

Planning for Growth

District Plan Review

Issues & Options Report: Curtis Street Business Area

Tō tātou taone
mō Apōpō

**E rautaki
ana mātou**

Our City
Tomorrow

**Planning
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Wellington City Council
Me Heke Ki Pōneke

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First Draft	Tom Chi		13/07/2021

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Executive Summary

This Issues and Options Report has been prepared as part of the wider Planning for Growth programme to accommodate anticipated growth over the next 30 years. The purpose of this Report is to provide an analysis of high-level issues relating to the current Curtis Street Business Area and to provide options for addressing those issues.

The key issues and preferred options as identified by this report are:

- Issue 1: The appropriateness of District Plan policy direction.
 - The overarching policy direction for the Curtis Street Business Area points to the area as a mixed-use site that anticipates residential and commercial land use, while also considering the qualities of the natural and residential environment it is located within – being the Creswick Valley. This policy guidance comes predominantly from Plan Change 77 and its subsequent Environment Court decisions.
 - Preferred option: It is recommended to retain the status quo policy direction. Plan Change 77 and subsequent Environment Court proceedings confirmed that the current direction is the most appropriate for the site.
- Issue 2: The efficiency of District Plan provisions.
 - The overarching policy direction for activities in Curtis Street Business Area points to the area as a mixed-use site that anticipates residential and commercial land use, while also considering the qualities of the natural and residential environment it is located within – being the Creswick Valley. Overall, the current District Plan provisions are considered reasonably efficient in achieving the Curtis Street Business Area's purpose and policy direction on the basis that the applications being approved are for residential and commercial land uses, with supporting subdivision.
 - Preferred option: It is recommended to retain the status quo. There is no recommended change in policy direction that needs to see a corresponding change in rules nor activity standards.
- Issue 3: Drafting structure.
 - The overarching policy direction for the Curtis Street Business Area requires the implementation of the National Planning Standards. These came into effect on 3 May 2020 and set out a national template and framework requiring national consistency on the structure and format for resource management plans prepared under the RMA. The Curtis Street Business Area is a bespoke zone and the National Planning Standards do not offer a set solution to re-housing any new provisions for this zone.
 - Preferred option: It is recommended to re-house new provisions inside a Special Purpose Zone Chapter. The site-specific requirements are sufficient to warrant a Special Purpose Zone.

1 Introduction

Wellington City Council is planning for substantial growth in the next 30 years. The Council is currently undertaking a review of the Urban Growth Plan and the District Plan to provide for this future growth as part of the Planning for Growth programme of work.

The purpose of this report is to identify issues and recommend options for further consideration relating to a review of the District Plan's (DP) Curtis Street Business Area. This site is located at 45 to 85 Curtis Street, Karori and is subject to the site-specific Curtis Street Business Area zoning. The background to the Curtis Street Business Area is summarised in the accompanying Background and Monitoring Report for the Curtis Street Business Area.

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2 Legislative and Statutory Context

2.1 Resource Management Act 1991

The District Plan is a statutory planning document required to be produced by local authorities by the Resource Management Act 1991 (RMA or Act). The RMA requires local authorities to review the District Plan provisions at least once every 10 years. This can be done through a staged / rolling review or full review. Wellington City Council is undertaking a full review of the District Plan as part of the Planning for Growth programme to fulfil this statutory requirement.

Section 5 of the RMA sets out the purpose of the RMA, as to “*promote the sustainable management of natural and physical resources.*” Sustainable management is defined within this section. **Section 6** sets out matters of national importance that local authorities are required to provide for and **Section 7** sets out other matters that local authorities are required to have particular regard to, with giving effect to the purpose of the RMA. **Section 8** requires local authorities to take into account the Principles of the Treaty of Waitangi.

These matters are relevant when considering the current Curtis Street Business Area, in particular the sections 7(c) for “the maintenance and enhancement of amenity values” and 7(f) for the “maintenance and enhancement of the quality of the environment.”

2.2 National Planning Standards

The National Planning Standards, which came into effect on 3 May 2020, set out a national template and framework requiring consistency nationally in relation to:

- The structure and format of new district plans;
- The purpose and naming of zones;
- The use of mandatory definitions, and
- The requirements for electronic functionality.

