

20. 9.2007

**REPORT BY THE CHAIRPERSON OF THE
SPREYDON/HEATHCOTE COMMUNITY BOARD**

PART A - MATTERS REQUIRING A COUNCIL DECISION

**1. PROPOSED PLAN CHANGE 21 – PRIVATE PLAN CHANGE APPLICATION TO EXTEND THE
COMMUNITY FOOTPRINT TO INCLUDE 11 EVERARD STREET, SPREYDON**

General Manager responsible:	Peter Mitchell, General Manager Regulation and Democracy Services, DDI 941 8549
Officer responsible:	Steve McCarthy, Unit Manager Environmental Policy and Approvals, DDI 941 8651
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PURPOSE OF REPORT

1. This report describes a private plan change application to Council for a change to the City Plan and the process which must be followed under the Resource Management Act 1991 (RMA).

EXECUTIVE SUMMARY

2. The application is to extend the community footprint to include 11 Everard Street, Spreydon and to limit the traffic movement accessing 11 Everard Street which could be generated by the community footprint.
3. The purpose of this report is not to consider the application on its merits. Rather, it is to recommend which of several options under the RMA is to be used in processing the application.

The Council has the option of declining this application on the grounds that the City Plan has not been operative for two years, of accepting the application as a private application and publicly notifying it for submission and hearing at the cost of the applicant, or of adopting the change as the Council's own change and accepting the responsibility and costs of processing it. The Council is obliged to consider this request under the due process set out in the RMA.

FINANCIAL IMPLICATIONS

4. The financial considerations will differ depending on how the Council chooses to handle this application. Should it reject the application it is possible that the applicant would challenge this decision in the Environment Court, which would be a costly process for Council regardless of the outcome. Costs cannot be predicted accurately but could be in the vicinity of \$20,000 for this preliminary step.

Should the Council accept and notify the change at the expense of the applicant there will be a no direct costs to Council as the Council's costs would be recovered. However there would be an impost on staff time.

Should the Council adopt the change as its own then Council will need to absorb all the costs, likely to run to at least \$15,000.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

5. Yes.

LEGAL CONSIDERATIONS

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

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

7. The process, mentioned above, is very familiar to Council and should create no particular risks or liabilities if followed correctly.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. Page 145 City Development ongoing programme of improvements to enhance the planning documents of the City, to ensure an attractive built environment and minimise adverse effects on the environment.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

9. Yes.

ALIGNMENT WITH STRATEGIES

10. Yes.

Do the recommendations align with the Council's strategies?

11. Yes.

CONSULTATION FULFILMENT

12. The applicant has carried out some public consultation with residents in Everard Street, Spreydon as part of their Plan Change Request.

STAFF RECOMMENDATION

That the Community Board recommend that the Council agree to accept the plan change pursuant to Clause 25 of the 1st Schedule to the Resource Management Act 1991 and publicly notify it accordingly.

BOARD'S RECOMMENDATION

The Board considered the report and decided that as it had not had sufficient time to consider the matter, and it was the first time it had been asked to consider a private plan change it was unable to form an opinion whether or not to recommend that the Council accept the plan change, in terms of the staff recommendation.

(Cr Sue Wells abstained from voting on this item.
Oscar Alpers asked that his vote against the Board's recommendation be recorded.)

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BACKGROUND

The Application

13. This application seeks to extend a community footprint to include 11 Everard Street (subject site), and to limit the traffic that accessing the site from Everard Street to 32 vehicle movements. The subject site is 658m² and is currently occupied by a single storey residential dwelling. The site is zoned Residential 2 which allows for medium density houses. A community footprint will allow for a number of exceptions to the Residential 2 rules. A copy of the application is attached.

RMA Timeframes

14. The application was formally received on the 8 June 2007. Further information was requested on 19 June on traffic matters. The report was amended on 16 July 2007. Under the RMA the Council is due to make a decision whether to accept the application, decline the application, or otherwise by 6 September 2007.

