

REPORT 2
(1215/52/IM)

**55-85 CURTIS STREET REZONING: PROPOSED PLAN CHANGE
DOCUMENTS FOR NOTIFICATION**

1. Purpose of report

The report relates to the rezoning of the site known as 55-85 Curtis Street, Karori (see **Appendix 1**). It comes directly in response to decisions made by the Committee on 13 September 2012. The purpose of the report is twofold:

- To present proposed plan change documents to the Strategy and Policy Committee (“the Committee”) for approval and formal notification under the Resource Management Act 1991 (“RMA”).
- To seek the agreement of the Committee to a specific plan change process (including the notification and hearing processes).

2. Executive summary

This report comes directly in response to the decision of the Committee on 13 September 2012 to instruct officers to prepare plan change documents for the approval of the Committee and subsequent notification under the RMA. Those documents have been prepared and comprise:

- Plan change documents outlining the proposed changes to the District Plan (see **Appendix 2**).
- An assessment of the “benefits and costs” of the plan change prepared in accordance with Section 32 of the RMA which provides the resource management justification for the plan change (see **Appendix 3**).

Consistent with the decisions of the Committee on 13 September 2012 the plan change prepared comprises a specific “Business Curtis Street Area” zoning along with a package of site specific provisions (policies, rules etc) designed to acknowledge local values and constraints. These have been informed by full assessments in a range of technical areas, and include:

- Provisions to enable a comprehensive / co-ordinated approach to site development.
- Maximum building height and footprint rules to trigger resource consents requiring urban design assessments.
- Maximum floorspace rules for retail and other commercial activities to trigger resource consents requiring transport assessments.
- “Reverse sensitivity” provisions to protect the operation and maintenance of the overhead transmission lines which form part of the national grid.
- Landscaping and earthworks rules designed to ensure appropriate visual and ecological outcomes.

No retail floorspace controls are proposed. This is based on advice from Property Economics who have identified that the size of the site allied to a lack of commercial land in the western suburbs means that any impacts on existing centres will be minimal and therefore retail floorspace controls could not be justified on RMA grounds.

Aside from the regulatory approach embodied in the draft plan change it is proposed that Council undertake planting within the Old Karori Road reserve to provide effective short and long-term protection of “seepage wetlands” and associated glow-worm colonies located on the cut embankment on the western side of Old Karori Road.

In developing the plan change documents officers have remained in regular contact with the landowner (“Terrace Heights”) and the Creswick Valley Residents Association (“CVRA”) to obtain their input. Both parties have expressed a willingness to work with Council through the plan change process.

If agreed by the Committee the plan change documents can be notified for submissions on 12 December 2012. An extended notification period (an additional ten working days) is proposed to compensate for the notification of the plan change over the Christmas holiday period. This extended period would end on 18 February 2013, with subsequent steps in the process likely to result in a Council decision being reached by approximately mid year in 2013.

In addition to the content of the plan change documents officers have designed a process which is designed to maximise public awareness and input into the plan change process. This includes ongoing open communications with key stakeholders, specific information provided to local residents deemed to be “directly affected”, on-site signage; information posters at key local facilities, and information on the Council web-site.

3. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Adopt the plan change documents and Section 32 report attached in **Appendix 2 and Appendix 3** of this report.*
3. *Agree to publicly notify the attached draft plan change documents and Section 32 report as “District Plan Change 77: Curtis Street Business Area”, in accordance with the First Schedule of the Resource Management Act 1991.*
4. *Delegate to the Built Environment Portfolio Leader and the Chief Executive the authority to approve minor editorial word changes and to give effect to any changes agreed by the Committee, prior to notification.*
5. *Note that in agreeing to recommendation 3 the proposed plan change will be notified on 12 December 2012 with the closing date for original submissions being 18 February 2013.*

6. *Note that this is an extended notification period of an additional ten working days to compensate for the overlap with the Christmas holiday period.*
7. *Note that at the conclusion of the submissions and further submissions processes officers will report back to the Committee with a recommendation on the hearings panel to be appointed.*

4. Consultation

Since the Committee decision on 13 September 2012 officers have had further meetings with CVRA and Terrace Heights and have also undertaken consultation with Transpower New Zealand Ltd, Port Nicholson Block Settlement Trust, Ngati Toa Rangatira, the Minister for the Environment and Greater Wellington Regional Council. This has been essential in developing a full understanding of relevant resource management issues. The outcomes of meetings and other communications with these parties is set out below.

