

## 7. PROPOSED PLAN CHANGE 61 GENERAL LIVING G OBJECTIVES AND POLICIES

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### PURPOSE OF REPORT

1. This report discusses Christchurch City Council initiated Proposed Plan Change 61 General Living G Objectives and Policies and seeks that it and the associated Section 32 assessment be adopted by the Council for public notification in May of 2010.

### EXECUTIVE SUMMARY

2. Proposed Plan Change 61 introduces General Living G wide Objectives and Policies which reflect the Policy directives of Proposed Change 1 to the Regional Policy Statement (RPS) in regard to the mechanics and contents of outline development plans as defined by the Commissioner's decisions on Proposed Change 1 to the RPS.
3. The Council has the option of:
  - (a) resolving to notify Proposed Plan Change 61; or
  - (b) not resolving to notify Proposed Plan Change 61.
4. Proposed Plan Change 61 has a number of General Living G objectives and policies in regard to the structure of Outline Development Plans in peripheral greenfield areas. There is an amended objective in the peripheral urban growth objectives (6.3) that aligns the City Plan with Proposed Change 1 to the RPS as amended by the Commissioners decisions on Proposed Change 1. There is also a new Living Zone Objective 11.7 New Peripheral Urban Development and a number of supporting policies that relate to the structure of Outline Development Plans and the supporting layer diagrams that should accompany the Outline Development Plan. These policies refer specifically to the structure of Living G as it has evolved in the City Plan to date and also reflect the Outline Development Plan policies 7 and 8 in Proposed Change 1 to the Regional Policy Statement. There is an amendment to policy 10.3.2 Innovative Design that makes specific mention of good urban design outcomes in subdivision and minor word changes to Policy 6.1.1 Population Densities.
5. These objectives and policies have been reviewed by District Planning Team members, and legal counsel, who are considering the Council's position in regard to appeals on the Commissioner's decision on Proposed Change 1 to the RPS for consistency with that position. They have found that there are no inconsistencies or conflicts.
6. To date Living G has 'evolved' and is evolving through several separate Resource Management Act 1991 processes. Living G had its genesis in the Masham section 293 application before the Environment Court. Given that the Environment Court has heard and endorsed this structure (in the Masham case) it has been used by both the Council and private plan change applicants as a starting point to develop each separate plan change. Separate statutory processes currently underway are:
  - Belfast Section 293 – Johns Road Horticulture Limited – currently before the Environment Court
  - Proposed Plan Change 5 – Awatea
  - Private Plan Change 24 – Wigram
  - Private Plan Change 30 – Preston's Road, and
  - Private Plan Change 43 – East Belfast.
7. While the Environment Court has determined that the Living G method fits with the existing general urban growth objectives and policies in the City Plan (through the Masham case), there is currently no overarching or linking policy structure in the City Plan that provides a consistent approach to the Living G zone in the City Plan. Proposed Plan Change 61 Objectives and Policies will provide direction as to how this complex zone should be designed for consistent administration of the zone by the Council across the various plan change areas.

8. Proposed Plan Change 61 does not provide objective or policy about the 'where' or the 'when' (timing) of urban growth – that is for resolution of the Proposed Change 1 to the Regional Policy Statement process to determine. Rather it provides additional guidance and direction to the Council and landowners as to the expected character and form of peripheral urban growth. Plan Change 61 supports and reinforces existing City Plan policies and objectives which emphasise urban consolidation, a land form that promotes close proximity and accessibility between living and employment areas, avoids adverse environmental impacts and makes efficient use of physical infrastructure.

#### **FINANCIAL IMPLICATIONS**

9. This plan change will require approximately \$20,000.00 to progress in this financial year. This includes public notification fees, consultant's fees and legal opinion fees. This expenditure is covered by the existing District Planning budget.

