

1. **PRESTONS ROAD PROPOSED PLAN CHANGE 30 – PRIVATE PLAN CHANGE REQUEST FOR THE REZONING OF RURAL LAND BETWEEN LOWER STYX ROAD AND MAIREHAU ROAD, NORTH-EAST CHRISTCHURCH, TO LIVING G.**



<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Principal Professional Advisor, Strategic Support Unit
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**PURPOSE OF REPORT**

1. The purpose of this report is to provide a recommendation on how to deal with the Prestons Road plan change request, including whether it should proceed to public notification, under the Resource Management Act (RMA). This is the second report on this matter to the Committee following a request by the applicant that the Council defer making a decision on this matter so the applicant could provide further information on, and make amendments to, the plan change. The requested plan change involves the rezoning of approximately 205 hectares of land between Lower Styx Road and Mairehau Road, to the east of Marshlands Road from Rural to Living G (Prestons), including provision for commercial activities and a school. (Refer to **Attachment 1** for the amended proposed layout of land uses).

**EXECUTIVE SUMMARY**

2. This plan change was previously reported to the Committee at its 6 August 2009 meeting. The previous report to the Committee recommended that the plan change be rejected, and not proceed to public notification. The Act specifies grounds on which the Council may reject plan change applications. The relevant ones in this case were that the applicant had declined to provide the information requested, the plan change was not in accordance with sound resource management practice, and the plan change would make the District Plan inconsistent with Part 5 of the Act. The Committee adopted the recommendation to reject the plan change, but prior to the subsequent Council meeting the applicant asked that the Council defer making a decision so that further information could be presented and further amendments made to the plan change if necessary.
3. As was the case when this matter was previously before the Committee, the decision required by the Council at this stage is not a full consideration of the merits of the proposed plan change. Rather the issue is solely whether the application is now adequate to proceed to be publicly notified, so that public submissions may be made on the plan change. A full consideration of the merits of the plan change will occur at a future Council hearing, which will include consideration of any submissions received. The plan change application has been modified significantly since the previous report to the Committee and further information has been provided. Staff consider that all the issues raised in the previous report have now been addressed sufficiently, or nearly, to allow the plan change to proceed to public notification.
4. In terms of those previous issues, the applicant has proposed that the additional costs the Council would have to bear in respect of the operational and depreciation costs of wastewater be resolved through a rule in the plan change. However, applicant's proposed rule does not provide a dollar amount, so the rule does not provide the information necessary to understand the implications of the proposal. That could be rectified by adding a dollar value. The Council may not agree with that dollar value, but staff have been advised that this would not be grounds for rejecting the plan change. Rather it would be a merits issue to be dealt with through the submissions and hearing process.
5. An alternative form of rule involving a formula, again without the full details, has recently been proposed by the applicant, which may also deal with the issue. The applicant and Council staff are continuing to explore the most appropriate form of rule to provide for this financial contribution, as it is a particularly complex issue. However, in terms of the decision on accepting or rejecting the application, the legal advice is that it is enough that a financial rule has been proposed. To enable the most appropriate form of rule to be included in the plan change when notified, it is recommended that the General Manager, Strategy and Planning be permitted to agree to an alternative form of rule in the plan change, provided the plan change does include a financial contribution rule.

6. Other outstanding issues have now also been addressed. In respect to open space, the plan change now only requires the Council to acquire land as reserves that it has agreed to and that land is not to be used for stormwater retention. The transportation issues and stormwater issues have been addressed. Finally, in terms of the assessment of a barrier to further urban growth, the adequacy of the information provided is questionable. However, this is not considered to be sufficient, in itself, to reject the plan change.
7. The following information is attached to the report:
  - **Attachment 1** - Prestons Road Plan Change Outline Development Plan
  - **Attachment 2** - Rule 20.1.5.

