

Submission on District Plan Change (DPC) 77– Curtis Street Business Area

Submission Details

Name of Submitter PrimeProperty Group

Submitter Details

This submission has been prepared by Spencer Holmes Ltd on behalf of Prime Property Group (PPG)

Address For Correspondence

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Background to the Submission

1. PPG is a major investor in Wellington's property market. The Group consists of several companies who collectively own a portfolio of investment and development properties in and around the Wellington region, including a substantial portfolio of Wellington office buildings. PPG has an increasing interest in the residential property development sector.
2. PPG activities are spread across some very distinct specialist areas:
 - Commercial Property Investment
 - Commercial and Residential Property Management
 - Commercial and Residential Property Development
 - Commercial and Residential Construction
 - Hotels Investment and Operation
 - Serviced Apartments Investment and Operation
 - Car Parking Investment and Management
 - Serviced Offices
 - The residential housing market

3. PPG is a parent company to the owner of the subject land.
4. PPG has been working through the plan process for Curtis Street since late 2008.
5. PPG had initially proposed a private plan change for the site, but following Council's advice, agreed to participate in DPC 73 process to achieve a rezoning of the site that would specifically provide for commercial activity.
6. PPG engaged in the Plan Change process under DPC 73 and supported the rezoning to Suburban Centre. PPG maintains opposition to elements of the Council's Centre's policy.
7. Following the release of the DPC 73 decision, PPG appealed against the Centres Policy. At the time of this submission, that appeal remains unresolved.
8. In 2010, PPG made an application for the establishment of a Mitre 10 on the Curtis Street site. Wellington City Council officers made a decision to notify that application under the underlying Outer Residential and Open Space zone. Council planning officers identified a number of specifically potentially affected parties and considered the effects to be limited to particular individual properties. At this point, that application remains on hold but may proceed.
9. Cresswick Valley Residents successfully took the DPC 73 rezoning to the High Court on the basis that the Council's plan change did not appropriately consult with local residents and the rezoning was effectively set aside.
10. PPG was not responsible for DPC 73, but was significantly affected by the High Court decision.
11. PPG is now required to participate again in the plan change process on DPC 77.

Submission statement

12. PPG generally supports the wider provisions of DPC 77 which seeks to rezone the land from Outer Residential and Open Space, to allow business and commercial use.
13. The site is largely suited to the development on a single large commercial building due to its shape, topography, access and existing infrastructure layout. The site has a number of specific restrictions that make development on the site expensive.
14. PPG therefore opposes all provisions of this plan change which would restrict, or seek to limit the establishment of a large commercial/retail building on the site.
15. The submitter opposes all provisions of this plan change that would unnecessarily restrict the owner of the site being able to respond to market demands and opportunities to develop the site for a range of land use activities including commercial, retail or residential uses.
16. The submitter accepts and supports a number of the provisions of the plan change which require specific effects of all potential uses of the site to be assessed at the time of application to ensure that the amenity of nearby residents and the wider city is maintained.

17. The specific provisions of DPC77 are discussed in more detail below. Overall the specific provisions are supported or opposed in the way they support PPG's general position on the plan change.
18. It is also important to consider that this is a small site of only around 1 hectare. When assessed against the wider suburb and city it is only a fraction of the land area. Effectively, the effects being considered in this plan change are local and therefore the plan provisions should keep the scale of those effects in proportion.

Reason for the submission

19. The provisions of DPC 77 as notified, do not reasonably provide for an appropriate range of land uses to be developed on the site.
20. The restrictions on commercial activity effectively limit the range of land uses and commercial activity to level where it is unlikely that a viable use can be implemented.
21. Therefore specific changes/deletions are proposed to simplify the plan change and make it more effective in managing the land in a sustainable way.

Objectives and Policies

22. Objective 35.2.1 is supported.
23. Policies 35.2.1.1, 35.2.1.3, 35.2.14 are supported
24. Policy 35.2.1.2 is opposed.

Explanation

The site is relatively small, irregularly shaped, with challenging topography. The preparation of a concept plan for the level of development likely to occur on the site is effectively detailed design. The policy clearly demonstrates that Council officers have over-anticipated the development potential of the site.

Therefore clauses and rules such as that set out below are opposed :

Council encourages a pre-approve concept plan, to be assessed as a controlled activity, to provide a guiding spatial framework for the development of the area over time.¹

25. Policy 35.2.1.5 is opposed

Explanation

Karori currently has one supermarket. A second supermarket while unlikely to establish on the site, would increase competition, improve choice, provide jobs and be a positive to the local environment. There is no other suitable location for a supermarket within the Karori town centre area, nor any other location for larger format retail activities to establish. The policy seeks to limit the markets ability to provide competition and vitality of the wider Karori area.

26. Objective 35.2.2 is supported

¹ Explanation to Policy 35.2.1

27. Policies 35.2.2.1 and 35.2.2.2 are opposed.

Explanation

The policies introduce the concept plan requirement which is discussed above.

