

4. PLAN CHANGE 24 – WIGRAM

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PURPOSE OF REPORT

1. This report discusses Plan Change 24 Wigram and seeks a decision by the Council as to whether it will accept, adopt, reject or treat as a resource consent application a private plan change application, Plan Change 24, by Ngāi Tahu Property Limited (NPL). It is the intention to publicly notify the plan change, depending on Councils decision, in March 2010.

EXECUTIVE SUMMARY

2. The plan change seeks the rezoning of Special Purpose (Wigram) Zone (approximately 153ha) to Living G (Wigram) Zone (120.7ha), Business 4 Zone (24.9ha), Conservation 3 Zone (8.11 ha) and Business 5 Zone (0.4 ha as part of a split zone boundary adjustment at 45, 57, and 63 Pilkington Way). A copy of the plan change is attached as **Attachment 1**. The area of the plan change is shown on **Attachment 3**.
3. The process that the Council must follow in respect to private plan changes are set out in Clauses 21–29 of the First Schedule to the Resource Management Act 1991 (RMA). In particular clause 25 requires that the Council must consider the request and make a decision as to either:
 - (a) Accept the request, in whole or in part, and proceed to notify the request, or part of the request.
 - (b) Adopt the request, or part of the request, as if it were a proposed policy statement or plan made by the local authority itself.
 - (c) The local authority may reject the request in whole or in part.
 - (d) The local authority may decide to deal with the request as if it were an application for a resource consent and the provisions of Part 6 shall apply accordingly.
4. The implications of the options under Clause 25 are:

4.1 Accept the application, proceed to publicly notify and decide the application at the expense of the applicant:

- 4.1.1. Under this scenario the private plan change is notified in the form prepared by the applicant. The Council processes the plan change proposal but the applicant bears all of the costs of notification. Accepting the plan change proposal means:
 - (i) the applicant decides what is notified and if changes to the proposal are considered necessary it is likely the Council will need to make a submission in opposition to the plan change.
 - (ii) implies the Council is taking a neutral position in the proposal. The public should perceive that the Council neither supports or opposes the proposal
 - (iii) implies the applicants will bear the cost of the complete plan change process (including costs associated with the resolution of appeals).
- 4.1.2. Note that on 18 August 2004 the Council signed an agreement with NPL that the Council would undertake a section 32 assessment and plan change for the rezoning of the Wigram Airfield. A copy of the agreement is attached as Attachment 2. In the spirit of this agreement it has been agreed with NPL that District Planning would not charge its costs up until the point where the Council made a decision as to acceptance, adoption or rejection of the plan change.
- 4.1.3. There are potential issues the Council may wish to make a submission on given the current wording of the proposed private plan change. These issues are discussed in the background section of this report.

4.2 Adopt the change as its own and assume the responsibility for putting it through the process outlined in the RMA including all costs.

4.2.1. Under this scenario the plan change becomes a Council led plan change. It is notified, heard and decided the same way as plan change prepared by the Council. The Council bears all of the associated costs. Adopting the plan change proposal would mean:

- (i) The Council can control the proposal that is publicly notified
- (ii) It can be interpreted that the Council generally supports the proposal
- (iii) The Council bears the costs of managing and processing the plan change.
- (iv) The proposed plan change must be taken into consideration in the processing of any resource consent ie it holds some legal weight from time notification.

4.2.2. In regard to point 4.2.1(iii), there is the potential that more officer time and Council financial resources are spent in the plan change adoption process than in the accepted process. If the Council is concerned about significant aspects of the proposal, this would not be an appropriate course of action. Alternatively if the Council does wish to adopt the plan change further work could need to be undertaken by the Council to amend the plan change to its satisfaction. However NPL as the applicant may have problems with this approach.

4.2.3. Adoption of the plan change by the Council has some advantages to NPL. There are the obvious financial implications for NPL of the Council assuming the costs of the statutory process and the support of the Council for the plan change (now being Council's own plan change) during the statutory process.