#### **FINANCIAL IMPLICATIONS**

8. The financial implications will differ depending on how the Council chooses to proceed with 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 the Council regardless of the outcome. Costs cannot be predicted accurately as this is likely to be a test case and the costs could be significant.
9. Should the Council accept and notify the change at the expense of the applicant there will be no direct costs to the Council as the its costs would be recovered. However, there would be an impost on staff time.
10. Should the Council adopt the change as its own then it will need to absorb all the costs. Considering the complexity of the issues, these could be considerable.

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

11. Yes

#### **LEGAL CONSIDERATIONS**

12. There is a statutory process that must be followed to determine if the plan change should be accepted and publicly notified, or otherwise. The applicant has the right to appeal this decision.
13. There is a legal process, set out in the RMA, of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed. This process is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

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

14. Processing private plan change requests is a statutory Council process, and as such is consistent with the LTCCP and Activity Management Plans. The plan change request itself raises issues of relevance to the LTCCP.

#### **Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

15. Yes.

#### **ALIGNMENT WITH STRATEGIES**

#### **Do the recommendations align with the Council's strategies?**

16. No. The proposed private Plan Change conflicts with proposed residential urban growth areas in the Urban Development Strategy (UDS). However, a submission has been made to Proposed Plan Change 1 to the Regional Policy Statement requesting that the area be recognised as within the Urban Limits.

## CONSULTATION FULFILMENT

17. The applicant carried out consultation with the tangata whenua through Mahaanui Kurataiao Ltd (MKT) and that consultation is ongoing. MKT have advised that there are not likely to be significant tangata whenua issues that would prevent a rezoning of the land.

## STAFF RECOMMENDATION

That the Council resolve that:

- (a) The application be accepted for notification pursuant to Clause 25 of the First Schedule to the Resource Management Act 1991.
- (b) In respect of proposed Rule 20.1.5, (wastewater costs), the Council also delegate to the General Manager Strategy and Planning the ability to agree to an alternative rule format if he considered it acceptable, prior to notification of the plan change.

## COMMITTEE RECOMMENDATION

Councillor Wells moved:

*That the Council resolve that:*

- (a) *The application be accepted for notification pursuant to Clause 25 of the First Schedule to the Resource Management Act 1991 and it note that the costs of processing the Private Plan Change will be borne by the proponent.*
- (b) *It agree that Rule 20.1.5 (as attached) is intended to cover all net wastewater costs, including additional operational costs to other parts of the network, to the Council of opening up "the third front" and note that the proponent of the private plan change agrees with this interpretation.*

The motion was seconded by Councillor Wall, and on being put to the meeting was declared **carried** on Division No. 1 by 6 votes to 2, the voting being as follows:

**For (6):** Councillors Button, Johanson, Reid, Shearing, Wall and Wells.

**Against (2):** Councillors Buck and Broughton.

## BACKGROUND

18. This plan change was previously reported to the Committee at its meeting on 6 August 2009. The decision required by the Council at this stage was not a full consideration of the merits of the proposed plan change. Rather, the issue was solely whether the application was adequate to proceed to be publicly notified, so that public submissions may be made on the plan change. A full consideration of the merits of the plan change would occur at a future Council hearing, which would include consideration of any submissions received. The report recommended that the plan change be rejected, and not proceed to public notification, on the grounds that:

- (a) The assessments of some relevant issues were inadequate and the applicant had declined to provide the information requested (Clause 23(6)).
- (b) The plan change was not in accordance with sound resource management practice (Clause 25(4)(c)).
- (c) The plan change would make the District Plan inconsistent with Part 5 of the Act, which requires provisions proposed to be included in a Plan to be consistent with the objectives and policies of the Plan (Clause 25(4)(d)).

These are grounds for rejecting a plan change under the First Schedule of the Act. The report also noted a number of issues that could be dealt with through submissions by the Council on the plan change. The Committee adopted the recommendation to reject the plan change, but prior to the subsequent Council meeting the applicant asked that the Council defer making a decision so that further information could be presented and further amendments made to the plan change if necessary.