The National Planning Standards require the existing district plan structure to be reorganised and made consistent nationally. Consequently, many of the matters that are dealt with within the Operative Curtis Street Business Area chapter have been relocated into district-wide chapters e.g. for earthworks, traffic, noise and subdivision.

There are several other matters housed within the Operative Curtis Street Business Area chapter that still need to be relocated. Consideration of this matter forms part of this issues and options assessment.

2.3 National Policy Statements

The following National Policy Statements are in effect:

- National Policy Statement on Urban Development;

- National Policy Statement for Freshwater Management;
- National Policy Statement for Renewable Electricity Generation;
- National Policy Statement on Electricity Transmission; and
- New Zealand Coastal Policy Statement.

None of these National Policy Statements are specifically applicable to a review of the Operative Curtis Street Business Area chapter.

2.4 National Environmental Standards

The following National Environmental Standards are in effect:

- National Environmental Standards for Plantation Forestry;
- National Environmental Standards for Air Quality;
- National Environmental Standard for Sources of Drinking Water;
- National Environmental Standards for Telecommunications Facilities;
- National Environmental Standards for Electricity Transmission Activities;
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;

None of the National Environmental Standards are relevant to a review of the Operative Curtis Street Business Area chapter.

2.5 Regional Policy Statement 2013

The Regional Policy Statement (RPS) is a document prepared by Greater Wellington Regional Council that sets out the framework and priorities for resource management across the Wellington region. The RPS identifies the regionally significant issues around the management of the Wellington region's natural and physical resources, sets out what needs to be achieved (objectives) and the way in which objectives will be achieved (policies and methods). District Plans are required to give effect to policies 1-34 of the RPS, and to consider policies 35-60.

There are no RPS objectives or policies that deal directly with the Curtis Street Business Area. However, the following RPS objectives and policies relating to urban centres are broadly applicable because the Curtis Street Business Area is intended to be provided for increased commercial activity within the western

suburbs while, at the same time, facilitating the efficient use of land and a compact urban environment. The current Curtis Street Business Area is intended to serve as a supplement to the existing city centres framework.

RPS	
Objective 22	A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network.
Policy 30	Maintaining and enhancing the viability and vibrancy of regionally significant centres – district plans.
Policy 31	Identifying and promoting higher density and mixed-use development – district plans.

2.6 Proposed Natural Resources Plan

The Proposed Natural Resources Plan (PNRP) is the Regional Plan prepared by Greater Wellington Regional Council and is intended to replace and consolidate the five Operative Regional Plans. These plans relate to air, soil, land, freshwater and the coast – the PRNP seeks to integrate these topics into a single planning document and better enable integrated management of regional resources. The PRNP was publicly notified in June 2015 with the proposed provisions having immediate legal effect. The decisions version (notified on 31 July 2019) is referred to in this report.

The Proposed Natural Resource Plan is not specifically relevant to this review of the Operative Curtis Street Business Area chapter.

2.7 Wellington District Plan

The First Generation District Plan replaced the 1986 District Scheme, which was written under the Town and Country Planning Act. It was considered at the time that the market would appropriately decide the best location for different types of activities, particularly economic activities, and the District Plan needed only to control the adverse effects of activities. This District Plan had five generic zones, the inner and outer residential areas, the central area, the rural area, the open space area, and the suburban centres; and two precincts. This First Generation District Plan was reviewed and the Second Generation District Plan was made operative in 2000.

2.8 District Plan Change 77

The Curtis Street Business Area was established through Plan Change 77 and the subsequent appeals to the High Court and the Environment Court. The detailed history of Plan Change 77 (PC 77) can be found within the Independent Hearing Commissioners Report for Wellington City Council (dated 10

December 2013, authors Alistair Aburn, Sue Piper and Gavin Lister) and Environment Court Decision [2015] NZEnvC 149.

This history is complex, and it is highly recommended to read the summaries and assessments provided by the Commissioners and the Environment Court. The links to these two sources are provided below.

- Independent Hearing Commissioners Report (10 December 2013, refer pages 6-10):

<http://wccecm/otcs/llisapi.dll?func=ll&objaction=overview&objid=31472187>

- Environment Court Decision [2015] NZEnvC 149:

<http://wccecm/otcs/llisapi.dll?func=ll&objaction=overview&objid=31466380>

The end outcome was the establishment of the Curtis Street Business Area that provides for both mixed-use development and land use on the site, and site-specific controls for landscape, ecological, character and amenity values.