4.3 Reject the application.

4.3.1. There are very limited grounds in the Act for rejecting an application. A Plan change can be rejected if:

- It is frivolous or vexatious.
- The substance of the change has been dealt with by the Council or the Environment Court in the last two years.
- The change is not in accordance with sound resource management practice.
- The change would make the District Plan inconsistent with Part V of the Act (other policies or plans, such as Regional Policies or Plans).
- The District Plan has not been operative for more than two years.

4.3.2. This privately requested plan change cannot be said to be frivolous or vexatious. Officers and representatives of Ngai Tahu Property Limited have worked co-operatively on the rules package and format for the plan change and it is considered to be in accordance with sound resource management practice. The differences or concerns set out in paragraphs 19 and 20 of this report are not considered to be sufficient reason to reject the application. The plan change is largely in accordance with the South West Area Plan and is an important growth area in the UDS and Change 1 to the RPS.

4.3.3. Decisions have been released on Change 1 to the Regional Policy Statement. If processed through to the point where it is operative the plan change will not create an inconsistency with the Regional Policy statement and other plans.

4.3.4. The City Plan has been operative for more than two years. Therefore this can not be considered as grounds to reject the application.

4.4 Treat the plan change as a resource consent.

4.4.1. It would not be appropriate to treat this plan change as a resource consent as Ngai Tahu are seeking to set up a framework in which the area will be developed, and under which activities will be permitted or consents will be applied for. A resource consent is more appropriate to a specific proposal with a much finer grain of detail. In addition a resource consent can be limited in its flexibility and in this situation would require constant amendment. Given the complexity of the proposal and need for some flexibility a resource consent is not considered to be appropriate.

FINANCIAL IMPLICATIONS

5. This plan change has a budget of \$103,000 in the current financial year for its progression. As this is a privately initiated plan change the costs of processing the plan change can be recovered from the applicants. However, on 18 August 2004 the Council signed an agreement with NPL that the Council would undertake a section 32 assessment for the rezoning of the Wigram Airfield. A copy of the agreement is attached as **Attachment 2**. In the spirit of this agreement it has been agreed with NPL that District Planning would not charge its costs up until the point where the Council made a decision as to acceptance, adoption or rejection of the plan change.
6. Should the Council resolve to adopt the plan change as its own then the processing costs would lie with the Council. There is sufficient funding in this financial year to progress this option. The processing costs involve (i) public notification costs, (ii) Council administrative time, (iii) Officer report writing time (including specialist input as needed to respond to issues raised in submissions), (iv) hearing panel time, (v) decision writing time, (vi) notification of decisions. Items (iv), (v), and (vi) are unlikely to fall within this financial year. A best estimate of these costs at this stage is a total of \$50,000.00 - \$60,000.00.
7. Future amendment to the developer contributions (DCs) policy in the Long Term Council Community Plan (LTCCP) may be required to match DCs with the amount of open space shown in the master plan for the development.

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

8. Yes.

LEGAL CONSIDERATIONS

9. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed set out in the RMA.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. 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.
11. Aligns with – A prioritised work programme, matched to staff capacity and availability, to be presented for Council approval annually by 30 June of the following financial year.

ALIGNMENT WITH STRATEGIES

12. Aligns with the South West Area Plan (SWAP) and Proposed Change 1 to the Regional Policy Statement. The Wigram block is shown as an urban growth area in both of these strategies.

CONSULTATION FULFILMENT

13. Extensive consultation on the rezoning of the area was undertaken as part of the SWAP programme. NPL have presented the proposed plan change to the Riccarton/Wigram Community Board twice – the most recent in November of 2009. NPL and the District Planning Team held a combined consultation afternoon at Wigram on 14 October 2009 following a mail out to approximately 850 surrounding property owners and occupiers inviting feedback on the proposed rezoning. The information afternoon was very well attended with an estimated excess of one hundred people attending. Attendees could ask questions of the NPL and District Planning representatives about the proposal. Written feedback was invited but to date District Planning has received few replies. Replies received have sought clarification and have not expressed any particular significant concerns.
14. On 12 February 2009 Mahaanui Kurataiao Limited (MKT) wrote to NPL to say that nga Rununga were satisfied with the level of consultation that NPL has undertaken with them. MKT represent Te Ngati Tuahuriri Rununga, Te Taumutu Rununga and Te Hapu o Ngati Wheke (Rapaki) Rununga. Outside of the above it is not known if NPL have consulted other parties such as the Ministry of Environment (M.F.E). It is noted however that pursuant to the third Clause of the First Schedule of the RMA the requirement to consult Ministers of the Crown and other Local Authorities is one that falls on the Territorial Authority if a plan change by a local authority is being prepared.