4.1 Consultation with Creswick Valley Residents Association

Further meetings have been held between officers and members of the CVRA committee. From the officer perspective this consultation has been constructive and added to the understanding of resource management issues in the local area. CVRA has been regularly updated on progress and the considerations being made under the RMA. They have also been advised about the nature of planning provisions in the attached plan change documents. CVRA has indicated it will provide a written response to the documents, but this was not available to officers at the time of writing.

Should the Committee agree to publicly notify the attached draft plan change officers will work with CVRA to confirm an “impact catchment map” prior to notification. The impact catchment map will identify all of those parties deemed “directly affected” by the plan change, and those parties will be provided with a special letter informing them of the plan change.

4.2 Consultation with Terrace Heights Holdings

Further meetings have been held between officers and Terrace Heights. From the officer perspective this has also been constructive. Terrace Heights has been regularly updated on progress and the considerations being made under the RMA. They have also been advised about the nature of planning provisions in the attached draft plan change. Notably Terrace Heights has indicated a willingness to work with the Council plan change process. It has also withdrawn its proceedings in the Court of Appeal against the High Court decision. This removes the risk that the Business 2 zoning proposed under Plan Change 73 could be reinstated.

4.3 Consultation with Transpower

Transpower are the owners and operators of the overhead transmission lines which traverse the subject site. These are part of the national grid. Officers have consulted with Transpower, who are concerned with development underneath the transmission lines (which could hinder their operation and maintenance) and the establishment of sensitive activities (e.g. residential dwellings) which

could create reverse sensitivity conflicts. There is explicit acknowledgement in the plan change that Transpower could be an “affected party”, and this has been included to take these concerns into account.

4.3 Other consultation

The RMA requires local authorities to consult with tangata whenua during plan change development, and Port Nicholson Block Settlement Trust and Ngati Toa Rangatira have been consulted as the Iwi authorities representing tangata whenua interests in Wellington City. Ngati Toa Rangatira has confirmed that there are no sites or issues of significance to them on the site or in the immediate vicinity. Port Nicholson Block Settlement Trust has yet to complete its investigations, but is happy for the plan change process to proceed, noting it has further opportunities to liaise with Council, and to participate in the statutory planning process.

Officers have also consulted with the Minister for the Environment and Greater Wellington Regional Council, and both have acknowledged the Council plan change process without raising any concerns.

5. Planning approach

In addition to the consultation described above a full set of technical investigations was completed, building on and confirming the findings of the feasibility investigations already completed earlier in the year. They cover the following resource management issues:

- Ecology
- Economics
- Geotechnical and site contamination
- Heritage
- Landscape
- Noise
- Overhead transmission wires
- Transport
- Urban Design
- Planning overview

These investigations identified the following strategic issues which have driven the development of the attached plan change documents:

- Business activity represents the most efficient use of the land and there is a wide range of business activity that could provide benefit in RMA terms (e.g. retail, offices, local services)
- The whole site is undeveloped, creating an opportunity for co-ordinated development to achieve a high quality environment.
- Development of the site needs to recognise local values, particularly the residential and landscape setting.
- There are constraints on the road network, notably the capacity of the Curtis Street / Chaytor Street intersection and a lack of capacity for on-street parking on Curtis Street.
- Development and use of the site needs to recognise the presence of the overhead transmission lines associated with the national grid.

