

3. RICCARTON L3 ZONE

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<p>Corporate Plan Output: City Plan</p>	

The purpose of this report is to respond to concerns that residents living in the area covered by the Central Riccarton Residents' Association (the Association) have with respect to the area's Living 3 Zoning in the Proposed City Plan. The residents' concerns were raised at a meeting of the Resource Management Committee on 9 May 2000.

In general, the Association is concerned that the Living 3 Zoning is changing the unique character of Riccarton for the worse. Citing examples of recent developments in the area, the Association raised concerns relating to:

- Neighbours' consent not being sought in all cases when resource consents are required for proposed developments.
- Lack of on-site parking for some developments.
- Landscaping requirements not being adhered to and landscaping not being maintained.
- Reduced outdoor living space and service spaces for some developments.
- Loss of soil from neighbouring properties as a result of excavation during construction.
- Loss of privacy for existing residents.
- The length of wall of apartment developments without a step in plan.
- The lack of consultation with adjoining land owners.

The Association is of the view that there is very little that they can do to have the zoning changed because they do not have the finances available to take the matter to the relevant authorities. However, they believe that the very least that could be done is to ensure that all applications for resource consent within their area are notified without exception.

ZONING BACKGROUND

The City Plan's Urban Development Strategy encourages consolidation of the existing urban area, and provides for new peripheral development in locations which support this overall objective.

The strategy is partly implemented through policies to encourage retention of the existing suburban character, but providing for higher housing densities around the inner and central city, and around the larger suburban shopping centres. Riccarton is one area where medium density development is provided for through 'Living 3' Zoning.

The area covered by the Association was the subject of a study carried out by the Council's Environmental Policy and Planning Unit in March 1998 to depict the demographic changes in the area between 1981 and 1998. From that study it was observed that:

- Over 50% of dwellings in the area consist of three or more flats or apartments joined together.
- Over 50 % of the dwellings are rented, compared with only 23 % of dwellings in the City as a whole.

These observations are consistent with the previous zoning for the majority of the area which, under the Transitional Christchurch City Plan (Riccarton Section), was Residential B. The area covered by the Association was identified in the Transitional Plan as containing 'older houses on quarter acre lots interspersed with redeveloped lots containing multi-unit development'. In that Plan the Council signalled a change from old single dwellings to multiple unit flats as being appropriate and hence zoned the area Residential B accordingly. The purpose of the Residential B Zone was to encourage redevelopment to a more intensive level – a trend which was acknowledged as being already well established.

Similarly, the Living 3 Zone provisions of the Proposed City Plan provide principally for medium density residential accommodation. It is anticipated that the zone provisions will encourage diverse residential development, redevelopment and infill to medium densities and moderate heights, compatible with the character of existing development in the area while maintaining a reasonable degree of open space. It is acknowledged in the Plan that, given the building densities anticipated, the retention of a high level of residential amenity, through landscape planting, scale and privacy requirements, will be an essential feature of the Living 3 environment.

The Living 3 Zone rules are couched in a slightly different way to the Residential B Zone rules. For instance, the Residential B Zone rules control building density through site coverage rather than plot ratio. The front yard setback and outdoor living space requirements are slightly larger under the Residential B Zone rules. Two-storey dwellings (up to 9 metres in height) and three-storey apartments (up to 10 metres in height) are permitted in a Residential B Zone.

The net effect of the above is that the Living 3 Zoning in the Proposed Plan provides for only a marginal increase in density of the Association's area from the previous Residential B Zoning. Hence, it cannot be said that 'the Living 3 Zoning changes the unique character of Riccarton for the worse'. The trend towards multi-unit development is a trend which has been occurring at least since the early 1970s.

EFFECT OF LIVING 3 ZONE RULES

Notwithstanding the above, however, Council staff are aware that concerns have been raised in the context of hearing submissions to the Proposed Plan and from residents about the effect the current Living 3 Zone rules are having.

It is clear that the Living 3 Zone rules are generating developments which are not always achieving amenity objectives, nor the infill and redevelopment policy of encouraging design compatible with existing development. The difference in height between new and existing development is the most significant aspect of infill development. It is also acknowledged that the amount of on-site parking and the outdoor living space rule (which has the effect of encouraging development with only garages at ground floor level) are in need of review. In addition, new rules may be required to ensure that housing addresses the street and to restrict the amount of hard surfacing.

These concerns are being raised on a city-wide basis and are not isolated to any one area. Consequently, Council staff will continue to monitor and review the effect of the Living 3 Zone rules with the intention of investigating options for a proposed Plan Change once the current Living Zone provisions become operative.