28. Policies 35.2.2.3 to 35.2.5 are supported

29. Objective 35.2.3 is opposed

Explanation

Creswick Valley is not predominantly residential in character. The sides of the valley is predominantly residential whereas the valley floor is used for other purposes with large buildings which are not residential in scale including recreational buildings, school buildings and the new childcare facility.

The statement “*to recognise the residential character*” of Objective 35.2.3 suggests that the area is predominantly residential. This is not correct. There large areas of other land uses in the local area.

The plan change provisions must appropriately recognise that the subject site is not within a residential area as such. It has never been used for residential activity. The land use to the south and north of the site is not residential.

The site is in the vicinity of residential properties however all nearby residential activity is separated vertically and in plan, with legal road separating the residential properties from the site.

The topography, aspect and layout of the site relative to the nearby residential properties, allows for the potential effects to be mitigated by the specific provisions for the site.

30. Policies 35.2.3.1, 35.2.3.2, to 35.2.3.4 to 35.2.3.7 are opposed

Explanation

These policies require a greater degree of environmental assessment and protection to that required in the rest of the city. That implies that this site is to some degree, more sensitive than other areas of the city.

That is not correct. The site is highly modified and contains little or no vegetation of high ecological value. PPG completely opposes any provisions which seek to require eco-sourced plant species for this site. This type of provision not only ignores the existing situation, but is a greater and more strict requirement than exists in the rest of the city.

Effects on the Kaiwharawhara stream are completely overstated. The catchment for the Kaiwharawhara stream is literally 100's of hectares. This site is a hectare and any provisions established here to treat stormwater would be totally ineffective without the same provisions being applied to all roads, commercial sites and residential properties in that huge urban catchment.

The earthworks provisions applying to this site should be no more onerous than already exist in the city and covered by a specific earthworks chapter of the Plan.

Stormwater is not required to be treated or addressed in other sites within the city. Stormwater is already piped within the site and the outlet into an open stream is some 800-900 metres from the site, after passing under an old landfill.

Placing new requirements on the subject site, that don't apply to development in other sites within the city, raises an issue of fairness and equity. Furthermore, the site is only a hectare in a very large catchment area. The cost implications on PPG are high and the actual return in terms of environment outcome will be negligible.

31. Objective 35.2.4 is supported, subject to ensuring rules are appropriately set to provide a reasonable balance between community expectations and allowing a reasonable development potential for the site.
32. Policies 35.2.4.1 to 35.2.4.5 are supported subject to an appropriate rule structure and notification provision.
33. PPG seeks to ensure that there is a suitable non notification provision in the Rules applying to the site. Community interest does not outweigh a landowners right to make a reasonable use of their land without undue costs in the consent process. PPG requests that specific non notification clauses be re-inserted into the plan provisions to specifically cover:
 - Traffic
 - Urban Design (design and external appearance)
 - Some bulk and location provisions where effects can be demonstrated to not be significant.
34. Objective 35.2.5 is supported. It is noted that a number of expert reports have been submitted which confirm that there is adequate capacity in the local roading network to accommodate the level of traffic likely to be generated on this relatively small site. The rules should appropriately reflect this.
35. Policies 35.2.5.1 to 35.3.5.5 are supported.
36. Policy 35.2.5.6 is opposed

Explanation

The policy is subjective. Its inclusion would require a traffic assessment of all signs. This is not required in other areas of the city. The speed zone is only 50km/hr and therefore there is no issue to be addressed.

37. Objective 35.2.6 is opposed

Explanation

PPG acknowledges the issue of the high voltage power lines and does not oppose the provisions relating to specific consideration of land use and placement of buildings to respect other legislation and policy.

However, as the site is wholly owned by one party, reverse sensitivity uses (other than the power lines) are a matter of owner management, rather than District Plan provisions.

38. Objective 35.2.7 is supported.
39. Policy 35.2.7.1 is supported however the PPG does not want to limit the options for development of the site to purely commercial activity and wants to protect the right for development for residential use should the market provide that opportunity.
40. Policies 35.2.7.2 and 25.2.7.3 is strongly opposed for reasons set out above.
41. Policies 35.2.7.4 is supported.
42. PPG is neutral on Objectives and related Policies 35.2.8, 35.2.9, 35.2.10.

Rules and Standards

43. Permitted Activity Rule 36.1 is supported except that the following be added to the list:

(j) Residential Activity

44. Controlled Activity Rule 36.2 is supported except that (c) Concept plan is deleted.
45. Discretionary Activity Rule 36.3(a) is supported.
46. Discretionary Restricted Activity Rules (b), (c), (d) and (e) are all strongly opposed.

Explanation

The site is severely restricted in terms of its developable area and is only 1 hectare in total. The costs of providing the information to accompany applications for the assessments of effects on town centres outweighs any actual or potential effects.

