



9. PRIVATE PLAN CHANGE 60 – REZONING OF LAND AT HALSWELL JUNCTION ROAD FROM RURAL 2 TO LIVING G (HALSWELL WEST)

General Manager responsible:	General Manager, Strategy and Planning
Officer responsible:	Programme Manager, District Planning
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PURPOSE OF REPORT

1. This report describes a request to the Council for a private Plan Change (PC 60) to rezone 129 hectares of land at Halswell Junction Road, from Rural 2 to Living G (Halswell West), and recommends the process for dealing with the request in terms of the Resource Management Act 1991 (RMA) provisions. A decision is sought from the Council, pursuant to clause 25 of Schedule 1 of the RMA, on whether the proposed plan change should be publicly notified, and under what status.

EXECUTIVE SUMMARY

2. Proposed Change 60 ("PC 60") is a request for rezoning of 129 hectares of land as Living G (Halswell West). The land is bounded by Murphy's Rd, Quaifes Rd, the Knights Stream and Halswell Junction Rd. It is immediately across Halswell Junction Rd from the Awatea Block, recently rezoned under Change 5 to the City Plan. The land is identified for urban development in the South West Area Plan (SWAP), the Urban Development Strategy (the UDS) and Proposed Change No 1 to the Canterbury Regional Policy Statement (PC1). The location is shown on an aerial photo in **Attachment 1** and on the maps in **Attachment 3**.
3. Like other examples of the Living G zone, PC 60 proposes a range of residential densities, a small commercial area, and extensive areas of open space that include a naturalised surface water management system, neighbourhood parks, walkways and cycle-ways. Approximately 1375 household units are proposed to be constructed, at a density of 15 households per hectare, in accordance with PC 1.
4. The applicant has consulted extensively with Council officers in the preparation of this plan change. In particular, the infrastructure layout has been designed largely to officers' satisfaction, bearing in mind the needs not just of the Halswell West Block but also to integrate with adjacent lands in the south-west, in accordance with the SWAP.
5. The Proposed Change conforms in most respect with the UDS and PC 1. All of the land is within the Metropolitan Urban Limits set out in PC 1. The most significant departure from those documents is in the area of sequencing. The UDS and PC 1 proposed that most of the land in the South West Halswell Greenfields Area, which includes PC60, be deferred until after 2021 and the applicant has proposed no staging to achieve this.
6. The urban design of the proposal appears attractive and should work well. Careful attention has been given to designing an attractive network of open spaces integrated with the surface water management system. Walking, cycling and public transport are catered for and there is a clear roading hierarchy. The more intensive forms of development, including the highest density residential areas, and the commercial and community footprint areas, are to be subject to restricted discretionary activity controls.
7. One significant matter that has not been completed is consultation with tangata whenua. The applicant has relied on the South West Area Plan which included research into tangata whenua issues and consultation with Ngai Tahu. The land within SWAP was accepted as being generally suitable for development, subject to more detailed consultation with tangata whenua at the time of development. The applicant had initial difficulty establishing contact with the appropriate iwi organisations and this was further delayed by the February earthquake. This has been rectified and the applicant is now consulting with relevant Ngai Tahu organisations. A further information request was made concerning tangata whenua issues and a response received. If necessary any amendments to the proposal arising out of this process can be made through submissions, either by the iwi or the applicant.

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8. The purpose of this report is not to consider the requested plan change on its merits. Rather, it is to recommend which of the options under clause 25(2)-(4) of Schedule 1 of the RMA is to apply to the processing the plan change application. Consideration of merits of the application will occur after submissions have been received, as a part of the decision making process by the hearings panel.
9. Under the Resource Management Act 1991 (the RMA) the applicant has made the request to change the City Plan. It has responded to requests for further information and collaborated with Council officers to modify the proposals at their suggestions.
10. The process options available to the Committee are set out in Schedule 1, clause 25, subclauses (2), (3) and (4) and clause 24 of the RMA, and are summarised below. The Committee may recommend to the Council that PC 60 be either:
 - (a) Rejected in whole or in part on one of the limited grounds set out in the Act; or
 - (b) Dealt with as if it were an application for a resource consent (in which case the provisions of Part 6 of the Act would apply accordingly); or
 - (c) Modified with the agreement of the person who made the request; or
 - (d) Adopted in whole or in part, as if it were a plan change made by the Council itself (this means accepting the responsibility and costs of processing it); or
 - (e) Accepted, in whole or in part, and that the Council proceed to notify the request, or part of the request, under clause 26, at the cost of the applicant.
11. It is considered that options (a) to c) are not available or are inappropriate in this case and that the choice is between (d) and (e). Option (e) is recommended. The full implications of the options under clauses 24 and 25 of the First schedule of the Act are discussed below.

