

#### 4. APPROVAL OF CHANGES TO PROVISIONS IN THE CITY PLAN



<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Acting Programme Manager, District Planning
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##### PURPOSE OF REPORT

1. This report seeks a recommendation from the Council to approve changes to the City Plan introduced by an Environment Court consent order on an appeal against the Council's decision on Plan Change 37 to the City Plan.

##### EXECUTIVE SUMMARY

2. Plan Change 37 is a private change submitted by the owner of land at 458-464 Ferry Road, Woolston, situated at the corner of Ferry Road and Hopkins Street. The owner, Mullaly's Auto Centre Limited, sought to rezone the land from Living 2 to Business 1. The site was formerly a service station but is now used for the retailing of tyres and as a car sales yard.
3. Commissioner David Collins conducted a hearing on the plan change in October 2008. He heard evidence on behalf of the owner of the site and from the planning consultant engaged by the Council who recommended that the site should be rezoned as requested. Having heard the evidence the Commissioner concluded that the proposal would not meet the purpose of the Resource Management Act 1991 and would conflict with some important objectives and policies in the City Plan. He also concluded that rezoning this site would encourage applications for rezoning of many similar sites; would undermine the residential coherence of the immediate area, and would undermine the consolidation of commercial activity at existing zoned centres. His recommendation that the plan change request be declined was accepted by the Council on 19 December 2008.
4. The Council's decision was appealed to the Environment Court by Mullaly's Auto Centre Limited. The Court invited the parties to attempt mediation of the appeal and, following a number of meetings between the parties, the District Plan Appeals Subcommittee authorised staff to settle the appeal by agreeing to retain the Living 2 zoning with specific exemptions that would allow some business activities on the site. The consent order to this report sets out the agreed changes to the plan which the Court has directed are to be made (**Attachment 1**) (separately circulated).

##### FINANCIAL IMPLICATIONS

5. There are no direct financial implications.

##### Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

6. Covered by existing budgets.

##### LEGAL CONSIDERATIONS

7. Approving provisions in the City Plan is a formal procedural step required by the Resource Management Act 1991 before those provisions can be made operative.

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

8. Yes, see above.

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

9. Aligns with District Plan Activity Plan.

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

10. Yes. Supports the maintenance and review of the District Plan project.

**ALIGNMENT WITH STRATEGIES**

11. Yes.

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

12. Yes.

**CONSULTATION FULFILMENT**

13. Approving changes to the City Plan under clause 17(2) of the First Schedule to the Resource Management Act 1991 is a procedural step that does not require consultation.

**STAFF RECOMMENDATION**

That the Council:

- (a) Approve, pursuant to clause 17(2) of Schedule 1 to the Resource Management Act 1991, the changes to City Plan provisions set out in the attached consent order.
- (b) Authorise the General Manager Strategy and Planning to determine the date on which the changes to plan provisions become operative.

**COMMITTEE RECOMMENDATION**

That the staff recommendation be adopted.