Description of proposal and site

15. The subject site is located in a residential cul-de-sac adjoining an existing community footprint to the rear and north of the site. The existing community footprint is occupied by Barrington Community Health Centre and Cameron and Co Solicitors, and associated car parking for both activities. The entrance and exit to the existing community footprint is on Athelstan Street.
16. The subject site was granted a resource consent in 2005 to allow it to be used as a medical facility. The consent conditions include retaining the existing dwelling and boundary landscaping to neighbouring properties, limiting the number of professionals operating from the site. Limiting parking on Everard Street to staff car parking with customer parking would be accessed via Athelstan Street, and not allowing signage on Everard Street.
17. This private plan change application now seeks to extend the community footprint. This will allow flexibility, in developing the site, provided by the community footprint standards (rules) in order that improvements and possible future expansion of the existing medical centre, adjacent to site, can be carried out without the need for further resource consents.
18. Community Footprints allows for community facilities, which are consistent with maintaining a high standard of amenity in living areas, to establish in residential areas close to suburban centres without resource consents. These facilities are recognised, under the City Plan (Volume 2) policies and objectives, as being necessary for the practical, efficient and pleasant functioning of the living area. Examples of such activities include health services, educational and day-care establishments which meet the needs of residents, principally within the surrounding living environment.
19. The proposed plan change also seeks to limit traffic movements into and from Everard Street to 32 movements, which is fairly consistent with the approved Resource Consent, by making an amendment to the Volume 3, Part 2 – Community Standard Rule 2.3.4 – Traffic Generation Other Activities. This aims to prevent through traffic from Athelstan Street and to ensure that traffic movements are consistent with Everard Street's status of a local road. The objective being that the surrounding residential amenity will not be significantly affected by traffic generated by this proposal.

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Description of Issues

20. The main differences in effects between the current Living 2 zone standards and the community footprint standard, outlined in the application, is that a community footprint would allow for a larger buildings, less open space, 1m² of signage and greater scale of activity. However, a building in a community footprint will still be required to meet the Living 2 standards for building height, recession plans, continuous building length, building setbacks and site coverage. Taking this and the site size into account any new building should be similar in bulk and scale to other residential development within the Living 2 zone.
21. The Community Footprint also allows for higher volumes of traffic. This Plan Changes aims to mitigate the effect of traffic on the Everard Street residents by limiting the amount of vehicle movements accessing this street.

Processing of Private Plan Changes

22. The processing of private plan changes is set out in Clauses 21 -29 of the 1st Schedule to the RMA. In summary this provides:
 - Clause 21 Any person may make an application for a change to an operative district plan. The City Plan is operative.
 - Clause 22 Request to be in writing, with reasons, Assessment of Environmental Effects and assessment under section 32 of the RMA.
 - Clause 23 Further information may be required. The Council has done this in this case.
 - Clause 24 The Council may modify the proposal but only with the consent of the applicant.
 - Clause 25 The Council must consider the request, and make a decision to either:
 - “accept” it and proceed to public notification, or
 - “adopt” it as if it were its own proposal, and publicly notify it, or
 - treat it as if it were a resource consent or
 - reject it.
 - Clause 26 Where the Council accepts the change it must publicly notify it within 4 months.
 - Clause 27 The applicant may appeal the decision under clause 26.
 - Clause 28 Applications may be withdrawn.
 - Clause 29 Unless rejected, the application is put through the standard process of public notification, submission, hearing, decision, and appeal (if any).
23. There is a significant difference between “accepting” and “adopting” the application. If the application is accepted, the Council retains its independence and is able to consider it impartially at a hearing later in the process, rather like a resource consent process. The entire cost of the process can be charged to the applicant. If it adopts the application the Council would be effectively supporting the application as if it had decided to propose the change itself. The Council would also be unable to charge the applicant for the costs.
24. There are very limited grounds in the Act for rejecting an application. The only relevant one in this case is that the City Plan has been operative for less than two years. The Council has a formal policy on this matter, which is attached as **Appendix A** to this report. In summary, the Council’s policy is to accept such applications and allow them to proceed through the process unless:
 - The subject matter of the application affects an important strategic or policy issue the Council is currently investigating and may preclude options being considered.
 - The proposal is for rezoning of a significant amount of land for urban growth and would pre-empt options for urban growth, being considered under the Metropolitan Christchurch Urban Development Strategy.

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- The proposal is for rezoning of land for urban growth and the site is within a Priority 1 Area Plan currently under investigation by the Council. As at August 2005 Priority 1 Area Plans include Belfast, Memorial-Russley-Hawthornden, Southwest and Upper Styx-Harewood.

25. The subject sites are not:

- affected by any strategic or policy issue
- a significant amount of land for urban growth
- within a Priority 1 Area Plan.

THE OPTIONS

26. The Council's options will be to:

- (a) Reject the application.
- (b) Accept the application, proceed to publicly notify and decide the application at the expense of the applicant.
- (c) Adopt the change as the Council's own change, with the Council assuming responsibility for putting it through the process outlined in the RMA including all costs.

THE PREFERRED OPTION

27. The preferred option is Option B. There is no status quo, ie do nothing option. The application must be considered and either accepted, adopted or rejected. It is not a matter the Council has identified as a priority it wishes to pursue for itself. The Council has an adopted City Plan programme and this item is not on it. There is no reason known for the Council to adopt it as its own priority. There do not appear to be valid reasons for rejecting it. Therefore the application should be accepted and considered on its merits, following public notification and the receipt of submissions.