The Curtis Street Business Area primarily provides for a combination of residential development and use, and retail / commercial development and use subject to compliance with the requirements of an appended Concept Plan. This Concept Plan and zone provisions apply guidance and limitations around the design of future development e.g., for landscaping and street-facing frontages.

Additional comment is provided in the Environment Court Decision [2015] NZEnvC 149:

“Conclusions- do the objectives of the plan change meet the purpose of the Act?”

[3-94] The evidence has confirmed for us that, taking into consideration relevant objectives and policies contained in the key chapters of the District Plan - Residential, Open Space, Centres and Business Area - there is an expectation of some commercial activity within residential areas, subject to the area remaining residential overall, and there is an expectation of some further commercial activity outside of Centres, subject to the hierarchy of existing Centre focus and purpose being maintained.

[3-95] On balance, looking at the characteristics of this site; its neighbourhood; the constraint of residential development imposed by the transmission corridor; demand for business land, and the ecological site context, a plan change specific to the site, and where mixed use is expected, promotes a more efficient and effective management regime than relying on the Outer Residential zone and the Open Space zone to deliver something that neither of them separately are designed to do.

[3-96] The design of the Plan Change is specific to the site and its objectives and policies specifically address the natural and physical environment and ecological protection of the adjoining area to the west, as well as low impact design to address water making its way to the Kaiwharawhara stream. We have concluded that the objectives and policies of PC 77 are the most appropriate for the site, in terms of s32...”

2.9 Summary

The policy background of the Curtis Street Business Area demonstrates the area as a mixed-use site that anticipates residential and commercial land use, while also considering the qualities of the natural and residential environment it is located within – being the Creswick Valley.

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3 Key Issues & Options

3.1 Issue 1: Appropriateness of Operative Policy Approach

3.1.1 Summary of Issue

The overarching policy direction for the Curtis Street Business Area points to the area as a mixed-use site that anticipates residential and commercial land use, while also considering the qualities of the natural and residential environment it is located within – being the Creswick Valley. This policy guidance comes predominantly from Plan Change 77 and its subsequent Environment Court decisions. The question before us is, “how appropriate is the operative District Plan policy direction for the Curtis Street Business Area?”

3.1.2 Options

The options available for improving the appropriateness of District Plan provisions (being the objectives and policies) include:

- **Option 1: Retain the status quo.** This option seeks to retain the existing policy direction, such that the anticipated land uses are largely residential and commercial, subject to standards.
- **Option 2: Reviewing the anticipated land use as a centre or mixed use site.** This option seeks a review of the policy direction for the site, with a view to diversifying or intensifying land use to include the gamut of residential, community, commercial and industrial land uses.
- **Option 3: Reviewing the anticipated land use as a primarily residential site.** This option seeks a review of the policy direction for the site, with a view for further limiting land use such that the area’s unique values are further preserved.

3.1.3 Preferred Option

Option 1 is the preferred option. The reasons are:

- Option 1 is preferred because it is considered to already achieve the right balance in terms of the site’s development and land use potential, and recognition and provision for the unique area values of Creswick Valley. This specific question was tested within Plan Change 77 and further Environment Court proceedings, wherein the Environment Court found that the then proposed objectives and policies, now operative, were the most appropriate for the site.
- Whilst undertaking options 2 and 3 would allow for either more intense use of the site or more restrictive ecological, amenity and landscape protections, a balance has been sought on this site. Furthermore, there is no substantial shift in the overarching policy direction that requires any change in the current policy direction.

3.2 Issue 2: The Efficiency of the District Plan Provisions

3.2.1 Summary of Issue

The overarching policy direction for activities in Curtis Street Business Area points to the area as a mixed-use site that anticipates residential and commercial land use, while also considering the qualities of the natural and residential environment it is located within – being the Creswick Valley. The question before us is, “how efficient are the operative District Plan provisions in achieving the zone’s purpose?”