6. The plan change

6.1 Plan change content

The objectives and policies of the plan change are derived from the strategic issues identified above, as well as other principles of good resource management practice. The plan change relies on a combination of site specific rules and other rules which have already proven to be successful in other parts of the District Plan. This allows for specific local issues to be properly controlled whilst otherwise maintaining a consistent approach in the District Plan. Set out in the table below are site specific rules and standards which have been included in the draft plan change alongside a comparative rules and standards in existing business zones:

Issue	Provisions proposed for Curtis Street Business Area	Comparison with other business zones
Retail controls	None included because the development potential of the site is limited and commercial land is undersupplied in the western suburbs	Various controls on “integrated shopping centres”, supermarkets and small format retail tenancies in the Business 1 and 2 areas for the purpose of managing retail distribution impacts on identified Centres
Building and urban design	Buildings with footprints exceeding 500m ² require resource consent Maximum building height = 114m above sea level or 6m (whichever is the greater) require resource consent. This height provides for buildings of 6m on the upper part of the site and 10-12m on the lower part.	Business 1 Area also 500m ² Business 2 Area 4,000m ² Business 1 and 2 Areas have location specific height limits generally contained in the range of 12 – 18m.
Traffic management	Retail activity over 500m ² requires resource consent. Commercial activity (non-retail) over 2500m ² requires resource consent.	In the existing Centre, Business 1 and Business 2 Areas the comparative standard is 70 car parks
Reverse sensitivity (overhead transmission lines)	Sensitive activities (e.g. residential) are discouraged by requiring resource consent as a discretionary activity. Transpower New Zealand Ltd is specifically noted as a party that may be notified in the resource consent process.	Transpower New Zealand Ltd is specifically noted as a party that may be notified in the resource consent process where the standards for buildings and structures are exceeded
Notification	Limited use of non-notification clauses. The only issues specifically excluded from notification are resource consents triggered by dust, electromagnetic radiation, vehicle parking, and servicing	Much broader use of non-notification clauses in other parts of the District Plan.

Issue	Provisions proposed for Curtis Street Business Area	Comparison with other business zones
	and site access infringements (excludes traffic generation)	
Landscaping	5% of car parking areas over 700m ² or with greater than 35 car parks must be landscaped. Earthworks and retaining structures within 10m of the western site boundary and involving vegetation must include replanting / landscaping	No specific requirements, but landscaping can be required as part of resource consent processes.

The plan change also includes a voluntary “concept plan” approach which encourages the site owner / developer to submit a concept plan which will provide a co-ordinating framework for development over time. The plan would be submitted and assessed as a controlled activity (the least restrictive resource consent category) subject to meeting standards. This would set out building footprints, car parking areas, landscaping and primary access ways. Subsequent development which is consistent with the concept plan would be favourably treated in later resource consent processes. This approach to co-ordinated development is recommended for the following reasons:

- The controlled activity status of concept plans reduces the risk to developers of entering into the voluntary process and will encourage them to undertake development in a co-ordinated manner.
- Developing a concept plan close to the time of development (as opposed to including it *in* the actual plan change now) means a better match can be made between the planning and the likely use.
- If a concept plan opportunity is not taken up by the developer there are other mechanisms built into the plan change to ensure development and subdivision of the site occurs in a co-ordinated fashion.

6.2 Ecology

Ecological issues have required particularly careful consideration. The ecological assessment undertaken by Wildlands Consultants has identified ecological values associated with the Kaiwharawhara Stream, adjacent indigenous vegetation and associated birdlife, and a “seepage wetland” with associated glow-worms on the western bank of Old Karori Road (on road reserve). All of these values are located off the site, but their relationship to the site requires the following responses:

- Ensuring best practice earthworks management techniques to avoid sediment runoff into the Kaiwharawhara Stream (which re-emerges from a culvert 1km downstream).
- Maintenance of a vegetation buffer on the eastern side of Old Karori Road to continue the existing “buffering” effect that vegetation has on the seepage wetland and glow-worms.