STAFF RECOMMENDATION

That the Committee recommend that the Council:

- (a) Accept the Section 32 Assessment for the Plan Change.
- (b) Accept Plan Change 24 for public notification pursuant to Clause 25(2)(b) of the First Schedule of the Resource Management Act 1991.

BACKGROUND

15. The Council has received the attached Plan Change 24 for the rezoning of Special Purpose Wigram Zone (approximately 153ha) to Living G (Wigram) Zone (120.7ha), Business 4 Zone (24.9ha), Conservation 3 Zone (8.11 ha) and Business 5 Zone (0.4 ha as part of a split zone boundary adjustment at 45, 57, and 63 Pilkington Way).
16. In August of 2004 the Council resolved a reference (appeal to the Environment Court) by NPL against decisions on submissions the Council had made on provisions in the Special Purpose Wigram Zone when it was publicly notified. The nature of those references are set out in Paragraph 2 of Attachment 2. The resolution of the reference was by consent order from the Environment Court and a 'side agreement' signed by the Council and Ngāi Tahu Property Limited. A side agreement was used because much of what NPL sought was outside the 'scope' of their submissions.
17. Paragraphs 8 and 9 of the side agreement (Attachment 2) set out the undertakings that the Council gave as their part of the agreement. The Council has not undertaken a section 32 in accordance with the undertakings because NPL have taken longer than expected to progress their master plan (see paragraph 5 of Attachment 2) and Officer resources have been directed towards completion of the South West Area Plan and Plan Change 12 which has enabled the first stage of the Wigram development to commence.
18. Having completed their master plan NPL have now elected to advance the rezoning of the Wigram block by way of a Private Plan Change application.

The structure of the zone provisions in this plan change

19. The residential component of the plan change is based on the Living G methodology and is closely aligned with the Awatea Plan change methodology. However it is considered that the plan change also needs additional controls or changes in the form of:
 - A limit on the floor area in the commercial area.
 - Changes to the height limit in the Special Building Height Area.
 - Design and appearance controls.
 - Non complying activity status for development prior to arrival of sewer.
 - Deletion of the smaller neighbourhood parks from the green network layer diagram.
20. The Business 4 component of the plan change utilises the existing Business 4 provisions in the City Plan. However it is considered that the plan change also needs additional controls in the form of:
 - More restrictive hazardous substances controls
 - Design and appearance controls.
21. The attached plan change is the current intended package for notification in early March 2010. However it is acknowledged that Officers, and consultants for NPL are continuing to review the package over the month of January – further development progress may be made on the matters set out in paragraphs 19 and 20 in this time. At the time of consideration of this report by the Committee, staff will have held a workshop with the Committee to explain the provisions (expected to be 1 February 2010). Any further refinements will be reported at this time.
22. The Conservation 3 zoning is on a portion of the land that the Council has acquired from NPL as part of the Integrated Catchment Management Plan (ICMP) for the South West. The land is being developed as part of works to give effect to the first residential subdivision of Plan Change 12. (The portion of land being developed for residential use was rezoned as a part of Plan Change 12).

A Limit on the Commercial Floor Area and Special Building Height Area Height

23. NPL have produced a retail assessment that indicates that the area can sustain a maximum retail floor area of about 4000 square metres. This is about the floor area that District Planning (through work by Property Economics Limited) has estimated that the area can sustain. There are however no controls on the amount of floor area achievable in the plan change area. NPL argue that the other controls within the rules package will limit the achievable floor area. Officers consider that, especially with the baseline created by a 32 metre height limit (see next paragraph), there is no certainty that the floor area would indeed be limited to a sustainable area. Officers seek a rule limiting floor area as a permitted activity to the 4000 square metres.
24. NPL propose a 32 metre height limit within the Special Building Height Area. NPL's rationale for the 32 metre height limit is that they may wish to construct one to two apartment buildings in the town centre. This will help them to achieve the density targets in Proposed Change 1 to the RPS. Officers are concerned about the extent of the Special Building Height Area being some three hectares and the height limit itself. NPL say the extent of the area is to provide flexibility in the location of the buildings. Officers are concerned about the permitted baseline that would be enabled by the current provisions which is far in excess of that needed to enable one to two apartment buildings.