19. The Council received amendments and further information from the applicant on 1 September 2009. This included comments on legal matters, including references to recent case law. The amendments included "possible" alterations to the Outline Development Plan (ODP). Staff have since been advised that the applicant wishes the plan change to be considered on the basis that these amendments are incorporated into the plan change (the amended ODP is contained in Attachment 1). There have been further discussions and correspondence with the applicant proposing further amendments in a letter dated 2 October 2009.
20. A draft report was subsequently sent to the applicant which highlighted matters that were still not adequately addressed and suggested means that could be used to address those matters. The applicant has taken up many of those suggestions and has continued to pursue all of the outstanding issues.
21. To avoid unnecessary repetition, this report does not include all the detailed information provided in the original report to the Committee meeting on the 6 August 2009. Rather, it concentrates on discussing whether the amendments made to the plan change, and the additional information received, affect the issues in the previous report to the Committee that lead to the recommendation to reject the plan change. The decision required by the Council at this stage is, again, solely whether the plan change is sufficiently adequate to be accepted for notification or rejected. The original recommendations on the other options available to the Council, in terms of processing this plan change under Clause 25, still stand and are not discussed further.
22. Legal advice has been obtained on the information, legal submissions, and amendments received from the applicant, and that advice included a review of recent case law. The advice remains unchanged from that provided to the previous Committee meeting in terms of the relevance of issues to the decision as to whether the Council should reject a plan change. As discussed below, some of those issues have now changed or no longer exist. The recent case law was not considered to change the legal advice previously given, except that it indicates that a further ground for rejection may apply in this case. It appears that the Council could, on the face of it, also rely on Clause 25(4)(b) because the issue of the urban development of this land was considered in the Urban Development Strategy within the last two years. However, given the degree to which the other matters have been addressed, which led to the original recommendation to reject this plan change, this is unlikely to be sufficient by itself to be grounds for rejecting the plan change (James Winchester (Simpson Grierson) will be available to discuss this issue if required).

## **THE PLAN CHANGE PROPOSAL**

23. The plan change request involves the rezoning of approximately 205 hectares of land between Lower Styx Road and Mairehau Road, to the east of Marshland Road from Rural to Living G (Prestons) zone (refer to the proposed layout of land uses in Attachment 1). The site adjoins the existing urban area in the vicinity of Burwood for approximately one fifth of its boundary, with the remainder of the site extending north and west into rural areas, part of which adjoins the Windsor and Waitikiri Golf Courses. Rural land separates the site from Marshland Road, except for the proposed main commercial area which extends to Marshland Road on the southern side of Prestons Road.
24. As well as some other smaller areas for commercial activities, the proposal includes a school site, a mixture of low to medium density residential development, and a linear park network that incorporates Marshlands Domain and also provides for stormwater management. The proposal provides for a minimum of 2247 households and a maximum of 2594 households in the residential areas, with provision for additional households in the commercial areas and, potentially, on the school site if the school were not to proceed. The plan change is not located within one of the Greenfield Areas where urban growth is proposed to be permitted in Regional Policy Statement Proposed Change No.1 (PC1), but there are submissions seeking the inclusion of the plan change land within a Greenfield Area. There have been hearings on the submissions on PC1, but no decisions have been released. The plan change does achieve some details of the PC1 policies, such as providing a range of residential densities and it has the potential to achieve a density for the plan change site overall of 15 households per hectare, as required by PC1 (although it may result in an overall density as low as 13 households per hectare).

