

# **PROPOSED DISTRICT PLAN CHANGE 77: *CURTIS STREET BUSINESS AREA***

**Section 32 Report: Consideration of alternatives,  
benefits and costs**

**December 2012**

## Table of contents

<b>Executive Summary .....</b>	<b>3</b>
<b>1. Introduction .....</b>	<b>4</b>
<b>2. Background .....</b>	<b>4</b>
<b>3. Site Description and Scope of Plan Change .....</b>	<b>4</b>
3.1 Description and history of the land .....	5
3.2 The scope of the plan change .....	5
3.3 Location Map .....	5
<b>4. The Key Resource Management Issue – Rationalisation of Zoning .....</b>	<b>7</b>
<b>5. Wellington City Council response, role and functions .....</b>	<b>7</b>
5.1 Council functions and responsibilities under the Resource Management Act 1991 .....	7
<b>6. High-order resource management considerations.....</b>	<b>8</b>
6.1 The Purpose of the Resource Management Act 1991 .....	8
6.2 Consistency with the purpose of the District Plan .....	8
6.3 Superior statutory planning documents .....	9
6.4 Relevant other documents and matters.....	10
<b>7 Site specific resource management issues .....</b>	<b>12</b>
7.1 Broad level planning considerations.....	13
7.2 Ecology.....	13
7.3 Landscape.....	14
7.4 Urban Design.....	15
7.5 Heritage .....	15
7.6 Economics.....	16
7.7 Transport .....	16
7.8 Geotechnical and site contamination issues .....	17
7.9 Noise .....	17
7.10 Overhead transmission wires .....	18
7.11 Synthesis .....	18
<b>8 Consultation .....</b>	<b>18</b>
8.1 Creswick Valley Residents Association.....	18
8.2 Terrace Heights Holdings Ltd .....	19
8.3 Transpower New Zealand Ltd .....	19
8.4 Iwi .....	19
8.5 The Minister for the Environment .....	19
8.6 Greater Wellington Regional Council .....	19
<b>9 Section 32 considerations .....</b>	<b>19</b>
9.1 Key Resource Management Issue – Rationalisation of Zoning.....	19
9.2 Site specific resource management issues and objectives to address them .....	23
9.3 Methods.....	25
9.4 Assessment of efficiency and effectiveness .....	25
9.5 Notification of resource consents .....	25
<b>10 Conclusion.....</b>	<b>34</b>

## Appendix 1 Technical Assessments

## Executive Summary

This report has been prepared pursuant to Section 32 of the Resource Management Act 1991 (RMA) to support a change to the Wellington District Plan. Specifically it supports a change to rezone the site at 55-85 Curtis Street, Karori from a mixture of “Outer Residential Area” and “Open Space B Area” to a site specific “Curtis Street Business Area”.

The recent planning background to the site is that in 2009 Council sought to rezone the land “Business 2 Area” as part of District Plan Change 73 (DPC73) which applied to Suburban Centre zoned land across Wellington City. Following an application to develop the site for a large-scale hardware store a group of residents in the area formed the Creswick Valley Residents Association (“CVRA”) and successfully took judicial review proceeding against the Business 2 Area zoning.

The judicial review proceedings returned the site to its mixed-zoning prior to DPC73. It has been identified that this zoning does not reflect the likely future use of the land. In essence the problem arises from the site’s regulatory planning framework being inconsistent with likely uses. There has for some time been commercial demand for the use of the site, whilst, at the same time, the site has not been developed for residential purposes despite being largely zoned for residential use.

In response Council’s Strategy and Policy Committee commenced a new plan change process, underpinned by close consultation with CVRA and the landowner (Terrace Heights Holdings Ltd / “Terrace Heights”). Consultation was also undertaken with Transpower New Zealand Limited, owner and operator of high voltage transmission lines which traverse the site, as well as Iwi groups, the Minister for the Environment, Greater Wellington Regional Council and a resident not affiliated to CVRA.

