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<p>Corporate Plan Output: Environment And Conservation Policy Advice</p>	

The purpose of this report is to provide a brief summary of a report entitled “Riccarton Bush – Boundary Protection Issues and Options” produced by the Environmental Policy and Planning Unit for the Riccarton Bush Trust in September 1999 (copy attached).

INTRODUCTION

The report was produced in response to a request from the Riccarton Bush Trust for a variation to the Proposed City Plan to provide for a special zone with a 10 metre building setback extending into adjacent properties around Riccarton Bush (see attached letter from Charles Dean, Chairperson of the Trust, to Mike Richardson, City Manager). The Trustees believe “that the Bush area is vulnerable from increasing urban development and infill which at present can occur right up to the boundary”.

SECTION 32 ANALYSIS

In all variations that the Council initiates, it is firstly necessary to undertake a Section 32 analysis under the Resource Management Act 1991. This requires the Council to explore all options and alternatives in achieving the purposes of the Act and the benefits and costs of doing so. Regulation is only one method of achieving good environmental outcomes, and has to be clearly justified if used.

Section 85 of the Resource Management Act states that “any person ... who considers that the provision or proposed provision will render that interest in land *incapable of reasonable use* and *places an unfair and unreasonable burden on any person having an interest in the land*, may challenge that provision”.

If the challenge is successful, the Environment Court can direct the local authority to modify, delete or replace the provision.

The two main issues investigated in the Section 32 report were therefore whether a 10 metre building setback into private property was “unfair” and “unreasonable”, and whether other options were available which, in combination, would achieve the same or an improved outcome.

SUMMARY OF FINDINGS

- The Riccarton Bush Reserve is protected both by the Conservation 1 Zone in the Proposed Plan, and the Riccarton Bush Act and Management Plan. Most of the surrounding land is zoned “Living 1”, which is a low density suburban residential zone, with a minimum site area of 450m². The maximum height permitted is 8 metres, and maximum site average is 40%.

- Of the 52 sections zoned Living 1 that adjoin the Bush, only eight have the potential for further subdivision (see figure 3 in the attached report). Factors taken into consideration were section size, location, age and condition of existing buildings, and access.
- Should a resource consent be lodged for redevelopment or infill of an adjacent property, the Trust would have the opportunity to lodge a submission as an affected party.
- There are two “environmental asset” waterways running along the north-west and southern boundaries of the regenerating native podocarp area of the Bush (see figure 1 in the attached report). These boundaries coincide with the areas containing the greatest potential for infill development. Under the Proposed Plan, these waterways have a 7 metre building setback, one of the reasons being to protect amenity and riparian ecology. The proximity of Riccarton Bush to these waterways enhances the riparian ecology and would strengthen the justification for the setback.
- Totara Street, to the north-west of the Bush, contains 16 properties adjoining the Bush. These properties are already subject to an 8 metre setback from the road, as part of the special amenity area, along with a 7 metre setback from Riccarton drain “environmental asset” waterway. Any extension to the 7 metre setback would have an impact on the property rights of the owners and might well be considered to be “unfair” and “unreasonable”.
- The option of seeking a “Heritage Order” to better control the Bush margins was investigated. However, the Heritage Order would have to extend beyond the Bush boundary in order to control the land-use. The landowners could seek compensation through the courts. The estimated value of a 10 metre strip of land around the Bush, based on current values (at 1998) is estimated at \$2.4 million.
- Rather than a “blanket” protection around the Bush, which may overlap with existing controls, and may only be necessary in certain locations, the option of listing individual notable trees on the boundary, which could be at risk from development, was investigated. The Council Parks Unit are currently carrying out this investigation in conjunction with the Trust.
- Environmental education is always an effective and non-confrontational tool for raising awareness of the value of environmental assets and encouraging the public to place a high value on the asset. This can be done through a variety of media including pamphlets, letter-box drops and meetings. Presumably the majority of people living adjacent to Riccarton Bush have done so out of choice, and may well place a high value on it.

Recommendation: 1. That the request from the Riccarton Bush Trust that the Council initiate a variation to the Proposed City Plan to impose a 10 metre building setback into private property adjacent to Riccarton Bush be declined, for the reasons outlined in the report.

2. That, following the identification of those mature trees adjacent to the boundary which are most likely to be affected by future development, a variation be initiated to add those trees to the list of notable trees in the Proposed City Plan.
3. That the Riccarton Trust be encouraged to enhance public awareness and appreciation of the Bush, particularly with adjoining owners, through environmental education and informal meetings.

Chairman's

Recommendation: For discussion.

Note: Representatives of the Riccarton Bush Trust and Community Board have sought speaking rights in respect of this report.