The following comments are drawn from the accompanying Background and Monitoring Report:

- The zone primarily provides for a combination of residential development and use, and retail / commercial development and use subject to compliance with the requirements of an appended Concept Plan.
- In order from most common to least common, the activity statuses for the applications were for Discretionary (Restricted), Discretionary (Unrestricted) and Non-Complying. No applications were Controlled Activities.
- The majority of application types were Land Use only applications, for establishing new dwellings, vehicle and pedestrian accesses, undertaking earthworks and establishing new commercial buildings. The minority of applications were Combined Land Use and Subdivision applications, for multi-unit land use residential developments followed by fee-simple subdivisions. No Subdivision-only applications were received.

Overall, the current District Plan provisions are considered reasonably efficient in achieving the Curtis Street Business Area’s purpose and policy direction. The applications being approved are for residential and commercial land uses, with supporting subdivision.

3.2.2 Options

The options available for improving the effectiveness of the District Plan provisions (being the rules and activity standards) include:

- **Option 1: Retain the status quo.**
- **Option 2: Provide rules and standards to intensify land use as a centre or mixed use site.** This option seeks to diversify or intensify the land uses available on the site, expanding from residential and commercial to include community and industrial land uses.
- **Option 3: Provide rules and standards to restrict land uses to primarily residential.** This option seeks to further limit land uses on site to residential only, such that the unique values of the area are further preserved.

3.2.3 Preferred Option

Option 1 is the preferred option. The reasons are:

- In accordance with Issue 1 above, the status quo is determined to be the most appropriate and efficient option for this site. As no change in policy direction is recommended, no corresponding change in rules nor standards are recommended.
- Whilst undertaking options 2 and 3 would allow for either more intense use of the site or more restrictive ecological, amenity and landscape protections, a balance has been sought on this site. Furthermore, there is no substantial shift in the overarching policy direction that requires any change in the current rule / activity standards regime.

3.3 Issue 3: Drafting Structure

3.3.1 Summary of Issue

The overarching policy direction for the Curtis Street Business Area requires the implementation of the National Planning Standards. These came into effect on 3 May 2020 and set out a national template and framework requiring national consistency on the structure and format for resource management plans prepared under the RMA.

The Curtis Street Business Area is a bespoke zone and the National Planning Standards do not offer a set solution to re-housing any new provisions for this zone. The question before us is, “how should the new provisions relating to Curtis Street Business Area be structured in the Proposed District Plan?”

3.3.2 Options

- **Option 1: Re-housing the provisions in a Centres Zone supported by a Precinct.** This option is proposed as the Centres Zones are a zone typology that anticipates a mixture of land uses, including residential and commercial / retail. Precinct provisions would provide additional policy direction.
- **Option 2: Re-housing the provisions in the Mixed Use Zone supported by a Precinct.** This option is proposed as the Mixed Use Zone is a zone typology that anticipates a mixture of land uses, including residential and commercial / retail. Precinct provisions would provide additional policy direction.
- **Option 3: Re-housing the provisions in a Special Purpose Zone.**

3.3.3 Preferred Option

Option 3 is the preferred option. The reasons are:

- Options 1 and 2 are not preferred because the policy direction of the underlying Centres Zones and Mixed Use Zone are sufficiently different from the current policy direction in the Operative District Plan that the supporting Precinct would need to substantially change the policy direction of the underlying zone. In such a situation, it is more efficient to simply have a Special Purpose Zone.

- It is noted that the mixture of land uses anticipated within the Curtis Street Business Area are more limited than those anticipated within either the Centres Zones or the Mixed Use Zone. A substantially more restricted policy and rule regime, in comparison with the candidate zones, is more suitably addressed through a separate zone.

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4 Conclusion

The purpose of this report is to identify issues and recommend options for further consideration relating to a review of the District Plan's provisions for the Curtis Street Business Area. Recommended options for proceeding to review these provisions are:

- With respect to improving the appropriateness of the District Plan provisions, it is recommended to retain the status quo policy direction. Plan Change 77 and subsequent Environment Court proceedings confirmed that the current direction is the most appropriate for the site.
- With respect to improving the efficiency of the District Plan provisions, it is also recommended to retain the status quo. There is no recommended change in policy direction that needs to see a corresponding change in rules nor activity standards.
- With respect to re-housing the District Plan provisions, it is recommended to re-house new provisions inside a Special Purpose Zone Chapter. The site-specific requirements are sufficient to warrant a Special Purpose Zone.

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