The following site specific technical investigations were also undertaken:

- Ecology
- Economics
- Heritage
- Landscape
- Noise
- Traffic
- Urban Design

The assessments have been considered by Council planning officers, and that consideration is represented in Section 7 of this report in accordance with the requirements of Section 32 of the RMA. Ultimately the planning assessment concludes that:

- A business zoning is the most appropriate general land use for the site.
- There are a number of site and context specific resource management issues which require the application of a special business zone.

A site specific “Curtis Street Business Area” zoning with dedicated objectives, policies and rules has been developed, to ensure that business development of the site responds to the local resource management issues, including the sensitive residential and landscape setting.

## 1. Introduction

This report sets out the analysis to support a plan change to rezone a consolidated area of land at 55 - 85 Curtis Street, Karori (“the site”). It has been prepared to fulfil the requirements of Section 32 of the Resource Management Act 1991 (“RMA”) “*consideration of alternatives, benefits and costs*”. A site specific plan change promoting a “Curtis Street Business Area” zoning is proposed, and the analysis in this report includes:

- A statement of the key resource management issue.
- Wellington City Council’s (“Council”) response to the issue and its role and functions under the RMA.
- High-level resource management considerations including higher-order planning documents.
- Site specific resource management issues.
- Consultation with key stakeholders.
- Application of Section 32 of the RMA.

## 2. Background

The background to the plan change proposal is that Council previously proposed to rezone from a mixture of “Outer Residential Area” and “Open Space B Area” to “Business 2 Area” as part of a city-wide plan change addressing Suburban Centre zoned land (District Plan Change 73 / “DPC73”). DPC73 was notified in September 2009 and following the usual district plan change submission and hearing process, the Council’s decision was notified in September 2012. With regard to the site the Council decision affirmed the Business 2 Area zoning.

Subsequent to this plan change process Creswick Valley Residents Association (“CVRA”) lodged judicial review proceedings against the rezoning of the site. The High Court decision of April 2012 upheld CVRA’s submissions and overturned the rezoning, returning it to its original mixed Residential and Open Space zoning. Against this background Council has undertaken to resolve the future zoning of the site via a new plan change process which takes into account site specific characteristics.

## 3. Site Description and Scope of Plan Change

### 3.1 Description and history of the land

The subject land is approximately one hectare in area and owned by Terrace Heights Holdings Ltd (“Terrace Heights”). It is located in Creswick Valley and is bounded by Old Karori Road to the west, Whitehead Road to the north and Curtis Street to the east. It is traversed by High Voltage Transmission lines and is currently zoned Outer Residential Area and Open Space B in the District Plan.

The area is highly modified from its original form, with ground levels having been raised by extensive fill and the associated culverting of the Kaiwharawhara Stream which runs beneath the area in a north-south alignment. The northernmost part of the area is level with Whitehead Road and Curtis Street, while the southern part is set at a lower ground level below Curtis Street. The topography rises steeply to the east and west of the area such that it forms a deep depression in the landscape.

This distinct landform is overlooked by individual dwellings located at various levels on the adjoining hillsides and partly screened by vegetation. The character of the wider area is influenced by the green residential setting and a steep, vegetated escarpment adjoining the western edge of the site. These adjoining areas are zoned Outer Residential in the District Plan.

The area was previously part of the adjoining Council landfill that has now become Ian Galloway Park. It was separated from Ian Galloway Park as a result of the construction of Whitehead Road. Whitehead Road was constructed in the 1980s to provide better vehicular access to Karori. The construction of Whitehead Road allowed the closure of Old Karori Road on the site's western boundary.

From the 1930s until the 1990s the area was used as a Council depot. During that time the area was used to store, maintain and construct equipment relating to various council operations including drainage, streetworks and street cleaning. This included a range of buildings, including a number of sheds and an office. After the area ceased to be used as a depot it was cleared and sold into private ownership, however no further development has occurred and the site remains vacant.