## **THE ISSUES**

### **Wastewater**

25. The previous report to the Committee raised a number of issues in respect of wastewater. There is no provision in the LTCCP for a wastewater system for the Prestons area and the advice from Council officers was that it was a significantly less efficient area to service than other growth areas. It was also considered that it would increase the operational and depreciation costs for the City, both in respect of the wastewater infrastructure required for the Prestons growth area and in respect of the other growth areas the City was providing for. It was noted that the objective and policies of the City Plan seek an efficient provision of services. An assessment of these matters had been requested from the applicant, but had not been provided. The applicant had responded by agreeing that there should be no net cost to the City, but had not responded to requests to indicate how it was proposed to achieve this. The advice to the Council was that it should not be forced to take on those costs or rezone land when there was no definite commitment to pay for the infrastructure.
26. In terms of the construction costs of the wastewater infrastructure, the applicant has now amended the plan change to include a rule (20.3.6(a)) requiring the applicant for a subdivision consent to provide a plan for the overall wastewater system for the plan change site. It also requires the applicant to establish the approved system. It was not clear whether the rule required the applicant to establish the infrastructure both within, and beyond, the Living G (Prestons) zone, but the applicant has since agreed to amend the rule to clarify that both are required. This adequately deals with the costs of constructing the wastewater system in the circumstances of a subdivision (there are some other details of the wording of the rule that also need amending). The rule does not, however, deal with the possibility of development occurring without a subdivision. This could be overcome if the applicant is agreeable to a similar rule being included in the zone rules. This has now been confirmed.
27. The operational and depreciation costs for both the infrastructure required for Prestons and the additional costs for other growth areas have not yet been fully addressed. The financial contributions rule proposed in the letter of 2 October 2009, on behalf of the applicant, required those costs to be charged out for each household unit equivalent created. In principle this is a mechanism that could deal with these costs. However, the proposed rule leaves the dollar amount blank, so the rule does not provide the information necessary to understand the implications of the proposal. That could be rectified by adding a dollar value. The information and responses provided by the applicant on this issue in the past, including copies of evidence presented on the applicant's behalf at the PC1 hearings, suggest that the applicant has very different views from the Council on what the potential costs to the City are likely to be. However, staff have been advised that this would not be grounds for rejecting the plan change. Rather it would be a merits issue to be dealt with through the submissions and hearing process.
28. The applicant and Council officers are in discussions as to how best to provide for this issue in the plan change rules. It is not a simple issue to resolve and the applicant has recently suggested an alternative rule (20.1.5) which would introduce a formula for a financial contribution, but without the details of the formula. Either form of rule could adequately deal with the issue and staff conclude that this issue is no longer a matter that could justify rejecting the plan change, provided a financial contribution rule in one form or another is included. Staff recommend that if the Committee were to recommend that the Council accept the plan change for notification, that it also delegate to the General Manager, Strategy and Planning, the ability to agree to an alternative rule if he considered it acceptable, prior to notification of the plan change.

### **Transport**

29. A significant transport issue raised in the previous report to the Committee was that the development was highly dependent on a number of future road works to accommodate the anticipated traffic. However, there was no proposal that a restriction be placed on the rate of development of the plan change site relative to which road works were completed, except in relation to the northern arterial. After the previous Committee meeting, agreement was reached

between the applicant's and the Council's traffic engineers as to the modelling that needed to be done and the general form of plan change provisions that could deal with this issue. The plan change has now been amended to incorporate rules requiring staged development dependant on the commencement of construction of a number of road works. The reference to the commencement of "construction" overcomes another issue with the previous rule, which restricted development only until planning approval of the required works had been obtained, rather than when construction had begun. The staging rules are included in both the subdivision and zone rules.

