping' restrictions under the Moorhouse Avenue bridge at the Colombo Street intersection.

Members expressed concern that while no parking for this area would resolve one problem, there were wider issues in the area which needed to be addressed including the risk of displacing the issue to another area of the city or to residential neighbourhoods.

The Board **decided to** request a report from staff early in the New Year on late night and weekend traffic issues and associated anti-social behaviour in Moorhouse Avenue, between Colombo Street and Hagley Avenue.

PART C – DELEGATED DECISIONS TAKEN BY THE BOARD

5. COUNCIL FARMS GRAZING LICENCE TO TUSSOCK HILLS FARM LIMITED

This item was withdrawn from consideration and held over to a later meeting.

6. CONFIRMATION OF MEETING REPORTS

The Board **resolved** that the report of its inaugural meeting on 14 November 2007 and extraordinary meeting of 28 November 2007, be confirmed.

7. GODLEY HEAD HERITAGE TRUST – FUNDING APPLICATION

The Board considered a report by the Parks and Waterways Planner on the application for funding from the Godley Head Heritage Trust.

The Board **resolved** to allocate \$2,000 from its 2007/08 Discretionary Fund to the Godley Head Heritage Trust for the purpose of building a concrete pad adjoining the former Quartermasters Store/Regimental Headquarters at Godley Head.

Members requested that the Board's support and contribution be recognised by the Trust.

8. APPLICATION TO THE HAGLEY/FERRYMEAD COMMUNITY BOARD'S YOUTH DEVELOPMENT SCHEME – OLIVER CLIFFORD

The Board considered a report by the Community Development Adviser for funding for Oliver Clifford to attend the Hague International Model United Nations in January 2008.

The Board **resolved** to grant \$500 to Oliver Clifford from its Youth Development Fund.

9. APPLICATION TO THE HAGLEY/FERRYMEAD COMMUNITY BOARD DISCRETIONARY FUND – SUMNER RESIDENTS' ASSOCIATION

The Board considered a report by the Community Engagement Adviser on a request for funding from the Board's discretionary funding.

The Board **resolved** to grant \$186.87 from its 2007/08 Discretionary Fund to the Sumner Residents' Association for the retention of a postal box and the registration of its website and own domain name.

10. ARMAGH STREET (FROM FITZGERALD AVENUE TO STANMORE ROAD) – KERB AND CHANNEL REPLACEMENT

The Board considered a report on the proposal to proceed to final design, tender and construction of kerb and dish channel replacement in Armagh Street from Fitzgerald Avenue to Stanmore Road.

The Board **resolved**:

- (a) To grant approval for the Armagh Street (from Fitzgerald Avenue to Stanmore Road) kerb and channel renewal, as detailed in TP176601, to proceed to final design, tender and construction.
- (b) To revoke the existing no stopping restrictions in the following locations:
 - (i) on the north side of Armagh Street between Fitzgerald Avenue and Stanmore Road.
 - (ii) on the south side of Armagh Street between Fitzgerald Avenue and Stanmore Road.

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- (c) That new restrictions be imposed prohibiting the stopping of vehicles at any time in the following locations:

Armagh Street

- (i) On the north side of Armagh Street, commencing at a point 3.5 metres from the north kerb line of Fitzgerald Street and extending east a distance of 9.5 metres.
- (ii) On the south side of Armagh Street, commencing at a point 5 metres from the south kerb line of Fitzgerald Street and extending east a distance of 45.5 metres.
- (iii) On the north side of Armagh Street, commencing at the west kerb line of Hanmer Street and extending west a distance of 13 metres.
- (iv) On the north side of Armagh Street, commencing at the east kerb line of Hanmer Street and extending east a distance of 13 metres.
- (v) On the south side of Armagh Street, at a point 11 metres west from the west kerb line of Hanmer Street and extending east a distance of 29 metres.
- (vi) On the north side of Armagh Street, commencing at the west kerb line of Gilby Street and extending west a distance of 11 metres.
- (vii) On the north side of Armagh Street, commencing at the east kerb line of Gilby Street and extending east a distance of 11 metres.
- (viii) On the south side of Armagh Street, at a point 12 metres west from the west kerb line of Gilby Street and extending east a distance of 30 metres.
- (ix) On the north side of Armagh Street, commencing from the west kerb line of Stanmore Road and extending west a distance of 23 metres.
- (x) On the south side of Armagh Street, commencing from the west kerb line of Stanmore Road and extending west a distance of 23 metres.