The land is currently owned by Terrace Heights and under its ownership the recent planning activity associated with the site commenced. This includes a resource consent application made 2008 to establish a commercial storage facility and then submission by the landowner under the DPC73 which sought a "Centres" zoning for the land. The DPC73 decision did not support the rezoning of the land as Centres, but instead allowed for a Business 2 Area which was described as

*"...traditional business areas where a range of industrial activities including warehousing, manufacturing and commercial services can occur".*

DPC73 was subsequently appealed, meaning the Business 2 Area zoning remained "proposed" until such time as the appeals relating to zoning were settled. In the meantime, Terrace Heights applied under DPC73 and obtained resource consent for bulk earthworks on the site and also lodged a resource consent application for a Mitre 10 hardware store. Subsequently the Creswick Valley Valley Residents Association ("CVRA") pursued judicial review proceedings against Council's DPC73 process and was successful in overturning the proposed rezoning and the bulk earthworks consent. The resource consent application for the Mitre 10 hardware store remains on hold.

### **3.2 The scope of the plan change**

The proposed plan change involves inserting two new 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.

The scope of the plan change is limited by Section 75 of the RMA ("Contents of District Plans"), but more specifically by the geographic limits of the site known as 55-85 Curtis Street (comprised of Part Lots 1 and 2 DP1746, Lots 1-3 DP2089, Part Lot 4 DP2089 and Part Section 2 SO37014 and held in seven separate certificates of title).

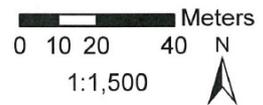
### 3.3 Location Map

#### 55-85 Curtis Street Karori



**Proposed Zoning**

-  Open Space B to Curtis Street Business Area
-  Outer Residential to Curtis Street Business Area



## 4. The Key Resource Management Issue – Rationalisation of Zoning

Against the background described above it has become clear that the zoning of the land needs to be properly considered and rationalised to ensure future development of the site occurs within a planning framework that enables the relevant local resource management issues to be taken into account. Key aspects of rationalising the zoning include:

- That the site is privately owned and there is a legitimate expectation on the part of the landowner that it can be developed.
- That although most of the site is zoned for residential use it is constrained for that use by its location in a deep gully and beneath high voltage transmission lines, and tellingly was not developed for residential purposes through the recent residential property boom.
- Proposals to develop the site over the last fifteen years have tended towards commercial uses (e.g. a supermarket, commercial storage units, a hardware store) providing some indication of demand for commercial use of the land.

**In May 2012 Council agreed to investigate the zoning of the land and began discussions with relevant stakeholders, including CVRA and Terrace Heights seeking their input into future work. These discussions, together with technical feasibility studies were undertaken by Council and these signalled that a site specific business zoning was most appropriate. In September 2012 Council determined to commence full investigation of these issues with a view to notifying a plan change. This Section 32 report summarises and provides an analysis of that investigation. Full explanation and consideration of specific resource management issues related to the development of the site are set out in subsequent sections of this report.**

## 5. Wellington City Council response, role and functions

### 5.1 Council functions and responsibilities under the Resource Management Act 1991

Section 31 of the RMA specifies the resource management functions of territorial authorities. Section 31(1)(a) specifies the broad function as follows:

*“Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*

*“the establishment, implementation, and review of objectives, policies and methods to achieve the integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district...”*

Subsequent subsections outline more specific considerations, including the avoidance and mitigation of natural hazards and maintenance of indigenous biological diversity.

District Plans are specifically addressed in Sections 72 – 77. Some key elements of these sections include:

- A requirement that there be at all times a District Plan for each district (ss73(1)).

- Specific matters to be considered in preparing a District Plan (or plan change) (Section 74).
- The required contents of a District Plan (Section 75).
- The ability for territorial authorities to include rules in District Plans (ss76(1)).

Council, in exercising these functions and responsibilities, must at all times act in accordance with the “purpose and principles” of the RMA as set out in Part II (Sections 5-8). The purpose of the RMA, defined in Section 5, is “sustainable management” and this must underpin all of Council’s activities, with further guidance provided in sections 6, 7 and 8 (“matters of national importance”, “other matters” and “Treaty of Waitangi”).