Mechanisms are included in the draft plan change to ensure appropriate earthworks management and control of runoff into the Kaiwharawhara Stream. This will be enforced at the resource consent stage.

With regard to the seepage wetland and glow-worms on Old Karori Road Wildlands Consultants have identified that the best protection option is for Council to put in place new planting on the road reserve directly opposite the colonies. Planning officers have liaised with Parks and Gardens officers who have advised that they can plant a mixture of native and exotic species that will provide both short and long-term buffering. This can occur as part of an existing planting programme occurring in the area. This non-regulatory response is considered to be the most effective option available and ensures that the protection of the seepage wetland and glow-worms will be under Council control.

6.3 Plan change drafting

Officers are cognisant of the desire to make the District Plan more concise and easier to understand and a different approach to drafting and structure has been adopted. Officers have attempted to maximise conciseness and clarity whilst ensuring all relevant resource management issues can be properly controlled. Particular attention has been given to the drafting of the rules and a style adopted which helps the reader understand them at face value.

The proposed plan change involves inserting two new (though small) chapters into the District Plan, and duplicates a number of provisions, including definitions, introduced by Plan Change 73. This is required to effectively separate this plan change from Plan Change 73 which is still subject to Environment Court appeals.

7. Recommended timing and approach to notification and Council hearing

7.1 Timeframes (general)

Key steps for local authorities during the RMA plan change process are set out in the table below.

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| <ol style="list-style-type: none">1. Notification of the plan change and receipt of submissions (minimum 20 working day period).2. Council summarises submissions (no time period specified).3. Notification of submissions summary and receipt of further submissions (10 working days).4. Council hearing process (minimum 10 working days notice must be given).5. Council level decision (must be made within two years of the plan change being notified) |
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Because some timeframes are expressed as “minimums” and others are unspecified exact dates for key milestones in the plan change process cannot be set. Significant work occurs in some of the steps above, notably Step 2 which involves summarising submissions and presenting these in a document for further public notification. The extent of this work and the time required depends on the number of submissions received. Step 5 involves the hearings panel deliberating on submissions and drafting a recommendation on the plan

change, which will then need to be considered by full Council. On this basis a realistic timeframe for reaching a Council level decision is approximately mid 2013.

7.2 Notification

Of more immediate concern is the notification of the plan change documents and the length of the associated submission period. Assuming the Committee agrees to notify the draft plan change documents this could occur on Wednesday 12 December 2012. Taking into account public holidays the minimum notification period of working days would terminate at the beginning of February. For fairness reasons officers recommend that the notification period be extended for additional ten working days (total 30) to compensate for people being out of Wellington during the holiday period. An additional ten days would extend the notification period until 18 February 2013.

7.3 Notification and public awareness

As outlined in the preceding Committee paper dated 13 September 2012, techniques are proposed to maximise public awareness of the plan change. Specifically the following package of actions is proposed:

- Provision of specific information to “directly affected parties” in the local area.
- Maintenance of the “open door policy” for communications between officers and CVRA, Terrace Heights and other interested parties.
- Erection of a public notice of the subject site outlining details of the proposed plan change and containing references to where further information can be accessed.
- Posters alerting ratepayers to the proposed plan change, providing information and inviting submissions, will be displayed at Karori Library and Recreation Centre, Marsden Village and Northland shops.
- Relevant information will be posted on the Council website.

All of these actions will occur at the beginning of the notification process to maximise the exposure of the plan change. Overall the notification process will be conducted to meet the requirements set out in the First Schedule of the RMA and the spirit of the High Court decision.

The identification of directly affected parties can occur in the period leading up to notification and officers have already received feedback from CVRA on properties that should be included. The methodology for identifying these properties will involve considering relevant effects (e.g. noise, visual effects) and determining the likely geographical extent of these effects on the impact catchment map.