Hanmer Street

- (i) On the west side of Hanmer Street, commencing from the north kerb line of Armagh Street and extending north a distance of 17 metres.
- (ii) On the east side of Hanmer Street, commencing from the north kerb line of Armagh Street and extending north a distance of 17 metres.

Gilby Street

- (i) On the west side of Gilby Street, commencing from the north kerb line of Armagh Street and extending north a distance of 17 metres.
- (ii) On the east side of Gilby Street, commencing from the north kerb line of Armagh Street and extending north a distance of 17 metres.

- (d) **Removal of existing bus stop**

That the existing bus stop on the south side of Armagh Street west of Fitzgerald Avenue located 17.5 metres from the intersection with Fitzgerald Avenue and extending 15 metres in a westerly direction be removed.

11. HANMER STREET (AVONSIDE DRIVE TO ARMAGH STREET) – KERB AND DISH CHANNEL REPLACEMENT

The Board considered a report on the proposal to proceed to final design, tender and construction of kerb and dish channel replacement in Hanmer Street, from Avonside Drive to Armagh Street.

The Board **resolved**:

- (a) To grant approval for the Hanmer Street (from Armagh Street to Avonside Drive) kerb and channel renewal project, as detailed in TP177701, to proceed to final design, tender and construction.
- (b) To revoke the existing stopping restrictions in the following locations:
 - (i) on the east side of Hanmer Street between Avonside Drive and Armagh Street.
 - (ii) on the west side of Hanmer Street between Avonside Drive and Armagh Street.
- (c) That new restrictions be imposed prohibiting the stopping of vehicles at any time in the following locations:
 - (i) On the east side of Hanmer Street, commencing at the south east kerb line of Avonside Drive and extending south, a distance of 2.9 metres.
 - (ii) On the west side of Hanmer Street, commencing at the south west kerb line of Avonside Drive and extending south, a distance of 9 metres.
 - (iii) On the west side of Hanmer Street, at a point 20m from the south west kerb line of Avonside Drive and extending south, a distance of 12.5 metres.
 - (iv) On the east side of Hanmer Street, commencing at a point 97m from the north kerb of Elm Grove and extending west, a distance of 26.5 metres.
 - (v) On the west side of Hanmer Street, commencing at a point 110 metres from the north kerb of Elm Grove and extending north, a distance of 20 metres.
 - (vi) On the east side of Hanmer Street, commencing at a point 13 metres north from the north kerb of Elm Grove and extending south, a distance of 35 metres.
 - (vii) On the west side of Hanmer Street, commencing at a point 13.5 metres north from the north kerb of Elm Grove and extending south, a distance of 15 metres.
 - (viii) On the west side of Hanmer Street, commencing at a point 13 metres from the south kerb of Elm Grove and extending north, a distance of 15 metres.

12. ELM GROVE (FULL LENGTH) – KERB AND DISH CHANNEL REPLACEMENT

The Board considered a report on the proposal to proceed to final design, tender and construction of kerb and dish channel replacement in Elm Grove.

The Board **resolved**:

- (a) To grant approval for the Elm Grove kerb and channel renewal project, as shown in TP176701, to proceed to final design, tender and construction.
- (b) That the stopping of vehicles be prohibited at any time in the following locations:
 - (i) on the north side of Elm Grove, commencing at the east kerb line of Fitzgerald Avenue and extending 12 metres in an easterly direction.
 - (ii) On the south side of Elm Grove, commencing at the east kerb line of Fitzgerald Avenue and extending 12 metres in an easterly direction.

12 Cont'd

- (iii) On the north side of Elm Grove, commencing at a point 61 metres from the east kerb line of Fitzgerald Avenue and extending 15.3 metres in a north-easterly direction.
- (iv) On the north side of Elm Grove, commencing at the west kerb line of Hanmer Street and extending 40 metres in a westerly direction.
- (v) On the north side of Elm Grove, commencing at a point 90 metres from the west kerb line of Hanmer Street and extending 8 metres in a south-westerly direction.
- (vi) On the south side of Elm Grove, commencing at the west kerb line of Hanmer Street and extending 9 metres in a westerly direction.
- (vii) On the south side of Elm Grove, commencing at a point 81 metres from the west kerb line of Hanmer Street and extending 23 metres in a south-westerly direction.