Open Space Requirements – bridging the gap between design and the LTCCP.

25. Open space is an integral part of the urban design within the NPL master plan for this development. There is however a conflict between the urban design driven distribution and size of open space in the master plan and the Council's Draft Public Open Space Strategy (POSS) 2010–2040 and what is achievable under the current DCs policy of the LTCCP. The POSS for Greenfield areas advocates in terms of neighbourhood parks:
- *All residents should have access to Neighbourhood Parks within approximately 400 metres. (emphasis added)*
 - *Neighbourhood parks sited adjoining Urban Malls and in activity centres.*
 - *New parks to have not less than 50% of their perimeter as street frontage and or publicly accessible surface waterway.*
 - *All parks shall conform to Crime Prevention Through Environmental Design principles (CPTED).*

The neighbourhood parks meet nearly all of these. They do not however adjoin urban malls or activity centres. Their location has been chosen to service the areas of medium and high density housing. This conflict is not considered to be significant.

26. There is a more significant conflict between the provision of smaller parks on the master plan and the POSS (described as local parks). The POSS does not require small sized open spaces in Greenfield areas and describes them as *not applicable*. A small sized open space is also described as *of varying size generally less than 1000m²*. NPL are proposing six parks of 2000m² distributed around the development area. Generally these parks are co-located with higher density areas (although there are two located adjacent to medium density).
27. It is a generally accepted principle of good urban design that higher density areas are co-located within convenient and easy walking access to at least one of the following:
- *Open space as recreation and amenity compensation for reduced open space on site.*
 - *Convenient access to public transport.*
 - *Convenient access to shopping and other services.*

This is reflected in the POSS for the central city and urban intensification areas where densities are higher and pocket parks are encouraged. The POSS has, perhaps, not factored or allowed for a new paradigm of mixed densities, including pockets of higher density, within Greenfield growth areas. Living G will continue to have a mix of densities including higher density.

28. The 'walkability' standard that has previously been applied to Living G through the Masham and Belfast Environment Court cases in evidence from both Council and applicant witnesses is that for higher density areas open space be located within 200 metres as opposed to the 400 metre standard in POSS. This is the standard accepted by the Environment Court.
29. The open space design is based on what was achievable under the reserves component of the DCs policy of the 2006-2016 LTCCP. However the 2009-2019 LTCCP has reduced the reserve contribution and it is no longer possible under the new policy for the Council to purchase the smaller reserves of 2000 square metres servicing the higher density development shown in the master plan.
30. A mechanism to bridge the gap between the master plan open space design costs and the revenue from DCs in the LTCCP needs to be explored. The mechanisms available are:
 - Create a Wigram specific DC to ensure sufficient funds to purchase all of the open space land
 - Include a Wigram specific financial contribution rule in the plan change rules package to make up the shortfall in revenue from the DCs, or
 - NPL vest the additional land above that which can be purchased by DCs in the Council free of charge and make provision for their long term maintenance in future LTCCPs.
31. The use of a financial contribution rule to make up the shortfall is not favoured because it would be open to challenge or appeal every time it was applied (although probably not by NPL but there is no guarantee NPL will be the applicant in the future).
32. At this stage Officers have not agreed with Ngāi Tahu on a mechanism by which to 'bridge the gap' between the DCs and the open space areas, or that the Council wants the 2000 square metre parks in the first instance.
33. It is considered that it is not necessary to show these smaller 2000 square metre parks on the outline development plan and layer diagrams. It will take several years to progress the development into the stages in which the smaller parks are located. Leaving the parks off the ODP and layer diagrams will enable NPL and the Council to continue to discuss their provision. If agreement to include them is reached then amendments can be made to future LTCCP to accommodate the DCs required. If it is determined at a latter date that the parks are not needed there will be no conflict with the City Plan outline development plan and layer diagrams.