47. Discretionary Activity Rule 36.4(b) is opposed.
48. PPG is neutral on Non Complying Rule 36.5, subject to the final determination of what activities would be deemed to be non complying.
49. Activity standard 36.6 (a), (b) & (c) are all opposed.

Explanation

The activity standards set an unreasonably low level of building bulk. The 500m² limit and 6 metres maximum height for a commercial use is unreasonable

50. Standard 36.6(e) reflects the standard earthworks rules applicable to other commercial sites in the city. Any additional or more onerous requirements above the recently amended earthworks rules are opposed.
51. Specifically (iii) which states “*No cut face should be visible above any building roofline.*” Is opposed”.

Explanation

Once a ‘trigger’ is exceeded, the range of effects such as visibility of cuts is under review. This statement is ambiguous and unreasonable. It sets an expectation which cannot be expected and does not apply in other activity areas of the city.

52. Permitted activity standards 36(f)(i) &(iii) are opposed.

Explanation

PPG has no difficulty in having landscaping of car parks but 5% is again an ambiguous and difficult to interpret standard.

The standard is ambiguous and difficult to understand. 10 metres is also an unreasonable amount of space to take up on the site of the whole Western boundary. The whole western boundary of the site is not vegetated now.

53. PPG are neutral in respect to Permitted Standard 36(g),(h), (j), & (k).

54. PPG are opposed to 36.6(i) being a permitted standard. It can be a note but should not form the basis of a standard under the WCC District Plan, because if not met, a consent will be required under the District Plan and the Greater Wellington Regional Council plans.

55. Standard 36.6(l) is opposed by PPG. There is no permitted activity subdivision consent and therefore the provision is not required and is confusing.

56. PPG is neutral on permitted standards 36.6(m), (n), & (o).

57. PPG is unsure how and when the assessment criteria in section 37.7 of the proposed provisions apply. It is presumed they apply when the Discretionary Rules apply? There is a degree of ambiguity in the way the plan provisions will apply and be used.

58. PPG opposes assessment criteria 36.7(a), (b), and the first bullet of other criteria in respect to the concept plan.

59. PPG accepts the requirement for earthworks controls, providing landscaping and screening, but opposes the current form of 36.7(d) as it sets unreasonable requirements and performance standards greater than apply in other areas across the city.

60. PPG opposes assessment criteria 37.7(j).

Explanation

The controls on retail are unnecessary and therefore this criteria is not relevant.

61. Where a plan provision is opposed, PPG request that that provision be either amended or deleted.

62. The deletion/amendment of the plan provisions requested by PPG will result in a more sustainable and balanced District Plan in relation to the area covered by the Curtis Street Business Area.

S32 Analysis

63. The section 32 analysis identifies that all the land uses proposed for this site, have looked at larger buildings.²

² See Section 4, page 7 of the WCC s32 Report dated December 2012

64. The Councils section 32 analysis supports PPG's observations that there is a limited amount of land available for retail/trade supply facilities in the Karori and a shortage of commercial land. The provisions which limit the development of commercial size buildings therefore seeks to undermine the plan change provisions as they current stand.
65. Because of the inherent site conditions, development costs on this site are high and it is necessary to provide high return activities to make the development economically viable. This would require commercial development or other intense residential development to achieve economies of scale.
66. The provisions do not support the development of larger buildings which would make the development viable.
67. The section 32 analysis on urban design is incoherent. It suggests that the buildings have to be designed so as to have windows facing the street, but do not allow the buildings to be constructed to the street level to create an inter-relationship with the street.
68. There is limited opportunity to create legibility with the Council promoted conditions. The potential business use is to be hidden or subdued, leading to a lack of understanding as to the use of the site. The building is expected be hidden in the valley floor. This is despite the fact all residential development elevated above the subject site.
69. The Council's own s32 analysis does not support the provisions restricted retail activity on the site and does not justify the imposition of those provisions within DPC 77.
70. PPG generally supports the conclusions and recommendations made by the officers in the s32 analysis under s9 of that report, except that which is discussed above.

Part II Considerations

71. PPG submits that the amendments requested in it's submission will promote a sustainable use and management of the land resource.
72. The DPC 77 provisions as notified will not allow the unlocking of the land for the economic benefit of the owner and the wider community. It will provide local employment opportunities and flow on effects such as potentially allowing for reduced travelling times for residents to visit/work locally.
73. The provisions as requested by PPG will ensure that the local community's amenity is appropriately protected and maintained.
74. The RMA is not a "no change statute" and it is not incumbent on the owner of this land to provide land for visual enjoyment of the neighboring property. The land is privately owned and not of high ecological value.
75. The proposed plan change, subject to amendments set out above

Decision Sought From Council

That DPC 77 be adopted with the changes and amendments discussed above, or alternative relief that achieves a similar outcome.

Conclusion

The submitter wishes to be heard in support of this submission

If others make a similar submission, we will consider presenting a joint case with them at the hearing.

Submission Prepared By:-



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Spencer Holmes Ltd**

Date: 11th March 2013