FINANCIAL IMPLICATIONS

12. Should the Council resolve to notify the plan change there are legal processes which must be followed in accordance with the First Schedule of the RMA. This is a standard process that all plan changes must follow and if the processes are correctly followed, no particular financial risks are foreseen.
13. There would be costs arising at various stages of the plan change process relating to the preparation of officer reports and a hearing in response to submissions. The scale of costs would depend on the level of complexity of the submissions received. As this is a private plan change, these costs are largely recoverable from the applicant. Costs associated with responding to any Environment Court appeals received are not recoverable, except in instances where the court may award costs.
14. Should the Council resolve to adopt the plan change as its own, it will need to absorb all the processing costs (up until the Appeals stage).

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

15. Yes. The 2010/11 budget for the District Planning work programme, adopted by the Council and provided for in the LTCCP, includes funding for processing this plan change. As this is a private plan change request, these costs are largely recoverable.

LEGAL CONSIDERATIONS

16. There is a legal process set out in the RMA which must be followed. It includes public notification of the plan change followed by submissions, reporting, hearings, decisions and possible appeals. Provided the process is followed correctly there are no particular legal risks associated with this plan change. Should the Council decide not to publicly notify the application for any reason, the decision would be appealable to the Environment Court.

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ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. The matter accords with the LTCCP and relevant Activity Management Plans.

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

18. The proposal is part of the district planning levels of service in the LTCCP.

ALIGNMENT WITH STRATEGIES

19. The application is in accordance with the Urban Development Strategy, the South West Christchurch Area Plan and embodies the principles of other key strategies such as the Open Space Strategy.

CONSULTATION FULFILMENT

20. RMA consultation with tangata whenua is underway and can be completed during the process which will follow notification. Consultation by the applicant with Council has been excellent.

21. The applicant has directly contacted the owners of properties in the vicinity of the site by way of a letter and has responded to replies received.

22. No consultation has occurred with the Riccarton/Wigram Community Board. However the proposal accords substantially with the Urban Development Strategy, the South West Area Plan and Proposed Change 1 to the Regional Policy Statement, all of which will be familiar to the Community Board. In addition the applicant has requested that the proposal be dealt with as quickly as possible so that the site can be available for earthquake recovery.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Accepts the attached Section 32 assessment for public notification;
- (b) Accepts Private Plan Change 60 – Rezoning Rural 2 land to Living G (Halswell West) pursuant to Schedule 1, Clause 25(2)(b) of the Resource Management Act 1991 for public notification;
- (c) Notes that in accordance with Council policy, the costs of processing the private plan change are to be borne by the applicant.

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BACKGROUND & DISCUSSION**Features of the Proposal**

23. Proposed Change 60 (PC 60) is a request for rezoning of 129 hectares of land as Living G (Halswell West). The land is bounded by Murphy's Rd, Quaifes Rd, the Knights Stream and Halswell Junction Rd. It is immediately across Halswell Junction Rd from the Awatea Block, recently approved by the Council for rezoning to Living G under Change 5 to the City Plan. The land was identified for urban development in the South West Area Plan (SWAP), the Urban Development Strategy (the UDS) and Proposed Change No 1 to the Canterbury Regional Policy Statement (PC 1).
24. Like other examples of the Living G zone, Change 60 proposes a range of residential densities, a small commercial area, and extensive areas of open space that include a naturalised surface water management system, neighbourhood parks, walkways and cycle-ways. Approximately 1375 household units are proposed to be constructed, at a density of 15 households per hectare, in accordance with PC 1.
25. The applicant has consulted extensively with Council officers and advisers in the preparation of this plan change. In particular, the infrastructure layout has been designed largely to officers' satisfaction, bearing in mind the needs not just of the Halswell West Block but also of adjacent lands in the south-west. The intention is to produce a package of roading, water and sewer reticulation, storm-water management and open space that is integrated economically and efficiently with the rest of the south west area. The work done by Council in producing the SWAP was of great assistance in designing the infrastructure for this plan change. Some modifications of SWAP proposals have been made, particularly to the location of sewage pumping stations, and minor changes to the main roading layout, but generally these would produce outcomes as good or better as those proposed in SWAP.
26. The opportunity to provide a central sewage pumping station on the applicant's land will reduce the number of pumping stations originally intended for this area and free up capacity in the Council's system to serve other areas at an earlier time. This proposal is endorsed by the Council officers.
27. The storm-water system will be largely constructed as a set of naturalised swales, the reestablishment of the former headwaters of Knights Stream, and a set of basins. The system will also treat storm-water from the land to the south-east across Murphy's Rd, and convey storm-water from areas north of Halswell Junction Rd via the reconstructed Knights Stream. The storm-water system proposed is expected to significantly improve water quality, provide for ecological restoration, enhance the landscape and provide recreation opportunities.
28. The roading system consists of a hierarchy of collector, secondary and local streets. The layout and typical cross-sections and other features of these will be compatible with Council's initial proposals for a Liveable Streets Strategy and for the review of City Plan streets provisions, so far as these are known at this stage. An interesting feature is a "shared space" where the spine collector road passes through the commercial area. This will need to be carefully designed to fulfil the needs of both traffic movement and pedestrians. Appropriate policies and rules have been included to achieve this. The connections with the wider roading network will be at three new roundabouts to be constructed on Halswell Junction Rd in accordance with SWAP, and there are also minor connections to Murphy's and Quaifes Roads.
29. The Open Space network has been designed to meet the Councils strategies for open space and to be affordable within the development contributions likely to be collected from this block. It includes two neighbourhood parks within walking distance of nearly all households, several linear parks along streams and naturalised swales, a larger community park and a central civic park.