30. The road works rule provided in September indicated solely that the specified intersections would be upgraded with traffic signals, but did not indicate other matters of upgrading required, such as the number of lanes required to achieve the Levels of Service indicated in the assessment with the application. The applicant has now provided plans of these details of the road works required for incorporation in the rule. The most recent rule no longer specifically indicated that the upgrades would include traffic lights, but the applicant has agreed to reinsert the requirement for traffic lights.
31. The plan change did not indicate the upgrading necessary for the Mairehau/Marshland intersection and the relevant rule simply required "an appropriate improved intersection", which lacked certainty as a rule. However, the applicant has recently proposed an amended rule that requires that a specific upgrade design be provided at this intersection from the outset of the development. The rule package also proposed to prohibit any road connection to Mairehau Road until such time as the appropriate improvement occurs, which could have had significant adverse transportation implications. The applicant has indicated that this should now be removed.
32. There are a number of other aspects of the proposed rules that lack sufficient certainty or require some fine tuning. For example, the staging rules need to be included under the special provision that applies to the commercial areas (Rule 8.1.3), however the intent is clear from the application and such matters can be dealt with after a decision on notification and prior to the notification itself.
33. Finally, a new rule is proposed to deal with the issue of road safety along Mairehau Road arising from the high speed limit that will exist. This rule prohibits vehicle access onto Mairehau Road, which will obviously overcome the safety issue of multiple vehicle crossings on such a road. However, staff note that this is likely to result in this section of Mairehau Road having a frontage of rear fences and that this is not necessary to overcome the issue. The advice staff has been given is that vehicle crossings would be acceptable on this frontage, provided there was a provision in the plan change that ensured the upgrading of the road to an urban standard on the northern side of the road. Staff raised this solely as an alternative the applicant may wish to consider, as a better resource management outcome, and not as a reason for rejecting the notification of the plan change. Staff understand that the applicant does not wish to amend this rule, as it is considered to provide some benefit in creating a barrier to further urban growth.
34. Staff conclude that there are no longer any transportation grounds for rejecting the application.

#### **Stormwater**

35. The previous report to the Committee raised issues relating to the stormwater management system being proposed, particularly the maintenance implications on the City of the large number of small retention basins, the potential for the basins to be wet rather than dry basins, and that possibly double the land area indicated would be required for the retention basins. The plan change has now been amended by removing any indication of the number and location of basins. This removes the implication that would arise from the original plan change, that the Council would be willing to accept such a system.
36. It does create some uncertainty as to what the final form of the stormwater management system will be and how it will impact on other activities provided for in the plan change. However, generally this is not considered to be of significance at this stage of the plan change. As noted in the previous report the area of land used for retention basins is not included in the calculation of the densities that PC1 requires to be achieved. It is not totally consistent with Policy 8(c)(vi) of PC1, which requires that retention areas be shown, but staff do not consider that is of significance in terms of the decision on notification required at this stage.

37. There is still potential for the linear park to be used for wet basins (the potential for which still exists based on the data held by the Council). The possibility of wet basins is particularly relevant in the vicinity of the higher density residential areas, which should be provided with higher levels of parks to meet their recreational needs in line with the policies in PC1. If the linear park in these areas is used for wet ponds they will have limited recreational potential. However, this matter has been dealt with to the degree that the applicant has agreed to amend the plan change to ensure that the specific parks sought by the Council (as discussed below) will not be available for stormwater retention areas.
38. Staff conclude that there are no longer any stormwater issues that would justify rejecting the plan change.