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

10. Refer to the preceding paragraph on Financial Implications.

#### **LEGAL CONSIDERATIONS**

11. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed set out in the RMA.
12. Proposed Plan Change 61 refers to and takes direction from policies 7 and 8 of Proposed Change 1 (PC 1) to the RPS. If any significant changes are made to policies 7 and 8 of PC 1 through decisions of the Environment Court on appeals this could impact on Proposed Plan Change 61. However the risk is minimal. Policies 7 and 8 deal with issues of detailed implementation rather than significant policy directions.
13. PC 1 is currently open to appeal and any appeals lodged are unlikely to be heard until September 2010 at the earliest.
14. The reason Proposed Plan Change 61 is being pursued now is to align it with several current judicial processes, and that it appropriately has regard to PC 1 in its current form. It is therefore not considered a legal or planning risk to include reference to and take direction from PC 1 at this stage.
15. This matter has been discussed in detail with Mr James Winchester, Legal Counsel, Simpson Grierson.
16. Simpson Grierson have reviewed the Proposed Plan Change and provided advice on drafting to ensure that the plan change is tight enough to avoid other matters beyond the plan change coming into scope.
17. Simpson Grierson have also reviewed the Proposed Plan Change 61 in relation to the recommended position that the Council takes on appeals to decisions on Proposed Change 1 to the Regional Policy Statement and found that there is no conflict with this recommended position.

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

18. Aligns with Activity Management Plan for 2009 – 2019 LTCCP – Activity 1.3 District Plan: Prioritised programme of plan changes is prepared and approved by the Council on an annual basis. Proposed Plan Change 61 was initially developed as part of Proposed Plan Change 5 – Awatea.

## **ALIGNMENT WITH STRATEGIES**

19. Aligns with the Greater Christchurch Urban Development Strategy (UDS) and Proposed Change 1 to the Regional Policy Statement.

## **CONSULTATION FULFILMENT**

20. Council undertook consultation by mail out to known participants in the Living G processes (including those persons Officers have received enquiries from in terms of prospective plan changes). That mail-out closed on 19 January 2010. The matters raised in feedback are set out in the consultation section of the Section 32 report in **Attachment 1** to this report. In general responses acknowledge the need for an overarching objective and policy direction in the City Plan but some question the level of detail specified for outline development plans.
21. Mr Steve Higgs, Regional Planning Manager, of the New Zealand Transport Agency had a telephone conference with Mr Blair of the Strategy and Planning Group. Mr Higgs was very supportive of Proposed Plan Change 61 and discussed relatively minor drafting matters with Mr Blair.
22. Andrea Lobb of Mahaanui Kurataiao Ltd (MKT) has been contacted for comments on the Proposed Plan Change. Telephone messages were left with MKT, and a visit to MKT's office to contact Ms Lobb was made. At the time of drafting no response had been received from MKT.
23. The Ministry for the Environment was provided a copy of the draft Proposed Plan Change by Council. At the time of drafting this report no response has been received.
24. Partner UDS Council's have been given an opportunity to respond (as either parties to an existing Living G process, ie Environment Canterbury or by mail in the case of Selwyn District Council and Waimakariri District Council.

## **STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Adopt the Section 32 Assessment Proposed Plan Change 61 General Living G Objectives and Policies.
- (b) Agree to publicly notify Proposed Plan Change 61 pursuant to the first schedule of the Resource Management Act 1991.