Design and Appearance Controls

34. One of the major innovations being introduced in the concurrent Awatea Plan change is a general resource consent as a restricted discretionary activity for design and appearance in both the residential Density A and Business Zones. Officers have alerted NPL that they think these controls should also extend to the Wigram plan change. The attached plan change has some design and appearance controls highlighted. NPL have indicated that they do not form part of their application but are there for discussion. To date they have stated that they do not wish to have these controls as they will add cost and time to consenting the development.
35. Officers take the position that the controls are necessary, that they can form a part of existing consent processes, and that changes to the RMA will ensure that processing times are within the statutory time frames. Councillors should see the discussion in the concurrent Awatea Plan Change report.

Proposed Natural Resources Regional Plan

36. The Wigram Airfield block is located on an unconfined aquifer providing high quality drinking water to the people of Christchurch. In recognition of the importance and value high quality drinking water to the City, the impact of any likely land uses on unconfined aquifers is identified in the City Plan as an important matter for consideration at time of rezoning.

37. Through the Proposed Natural Resources Regional Plan (PNRRP), the Canterbury Regional Council also recognises the importance and significance of managing land uses on unconfined aquifers. Variation 6 to Chapter 4 of the PNRRP introduced a new issue, objective, policies and methods, including land use rules and amendments to the existing water quality zone boundaries, relating specifically to the Christchurch Aquifer System. Of particular relevance is Policy WQL19(2) that reads as follows:

Policy WQL19(2): Control of existing and future urban development within Christchurch Groundwater Protection Sub-Zone 1A and Zone 2 reads as follows:

- (2) *Enable the City of Christchurch to develop for urban purposes within Christchurch Groundwater Protection Sub-Zone 1A on:*
- (a) *land yet to be developed for urban purposes but which is zoned for such purposes in the City of Christchurch District Plan on 1 August 2007; or*
 - (b) *land yet to be zoned for urban purposes within City of Christchurch District Plan but which is within the urban Limits identified in the Canterbury Regional Policy Statement.*

38. The policy makes provision for a limited amount of urban growth in selected areas of land with high intrinsic hydrogeological vulnerability. The Wigram block is located within the Christchurch Groundwater Protection Sub-Zone 1A. The rezoning of this block of land for urban purposes is consistent with the relevant policy in the PNRRP with regards to groundwater protection. In addition, the use and storage of hazardous substances within the Wigram block will be subject to a higher degree of control to further minimise the potential risk of ground water contamination. Officers are seeking a level of control on hazardous substances commensurate with the Business 7 controls in the Awatea plan change.

Delivery of Sewer – Long Term Council Community Plan

39. The 2009-19 LTCCP shows that sewer for Wigram Airfield will not be developed until 2014 and until this infrastructure is developed there will be no capacity in the sewer network to accommodate discharges from the Wigram block. As noted above officers would seek that works associated with the development be a non complying activity until such time as the sewer is available.

The South West Area Plan

40. The SWAP specifies desired goals for development of the South West. There is a high degree of correlation between the plan change and the relevant goals:

Goal 1: Provide a high quality naturalised water environment connected across the South West.

The plan change introduces a blue network layer diagram and objectives and policies that link to the Council's integrated catchment management plan (ICMP) for the south west. The stormwater areas shown on the blue network layer diagram have been designed and specified by Council staff responsible for delivering the ICMP.

Goal 2: Establish a variety of indigenous forest and wetland habitats, connected by ecological corridors.

Landscaping within the stormwater management areas will be in accordance with the ICMP for the southwest – the ICMP has a high correlation with this goal.

Goal 3: Incorporate local landscape features into urban development and public open space to maintain landscape character.

Given its flat topography, Wigram airfield has very limited landscape features. However features such as the runway and the control tower have been taken into account in the master plan. The control tower and some of the hangers will be retained and reused. The alignment of the runway will be maintained in the through road for the development.