### **Open Space/Parks**

39. The previous report to the Committee indicated that the plan change contained an implicit obligation that the City would accept the linear park as reserves, which is a matter that the Council has sole discretion over through the Development Contributions Policy under the Local Government Act. The Greenspace Team did not agree with what was proposed and considered that other land was necessary to accord with the reserve priorities the Council would have for this area. The order of those priorities is as follows;
  - (1) Extending Marshlands Domain by 2-3 hectares (making a total of 4-5 hectares),
  - (2) Including neighbourhood parks of approximately 4,000m<sup>2</sup> spaced at no more than 800 metres apart, i.e. 2-4 additional parks in the Prestons site,
  - (3) A central commercial area park of approximately 1 ha.,
  - (4) Reduced green linkages.
40. The Greenspace Team indicated that parks in (1) and (2) at least, should not include stormwater management areas, but could adjoin such areas. The Greenspace Team also indicated that the land included in the linear park alone considerably exceeded the reserves the Council could acquire through development contributions. I note that the Greenspace Team are not seeking to determine the allocation of all of the potential development contribution for reserves. To attempt to do so at this stage is fraught with difficulties, as it depends on many factors that are uncertain, such as the actual final number of sections created, the value of the land at the time of subdivision, and changes to the Development Contribution Policy that may occur prior to subdivision. Instead, what is being sought is to establish the principle reserve requirements, with any excess contributions being resolved at the time of subdivision.
41. The report concluded that it was not appropriate for a plan change to contain such an implicit obligation that the Council had not agreed to, particularly where the alternative priorities sought by the Council were more consistent with the objectives and policies of the City Plan. These were considered to be grounds for rejecting the plan change in that it would not be in accord with sound resource management practice, and that the plan change would make the District Plan inconsistent with Part 5 of the Act.
42. The additional material provided by the applicant in September included a new rule (20.1.4 Creation of Public Open Space). Sub-clause (a) of this rule requires that subdivisions which create public open space are to be in accord with the ODP. Such a rule would constrain even further the ability of the Council to take reserve land that it considers to be appropriate if it is not in the linear park. Following consideration of the draft of this report the applicant has inserted a new sub-clause which states that the only land that the may be vested in the Council as reserve are certain specified areas (discussed in more detail below). This still does not quite deal with the issue, as it does not make it clear that the Council will not be required to acquire other parts of the linear park by other means. The applicant has since agreed to amend the sub-clause so that it states that the specified areas of land are the only ones the Council is required to accept.
43. The specified areas of land that the Council is to accept now include a 2 hectares extension to Marshlands Domain and two neighbourhood parks. The arrangement of parks is not quite as Greenspace had requested, as the locations selected mean some residents may be more than 400 metres from either a neighbourhood park or the Domain. However, the Greenspace Team have advised that they are willing to accept the proposals, and will acquire two additional neighbourhood reserves at the time of subdivision consent.

44. There was a related issue raised in the previous report to the Committee, which was the lack of certainty about what parts of the linear park will be accessible to the public and provide for their recreational needs. This certainty has been provided in respect of reserves, through the amendments which now specify the reserves that the Council has agreed to acquire.
45. With respect to those parts of the linear park that are not necessarily going to be acquired by the Council, an amendment to the rules now requires that land to be accessible to the public. A similar rule should also be included in the Living G rules, rather than just the subdivision rules, to ensure that any privately owned portions of the indicated open space are accessible to the public. Staff understand that this is the applicant's intention and this amendment can be incorporated prior to notification of the plan change. Staff note that the October letter on behalf of the applicant proposed the inclusion of an assessment matter that an appropriate mechanism is proposed in any subdivision to ensure that open space not vested in the Council is accessible to the public. This has not been included in the latest draft of the rules, so it would be helpful if the applicant could advise if it is still intended to be included in the plan change.
46. Staff note that one of the implications of the plan change is that parts of the linear park may be privately owned open space. This could cause difficulties in terms of the public perception of who owns, and is responsible for, these open spaces, and there is the prospect that the maintenance of these areas may ultimately fall on the Council. However, I do not consider that either of these matters are significant to the decision on whether the plan change should be notified. Staff note that the October letter on behalf of the applicant proposed the inclusion of an assessment matter relating to whether appropriate provision is made for the maintenance of open space not vested in the Council. This has not been included in the latest draft of the rules, so it would be helpful if the applicant could advise if it is still intended to be included in the plan change.
47. Staff conclude that there are no outstanding matters relating to open space/reserves that would justify rejecting the plan change