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30. The development will be at the outer edge of the Metropolitan Urban Limit in PC 1, and the outer boundaries are well-buffered with open space, storm-water ponds, and the reconstructed Knights Stream. It therefore supports the City Plan objectives and policies of consolidated and contained urban growth.
31. Some of the sewerage and storm-water proposals will require cost sharing arrangements with Council, as these will be sized and sited to service other lands beyond the confines of the block.
32. The urban design of the proposals appears attractive and should work well. Careful attention has been given to designing an attractive network of open spaces integrated with the surface water management system. Walking, cycling and public transport are catered for. There is a clear roading hierarchy. The more intensive forms of development, including the highest density residential areas, and the commercial and community footprint areas are to be subject to restricted discretionary activity controls to deal with any design and appearance issue that may arise from more intensive forms of development.
33. The rules package mostly follows the rules for Plan Change 5 (Awatea) which is adjacent, to the north of Halswell Junction Rd. One significant difference however is in the density distribution. This plan change proposes less differentiation in density, and smaller but more intense pockets of "Residential Density A and B" areas than in most other examples of Living G to date. However this is something which varies quite widely already across the Living G zones.
34. One significant matter that has not been completed is consultation with tangata whenua. The SWAP did undergo consultation with iwi, and the land within SWAP was accepted as being generally suitable for development, subject to more detailed consultation at the time of development. The applicant had initial difficulty establishing contact with the appropriate iwi organisations and this was further delayed by the February earthquake. The applicant therefore relied initially on the South-West Area Plan provisions. However the applicant has modified the initial proposals to better provide for tangata whenua issues, provided further information to Council and tangata whenua and is now consulting with iwi. If necessary any amendments to the proposal arising out of this process can be made through submissions, either by the iwi or the applicant.
35. Because of the design features described, PC 60 well with City plan objectives and policies concerning amenity, transport and the natural environment .
36. PC 60 also conforms in most respects with the UDS and PC1. The most significant departure from those documents is in the matter of sequencing. The UDS and PC1 propose that most of the land in the South West Halswell Greenfields Area, which includes PC1, be deferred until after 2021 and the applicant proposes no staging to achieve this. The applicant considers that the imminent completion of the major sewer upgrades and Stage 1 of the Southern Motorway extensions removes the need for any deferral or sequencing of development. The applicant has an appeal against the PC1 deferral of its land. The applicant also considers that its land could have a significant role to play in the reconstruction of Christchurch following the earthquakes which would be hampered by the staging in PC1. This is a matter which can be considered later in the process at the hearings and is not relevant to the question of public notification.

Resource Management Act Requirements

37. Under the Resource Management Act 1991 (the RMA) the applicant has made the request to change the City Plan as it is entitled to do. It has responded appropriately to requests for further information and collaborated with Council officers to modify the proposals at their suggestions. At this stage of the process, the Council must decide which of the options under Clauses 24 and 25 of the First Schedule to the Resource Management Act 1991 to employ.

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38. The implications of the options under clauses 24 and 25 of the First Schedule of the Act are discussed below.