## BACKGROUND

25. To date the Living G zone has evolved and is evolving through several separate Resource Management Act 1991 processes. Living G had its genesis in the Masham Section 293 application by Applefields Ltd before the Environment Court. Given that the Environment Court has heard and endorsed this structure (in the Masham case) it has been used by both the Council and private plan change applicants as a starting point to develop separate plan changes. Several separate statutory processes currently underway are:
- Belfast Section 293 – Johns Road Horticulture Limited – currently before the Environment Court
  - Proposed Plan Change 5 – Awatea
  - Private Plan Change 24 – Wigram
  - Private Plan Change 30 – Preston's Road
  - Private Plan Change 43 – East Belfast.
26. Staff also receive enquiries from other prospective private plan change applicants now that the Commissioner's decisions from Proposed Change 1 to the RPS have been released.
27. In the Masham Environment Court case the Court determined that the mechanics and structure of Living G fit with the wider objectives and policies of the City Plan. Nevertheless, given the number of disparate statutory processes involving Living G, either before the Environment Court, Council initiated plan changes or private plan changes, it is a concern that there is the potential for these processes to arrive at different outcomes with different and potentially conflicting individual policy structure leading to an unnecessarily complex City Plan. An overarching structure in policy format is considered necessary to ensure that the mechanical form of Living G maintains some consistency across these and future Living G processes.
28. On 11 April 2008 the Environment Court released an interim decision on the Belfast Section 293 application (another Living G process). In that decision the Court made directions as to how the Living G rules package for the Belfast 293 was to be amended. Amongst others the Court, directed that the 'Aims and Principles' and 'key structural elements' written material that sat with the layer diagrams and the outline development plan would become objectives and policies within the City Plan.
29. Further, the Commissioner's decision for Proposed Change 1 to the RPS was released in December 2009. Over the course of developing Proposed Plan Change 5 (Awatea), which the Council has resolved be adopted for public notification, staff have been cognisant of Policies 7 and 8 of Proposed Change 1. These refer to the matters that the Council has to ensure are addressed in plan changes for Greenfield areas. The new Living G policies in Proposed Plan Change 61 take some direction from Policies 7 and 8 of Proposed Change 1 to the RPS. Proposed Plan Change 61 also deletes existing City Plan Policy 6.3.9 Urban Extensions as it creates ambiguity with the urban growth position of Proposed Change 1 to the Regional Policy Statement. The Proposed Plan Change also amends Policy 6.1.1 Population Densities. Comment has been sought from Officers reviewing the Commissioner's decision and drafting the Council's appeal (if any) to the Proposed Change 1 RPS decisions. Other than identifying the ambiguity or conflict with Policies 6.3.9 and 6.1.1, staff have indicated that there are no apparent conflicts with this position. Further Simpson Grierson, the Council's legal representatives on Proposed Change 1 to the RPS have reviewed Proposed Plan Change 61 and found no conflicts, but have recommended that Policy 6.3.9 be addressed as soon as possible. The amendment to Policy 6.1.1 is relatively minor.
30. It is recommended that the policy format in Proposed Plan Change 61, given the aforementioned directions of the Environment Court, and Proposed Change 1 to the RPS be pursued for all Living G in the future. Proposed Plan Change 61 is seen as an opportunity to align Living G in general with the directions of the Environment Court and Proposed Change 1 to the RPS. It is also noted that later in 2010 an Officer of the Council (probably Scott Blair) will be presenting further evidence to the Environment Court on format of the Objectives and Policies in the Belfast Section 293 case. Mr Blair envisages the objective and policy package promoted in his evidence aligning with Proposed Plan Change 61.

31. Individual Living G plan changes will still contain their own policies – but those policies would be specific to the plan change area and relate directly to the peculiarities of that particular Living G site. For example in Proposed Plan Change 5 (Awatea) a policy supported by a non-complying activity rule restricts development of the Awatea Block until it can be serviced by sewer infrastructure that will not be available for that particular area for several years – this only affects the Awatea block.
32. Existing City Plan Policy 6.3.9 Urban Extensions talks about peripheral urban extensions to the City being smaller incremental extensions. This appears to be diametrically opposed to Proposed Change 1 to the RPS which specifies large areas of peripheral urban growth. An option available to the Council is to delete the policy as part of this plan change. Simpson Grierson have been asked to provide an opinion on the risk associated with Policy 6.3.9. They have found that risk is difficult to determine but that the ambiguity the policy creates is “unhelpful” and that it would be useful if it could be addressed as soon as possible. Existing City Plan Policy 6.1.1 talks about promoting opportunities for higher densities in larger areas of peripheral urban growth. Proposed Plan Change 61 talks about ensuring mixes of densities including higher densities. An amendment to Policy 6.1.1 has been recommended to align 6.1.1 to the new policies in Proposed Plan Change 61.
33. For clarity, it is useful to discuss what Proposed Plan Change 61 does not do. Proposed Plan Change 61 does not introduce an objective or policy that talks about where greenfield growth is to occur in Christchurch City or when it is to occur. Those are matters that are specifically dealt with in Proposed Change 1 to the Regional Policy Statement. They are issues that are likely to be hotly debated by appellants to the Commissioner’s decisions on Proposed Change 1. It would be premature to seek to align the City Plan with the Commissioner’s decisions at this stage – they are matters that should be played out through the Proposed Change 1 process before a change to the City Plan Objectives and Policies is sought.

#### **THE OBJECTIVES**

34. To publicly notify the attached Proposed Plan Change 61 General Living G Objectives and Policies.

#### **THE OPTIONS**

##### **35. Option 1**

Adopt the Section 32 Assessment for Proposed Plan Change 61 and agree to notify Proposed Plan Change 61 pursuant to the first schedule of the Resource Management Act 1991.

##### **36. Option 2**

Do not publicly notify Proposed Plan Change 61.

#### **THE PREFERRED OPTION**

37. Option 1 is the preferred option. This will enable the Council to provide a framework in the City Plan for policy consistency in across the Living G zones.