7.4 Council hearing

At the conclusion of the submission and further submission process a hearing must be held to allow those submitters who wish to be heard the opportunity to present to a hearing panel. Assuming notification of the plan change prior to Christmas it is estimated that the hearing could be held in April or May 2013.

The length of the hearing will depend on the number of submitters, but based on the level of public interest in the issue a significant number can be expected. The hearing may take up to a week, or even longer. Decisions regarding the make up of the hearing panel can be made at a later date.

8. Other considerations

8.1 *Financial considerations*

A new rezoning / plan change process for the site will involve officer time, legal and consultant fees. It is anticipated that this can be accommodated within the existing budget of the District Plan team, though depending on how the process unfolds (e.g. whether there are Environment Court appeals) there may be some impact on the timing of other work included in the approved District Plan work programme.

8.2 *Climate change impacts and considerations*

There are no climate change impacts or considerations.

8.3 *Long-term plan considerations*

Costs associated with the District Plan work programme agreed by the Committee in February 2012 are included in the Long Term Plan. That work programme did not include a plan change or variation for Curtis Street, and assuming no increase in funding other work may have to be delayed to accommodate it.

9. Conclusion

This report and the attached draft plan change documents have arisen from the decision of the Committee on 13 September 2012. A “Curtis Street Business Area” zoning is recommended alongside a zone specific package of planning provisions. A thorough “Section 32” analysis has been completed and this provides an assessment of the benefits and costs of the proposed planning framework and ultimately its justification under the RMA.

If agreed by the Committee the plan change documents can be notified for submissions on Wednesday 12 December 2012. An extended notification period (an additional ten working days) is proposed to compensate for the notification of the plan change over the Christmas holiday period. This extended period would end on 18 February 2013, with subsequent steps in the process likely to result in a Council level decision being reached by approximately mid year in 2013.

In addition to the usual public notice, officers recommend a package of specific actions to maximise public awareness of the plan change during the RMA process. This includes ongoing open communications with key stakeholders; specific information provided to local residents deemed to be “directly affected”; on-site signage; information posters at key local facilities; and information on the Council website.

Contact Officers: *Andrew Macleod (Principal Programme Advisor – Planning) and Sarah Edwards (Senior Policy Advisor – Planning)*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Consideration has been given to Council's strategic direction and any changes to the District Plan will give effect to this, as well as the principles set out in the District Plan Review report approved on 16 February 2012 and the previous Committee decision on this matter on 13 September 2012.

2) LTP/Annual Plan reference and long term financial impact

A plan change arising from this report will be funded from the District Plan budget as provided for in the LTP and Annual Plan.

3) Treaty of Waitangi considerations

Consultation has been undertaken with Port Nicholson Block Settlement Trust and Ngati Toa Rangatira as required under the Resource Management Act 1991. Ngati Toa Rangatira has confirmed it has no concerns with regard to the plan change and Port Nicholson Block Settlement Trust has not completed its investigations but is happy for the process to continue. Both authorities are aware of further opportunities to participate in the statutory plan change process.

4) Decision-making

This is not a significant decision. The report identifies options and reflects the views and preferences of those with an interest in this matter who have been consulted with.

5) Consultation

Targeted consultation has been undertaken with the landowner, the Creswick Valley Residents Association, Transpower New Zealand Ltd, relevant Iwi authorities (see above), Greater Wellington Regional Council and the Ministry for the Environment. Any plan change arising from Committee decisions on this report will be subject to the notification requirements of the Resource Management Act 1991 which facilitates opportunities for further, formal input from these and other parties.

6) Legal implications

There are legal implications associated with decisions on this report, relating to Council's responsibilities under the Resource Management Act 1991. Any party which makes a submission on a plan change is able to make an appeal to the Environment Court.

7) Consistency with existing policy

There are no immediate policy implications.

APPENDIX 1

Aerial image of the site (street address 55-85 Curtis Street, Karori)



Appendix 2: Draft plan change documents

Appendix 3: Draft Section 32 report