#### **Barriers to Further Urban Growth**

48. A further issue raised in the previous report to the Committee arose from Policy 6.3.10, which seeks, as a preference, a well defined barrier to urban growth on the urban/rural boundary. The plan change proposes both a considerable movement of that boundary and a very considerable extension to the extent of that boundary, with a corresponding increase in the potential for further urban expansion as a result of the plan change. An assessment of the plan change in respect of this policy is therefore significant. The previous report to the Committee indicated that the application identified some features of the plan change, but did not include an assessment (i.e. a reasoned explanation) as to how effective those features will be in forming a barrier to further urban growth. Staff note that at this stage of the plan change process the issue is not whether the Council agrees with the conclusion. Rather it is simply whether there is a consideration of the relevant factors and whether it contains an explanation as to why, and to what degree, those factors lead to a conclusion that they will provide an adequate barrier to further urban growth beyond the plan change site.
49. The information provided by the applicant after the previous Committee meeting contained a report titled "Prestons Road Ltd – Urban Boundary Assessment", which comments on a number of matters relating to the barriers issue. The draft officer report for the Committee that was sent to the applicant considered that the assessment was still inadequate. A short supplementary report has since been provided by the applicant which addresses, to some degree, the concerns raised in the draft officer report.
50. In total, the information contains a very brief explanation on how some features of the plan change could act as barriers to urban growth, in some cases those features apply to a limited part of the site. However, the assessment is considered to be deficient in respect of the following matters that it raises:
  - (a) The report identifies that the surrounding Rural 1 and 3 zoning would make it unlikely for resource consents to be granted for urban development in those zones as they would be non-complying activities. However, it does not address further plan changes, which will not be judged on the basis of consistency with the existing zoning.



- (b) The report does not address what the policy is trying to achieve, which is some sort of barrier in addition to the rural zoning that will almost invariably bound such a proposed urban extension.
  - (c) The report relies on Policy 2.1.1. Versatile Soils, but does not assess the existing limits on the potential of the versatile soils to be used for activities that rely on them, particularly those limits expressed in the report of the applicant's agricultural consultant.
  - (d) The report states that the golf courses are reserves, but provides no assessment explaining the effect these "reserves" could have in providing a barrier to future urban growth.
51. In staff's view the application has not addressed some important factors in respect of this issue and has not provided the information requested. Staff acknowledge that the application has provided an assessment, to some degree, on some of the relevant factors. As with much of the plan change application process, there is little case law on the level of information necessary for an application to meet the requirements for an assessment of effects and an assessment in terms of section 32. Having discussed this aspect with the Council's legal advisors, there is some doubt as to whether this issue would, in itself, be sufficient to justify rejecting the plan change application.

#### **Other Matters**

52. The previous report to the Committee raised the issue of the lack of an assessment of the risk of golf balls from the adjoining golf courses. An assessment has now been provided.
53. The previous report to the Committee indicated that the applicant had declined to provide an assessment of the implications of the split form of suburban centre proposed. The applicant has now amended the ODP, moving the commercial areas that were around the Marshlands Domain to the area between Marshlands Domain and the commercial area fronting onto Marshland Road. The issues of a split centre therefore no longer require assessment. The amendment is likely to reduce the accessibility of the centre to some degree, but it is not considered that this is a grounds for rejecting the plan change.
54. The issue of the lack of management of the design and appearance of buildings in the higher density areas was mentioned in the previous report to the Committee, but not as a grounds for rejection. Staff note that the applicant has proposed a new rule proposing to make some of these matters a controlled activity.
55. As noted in the previous report, a certain amount of fine tuning still needs to be undertaken with respect to the rule package, in addition to those matters noted in this report. However, the intentions are reasonably clear to enable this to be done after the decision on the notification of the application.

#### **CONCLUSION**

56. The application has been modified significantly since the previous report to the Committee, to the point that it is no longer considered that there are grounds to justify rejecting the application.

#### **THE PREFERRED OPTION**

57. That the plan change be accepted for notification. Further, that the General Manager, Strategy and Planning, be given the authority to agree to an alternative rule format for Rule 20.1.5 (relating to wastewater infrastructure costs) prior to public notification.