ENCOURAGING BETTER DESIGN

In order to try to encourage better design within the existing Living 3 Zone rules, a design guide has been produced by the Environmental Policy and Planning Unit (New Housing in Living 3 Zones). This has been distributed to architects, designers and real estate agents and is available free to anyone considering a development in a Living 3 Zone. It is also on the Internet. Pre-application design advice on a site-specific basis is provided by the Council's Urban Design Team, Environmental Policy and Planning. However, if the proposal does not require a resource consent there is often no opportunity to enter into discussion with the developer.

EXAMPLES OF DEVELOPMENTS CAUSING CONCERN FOR THE ASSOCIATION

John Gibson has checked the files of each of the developments identified by the Association. Copies of the planning reports for the resource consents required for those developments will be tabled at the meeting. The planning reports set out the reasons why the applications were processed on a non-notified basis, why neighbours' consents were or were not deemed necessary and why consent was granted. Having checked the reports, Mr Gibson is satisfied that the decisions in each were appropriate in the circumstances peculiar to each development.

In addition, Mr Gibson makes the following general observations in relation to the concerns which the Association have raised:

1. Simply because a development in a living zone requires a resource consent does not mean that neighbours' consents should be sought. Section 94 of the Resource Management Act makes it the Council's responsibility to decide in any particular case whether the effect on the environment of a proposal is minor and whether there are persons who may be adversely affected by the granting of a consent. These decisions are important ones and are not made without considerable thought and assessment. The Christchurch City Council processes over 3,500 resource consents a year, so we have to consider these issues many times a day.

The Council considers Section 94 in the context of the existing planning framework; the existing environment; legislation and relevant caselaw. Plan rules and what they seek to achieve are used as a guide as to what might or might not be deemed to be adverse affects, and whether adjoining and nearby property owners may be adversely affected.

2. There is no provision in either the City Plan or the Resource Management Act which requires a developer to consult with adjoining neighbours about a development.
3. There are a number of standards in the Transitional and Proposed City Plans which are primarily designed to provide for on-site amenity, that is, the amenity of the residents who live in the development. These include outdoor living space, storage space, on-site convenience and the setback of garages from internal access ways. Because it is only the amenity of the residents who will live in the development which is affected by any non-compliance with these rules neighbours' consents are generally not sought for resource consents which do not comply with these rules.
4. In other cases it is not appropriate to require neighbours' consent, because the effects of non-compliance with a rule will be effectively mitigated. For example, the non-provision of a complying visitors' car parking space may be offset by the creation of visitors' spaces which, while they do not comply with the standards in Rules, nevertheless provide satisfactory visitor car parking and meet the intent of the plan. Another example is where a development may intrude into the street scene setback, but the effects of that intrusion are offset by landscaping designed to screen the development from the street.
5. It is also important to remember that where a development complies in terms of street scene setback, the Council has no authority to require that setback to be landscaped. The intent of the setback rule is to create the opportunity for landscaping to be put in place. It is up to the individual owner or developer to establish the landscaping. It is a different situation where a development does not comply with the street scene setback and a condition can be imposed on any resource consent granted requiring landscaping to be put in place within a specified time period. In that situation if the condition is not complied with the Council can take enforcement action.
6. In a number of situations referred to by the association the matters of non-compliance relate to rules in the Transitional District Plan which have been superseded by new rules in the Proposed City Plan. Where that is the position and there are no appeals in respect of the Proposed City Plan rules, much greater weight is given to the rules in that Plan. Neighbours' consents are rarely required where rules in the Transitional Plan are not complied with and those rules have all but been superseded by rules in the proposed Plan against which there are no appeals.
7. When a development occurs there is sometimes damage caused to adjoining properties. Trees on adjoining properties can be damaged and sometimes the wall of an excavation may slump. These are civil matters. They are not matters where the Council has jurisdiction.

In conclusion, with regard to the Association's suggestions that all applications for resource consent within their area be notified without exception, it is agreed that greater public consultation prior to any development being undertaken is to be encouraged. However, the public notification procedure for resource consent applications is set out in section 93 of the Resource Management Act 1991 and it is this statutory procedure which the Council is required to follow. There is no provision in the Act for a plan to require that any particular application(s) must be processed as notified. The question of whether or not to notify must be decided on the criteria in section 94 of the Act and on the particular facts of each case.

Recommendation: That the information be received.

Chairman's

- Recommendation:**
1. That the information be received.
 2. That a response to the Central Riccarton Residents' Association be formulated along the lines suggested:

“That the Council will continue to investigate options for a proposed plan change once the current Living Zone provisions become operative.”