(Note John Freeman briefly retired and took no part in the voting on this item)

13. COLENZO STREET AT WHITFIELD AVENUE INTERSECTION – SAFETY IMPROVEMENT PROJECT

The Board considered a report seeking approval to proceed to final design, tender and construction of the safety improvement works in Colenso Street outside the Sumner Primary School.

The Board **resolved**:

- (a) To grant approval for the Colenso Street Crossing facility project to proceed to final design, tender and construction, as shown on the construction plan TP194601.
- (b) To revoke the existing no stopping restrictions in the following locations:
 - (i) On the south side of Colenso Street, commencing at the intersection with Whitfield Street and extending six metres in a south-east direction.
 - (ii) On the east side of Whitfield Street, commencing at the intersection with Colenso Street and extending 7 metres in a South West direction.
- (c) That restrictions be imposed prohibiting the stopping of vehicles at any time in the following locations:
 - (i) On the south side of Colenso Road commencing at the intersection with Whitfield Street and extending 25 metres in a south-east direction.
 - (ii) On the south side of Colenso Road commencing at the intersection with Whitfield Street and extending 23 metres in a north-west direction.
 - (iii) On the east side of Whitfield Street commencing at the intersection with Colenso Street and extending 12 metres in a South West direction.
 - (iv) On the west side of Whitfield Street commencing at the intersection with Colenso Street and extending 11 metres in a south-west direction.

The above resolution was declared **carried** on division no.1, the voting being as follows:

For (4): Rod Cameron, Yani Johanson, Bob Todd, and Chairman's casting vote

Against (3): David Cox, Tim Carter, John Freeman.

14. ADJOURNMENT OF MEETING

At 4.45pm the Board **resolved** that the meeting stand adjourned.

The meeting resumed at 5pm.

15. NEW ZEALAND COMMUNITY BOARDS' EXECUTIVE COMMITTEE ELECTIONS – CALL FOR NOMINATIONS

The Board considered a report requesting that the Board Chairperson and Deputy Chairperson be authorised to join with other Board(s) in nominating and/or seconding suitable member candidates for election to the positions of Zone 5 Representative, and Deputy, for the New Zealand Community Board's Executive Committee.

The Board **resolved** that the Chairperson not put forward nominations nor participate in a decision on this matter when discussed at the Board Chairs' meeting on Friday 14 December 2007.

16. GOVERNANCE ARRANGEMENTS FOR NEW TERM

The Board was asked to consider options for the governance structure for the new term of the Board.

The Board **resolved** that for 2008:

- (a) It meet on the first and third Wednesday of each month at 3pm.
- (b) That the third Wednesday of each month be set aside for Board seminars/workshops, if required.
- (c) Ad hoc committees be established as required.
- (d) The first meeting of the Board for 2008 be held on Wednesday 30 January 2008 at 3pm, at the Linwood Service Centre.

17. BOARD REPRESENTATION ON OUTSIDE ORGANISATIONS AND COMMITTEES

The Board **resolved** that:

- (a) Additional information about each of the organisations be provided, including meeting frequency, time commitment required and an outline of the function of each organisation.
- (b) The matter be considered at the next meeting.

18. RECESS COMMITTEE

The Board was asked to put in place decision-making arrangements to deal with any routine Board business (including applications for funding) requiring a decision(s) during the forthcoming Christmas/recess period.

The Board **resolved**:

- (a) That a committee comprising the Board Chair, Deputy Chair and one other Board member available (or the Chair's nominee), be authorised to exercise the delegated powers of the Board for the period following its 12 December 2007 meeting up until the Board resumes normal business on 30 January 2008.
- (b) That the exercise of any such delegation be reported back to the Board for record purposes.

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19. REMUNERATION AUTHORITY – APPROVAL OF SUBMISSION

The Board **resolved** to approve the submission previously forwarded to the Remuneration Authority regarding members' salaries, expenses and allowances.

20. COMMUNITY BOARD ADVISER'S UPDATE

The Board **received** updates from the Community Board Adviser on current issues, forthcoming seminars, customer services requests (September to November 2007) and on the reasons for the withdrawal of maintenance funding for the Mount Pleasant Community Centre.

The Board requested that information be sought regarding the loss of funding for all community services within the ward, identifying which services were provided by the Council and private service providers, respectively.

The meeting concluded at 5.35pm.

CONFIRMED THIS 30TH DAY OF JANUARY 2008

**BOB TODD
CHAIRPERSON**