Goal 4: Develop a diverse connected and attractive public open space network that encourages use and enjoyment.

These will be delivered through compliance with the green, and blue network layer diagrams and objectives and policies .

Goal 5: Actively protect and restore values significant to Tangata Whenua, both historic and contemporary.

NPL have been in consultation and discussions with MKT and will continue these discussions. Officers are not aware of any conflicts or discrepancies between the development concept and values significant to Tangata Whenua.

Goal 6: Conserve and protect European and other emerging cultural and heritage values.

Consideration was given to these values during the development of the plan change. Refer to Goal 3.

Goal 7: Create safe and well-designed residential neighbourhoods providing quality housing and a variety of housing choice.

The Living G package in general is designed to deliver this. A range of housing densities are to be delivered from higher to medium to lower densities. It is noted specifically however that all new buildings are to be a restricted discretionary activity with the Council's discretion restricted to urban design and amenity criteria. The criteria have been developed and amended from the Living 3 and 4 plan change. While the Living 3 and 4 plan change is specifically for infill development the provisions have been reviewed and amended specifically for residential housing in Greenfield areas.

Goal 8: Support communities with a range of accessible facilities and services and encourage social interaction and healthy lifestyles.

The central commercial area will be able to provide a range of community facilities and services – the exact nature of these is yet to be determined. The open space, cycle and walking networks will encourage social interacting and activity contributing to healthy lifestyles.

Goal 9: Provide business environments that are resource efficient, diverse and support the local economy and community.

Provision has been made for local convenience retail and community facilities through an area in which amended Business 1 rules will apply. A large area adjacent to Hayton's Road will be retained as Business 4 zone.

The Business 4 zoning will be a dry industrial zoning which encourages activities such as warehousing. The activities will be 'dry' because of the ground water recharge issues and the NRRP discussed above.

New buildings in these areas will be a restricted discretionary activity with the Council's discretion restricted to assessment criteria that have been developed from the SWAP, specifically Objective 9.8.

Goal 11: Provide a transportation system that gives priority to active and energy-efficient ways of travel and minimises its effects on the environment.

The plan change introduces transportation network layer diagrams. Provision is made for multiple modes of transportation including, walking, cycling, public transport, private car and heavy goods vehicles. The network has been designed to give equal opportunity for all modes of transport to enable viable choices between motor vehicles, pedestrians and cycle travel within and outside the development.

Goal 12: Co ordinate incremental subdivision and building development with the provision of resource efficient infrastructure.

As noted above the outline development plan and layer diagrams are structured to a degree around the blue network and the integrated catchment management plan. Further the land cannot be developed until there is sewer available. This will be achieved by making development prior to the arrival of the sewer a non complying activity. Objectives and policies have been introduced to support the non complying activity status.

THE OBJECTIVES

41. The plan change seeks the rezoning of Special Purpose (Wigram) Zone (approximately 153ha) to Living G (Wigram) Zone (120.7ha), Business 4 Zone (24.9ha), Conservation 3 Zone (8.11 ha) and Business 5 Zone (0.4ha as part of a split zone boundary adjustment at 45, 57, and 63 Pilkington Way). A copy of the plan change is attached as **Attachment 1**.

THE OPTIONS

42. **Option 1**

Resolve to accept the plan change and section 32 assessment for public notification pursuant to Clause 25(2)(b) of the first schedule of the Resource Management Act 1991.

43. **Option 2**

Resolve to adopt the plan change and publicly notifying it as though it were the Council's own plan change pursuant to Clause 25(2)(a) of the first schedule of the Resource Management Act 1991.

44. **Option 3**

Resolve to reject the plan change pursuant to Clause 25(4) of the first schedule of the Resource Management Act 1991.

45. **Option 4**

Resolve to deal with the plan change as if it were an application for resource consent pursuant to Clause 25(3) of the first schedule of the Resource Management Act 1991.

THE PREFERRED OPTION

46. **Option 1** is the preferred option. This will enable the Council to progress a long standing undertaking to rezone the Special Purpose Wigram Zone.