Option 1 – Resolve to reject Private Plan Change 60

39. There are very limited grounds in the Act for rejecting an application. A plan change can be rejected if:⁴
- (a) It is frivolous or vexatious;
 - (b) The substance of the change has been dealt with by the Council or the Environment Court in the last two years;
 - (c) The change is not in accordance with sound resource management practice;
 - (d) The change would make the District Plan inconsistent with Part 5 of the Act (other policy statements or plans, such as Regional Policy Statement or Plan, iwi management plans);
or
 - (e) The District Plan has not been operative for more than two years.
40. PC 60 cannot be said to be frivolous or vexatious. The applicant has invested significant time and financial resources in preparing the plan change and has made a case for the plan change that warrants consideration. It is substantially in accord with the South West Area Plan, the Urban Development Strategy and Proposed Change 1 to the Regional Policy Statement. The substance of the plan change has not been considered in the last two years and the relevant parts of the City Plan have been operative since November 2005. Both Council officers and external consultants have been involved in assessing various aspects of the proposal. No significant or fundamental issues have been raised that would suggest that the proposed change is so inappropriate that it could be considered not in accordance with sound resource management practice.

Option 2 - Resolve to deal with Private Plan Change 60 as if it were an application for resource consent

41. Under this option the Plan Change would be converted to a resource consent application and be processed by the Council as such. The applicant bears all of the associated costs. A resource consent could provide for the establishment of the proposed land uses and the subdivision of the land but it would be inappropriate to deal with a proposal of this magnitude as a resource consent. As a non-complying activity, there would be difficulties meeting the objectives and policies of the City Plan while the site remained zoned Rural 2, too much detailed design would be required at this stage, and the result would be inflexible and probably generate the need for many more resource consents into the foreseeable future. This would not be an efficient option in terms of Section 32 of the RMA.
42. In this case a change of zoning to more closely reflect the future use of the site may assist the Council in meeting its obligations to achieve integrated management of effects of activities under s31 of the Act, and to have regard to the provisions of PC 1. It also gives certainty to adjacent land owners. It is considered that it remains appropriate for the Council to continue processing the plan change request, rather than place reliance on the resource consent process.

Option 3 - Resolve to modify Private Plan Change 60 with the agreement of the person who made the request

43. The Council may, within 30 working days of the receipt of the plan change request, as a result of further or additional information, commissioned reports, or other relevant matters, and with the agreement of the person who made the request, modify the request. In fact the applicant has made a number of changes to the proposal already, as a result of discussions with Council officers and advisers, so this process has already taken place to an extent, although informally. However no further changes are recommended at this stage.⁵

⁴ Clause 25(4) of the First Schedule to the RMA.

⁵The 30 working days would expire on 9 June 2011.

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Option 4 - Resolve to adopt Private Plan Change 60 and publicly notify it as if it were the Council's own plan change

44. Under this option PC 60 would become a Council plan change. It would be notified, heard and decided in the same way as a plan change prepared by the Council, that is, the Council bears all of the associated costs. Adopting the plan change would mean that:
- (a) The Council would be indicating that the plan change has merit and that it generally supports the proposal; and
 - (b) The Council would bear the costs of managing and processing the plan change.
45. Adoption of a private plan change application would generally only occur where there is a wider public good flowing from the plan change. A plan change promoting wider public good would normally be one that addressed an existing city wide or multiple zone-wide adverse environmental effect, for example, a change to a bulk and location control that had lead to unexpected adverse outcomes. There may also be an argument that adopting this Plan Change would help to give effect to PC1, under which the land is identified for just this purpose. However there may be some aspects the Council would not choose to support. It is noted that PC 62 (Wigram) was a Living G change to implement PC 1 but was private, while PC 5 (Awatea) which was similar was Council-initiated. The applicant has not requested the Council to adopt the Change.

Option 5 - Resolve to accept Private Plan Change 60 and the Section 32 Assessment for public notification

46. Under this option Private Plan Change 60 would be notified in its current form as prepared by Aurecon (NZ) Ltd for Fulton Hogan. Accepting the Plan Change means:
- (a) Fulton Hogan determines the nature of the plan change that is notified;
 - (b) The Council remains neutral as to its position on the proposal but is satisfied that the Change includes sufficient information to be publicly notified; and
 - (c) Fulton Hogan bear the cost of the complete plan change process up until the point of any appeals.

Note that all reasonable associated costs would be borne by the applicant up until the decisions are adopted and publicly notified.

47. Any concerns the Council may have regarding the Plan Change, such as the format of the amendments to the City Plan, could be raised through the officer's Section 42A Report.
48. The recommendation based on the analysis of the options is to accept private Plan Change 60 – Rezoning Rural 2 to Living G (Halswell West), for notification.

Attachments:

- Attachment 1 - Proponent's Introduction to the Plan Change
- Attachment 2 - Schedule of Proposed Amendments to the City Plan
- Attachment 3 - Maps
- Attachment 4 - Proponent's Assessment of Effects
- Attachment 5 - Proponent's Section 32 Report