## 6. High-order resource management considerations

### 6.1 The Purpose of the Resource Management Act 1991

The purpose of the RMA is “sustainable management” which is defined as follows:

*“In this Act, **sustainable management** means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:*

- (a) “sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) “safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) “avoiding, remedying and mitigating any adverse effects of activities on the environment”.*

It has been identified that the key resource management issue for the Curtis Street site is that the site’s regulatory planning framework does not accord with the features of the site and likely uses. In this regard, the current zoning of the site is not effectively catering for use and development that “enables people and communities to provide for their social, economic and cultural well-being” and therefore not meeting the sustainable management purpose of under the Act.

Whilst the rationalisation of the zoning is the key management issue for the site, there are other relevant management issues such as the importance of local landscape and residential character, traffic safety and capacity of the road network etc that also need to be balanced against the rezoning. This Section 32 process ensured that these issues are fully understood and appropriately managed through the proposed plan change (thereby meeting the purposes of the Act). The relevant resource management issues for the Curtis Street site are fully identified and explored in Section 7 of this report.

### 6.2 Consistency with the purpose of the District Plan

The purpose of the District Plan is set out in Chapter 1. This includes explicit references to key principles of the RMA including sustainable management and integrated management. Section 1.6.3 lists the objectives which address Wellington specific issues and define the purpose of the District Plan. These include the following key directions:

<ul style="list-style-type: none"> <li>• Maintaining and enhancing amenity values.</li> <li>• Maintaining and enhancing unique character.</li> <li>• Efficient use of natural and physical resources.</li> <li>• Avoiding and mitigating the impacts of hazards</li> </ul>	<ul style="list-style-type: none"> <li>• Improving standards of accessibility within the city.</li> <li>• Facilitating the exercise of kaitiakitanga and tino rangatiratanga.</li> <li>• Maintaining and enhancing important open space, natural features and habitats.</li> </ul>
--	--

The Curtis Street Business Area plan change is consistent with and firmly founded on the District Plan policy direction of sustaining Wellington’s economy, setting, character and compact urban form. 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 includes taking account of direction taken by Council in the strategically important Suburban Centre Review (DPC 73) and duplicates a number of these provisions, including definitions, introduced by that plan change.

The proposed plan change involves inserting two new chapters into the District Plan which are designed to be logical and user-friendly but at the same time improve the legibility of the Plan and facilitate appropriate decision making processes.

### 6.3 Superior statutory planning documents

The RMA sets out a defined hierarchy of statutory planning documents commencing with the RMA itself, national policy statements, regional policy statements and regional plans. District Plans are subordinate to all of these documents and are required “to achieve the purpose of the Act” and “give effect to” or “be consistent with” these superior documents. The proposal for a site specific Curtis Street Business Area as defined in this report must meet the same tests.

As set out above any plan change must be consistent with the purpose and principles of the RMA as enshrined in Part II (“purpose”) as well as “matters of national importance”, “other matters” and “Treaty of Waitangi”). These sections are set out in sections 6 - 8 of the RMA respectively.

#### 6.3.1 National policy statements

The RMA allows for the Minister for the Environment to prepare national policy statements and are described by the Ministry for the Environment<sup>1</sup> as:

*“National policy statements are instruments available under the RMA to help local government decide how competing national benefits and local costs should be balanced”.*

In addition to the New Zealand Coastal Policy Statement national policy statements have been gazetted for electricity transmission (2008), renewable electricity generation (2011) and freshwater management (2011). There is also a proposed national policy statement for indigenous biodiversity. Relevant to the current plan change proposal is the policy statement on electricity transmission and of note the proposed indigenous biodiversity statement. These

<sup>1</sup> Ministry for the Environment website accessed 3.15pm 18 October 2012:  
<http://www.mfe.govt.nz/rma/central/nps/>

have been considered in the relevant technical assessments and consultation underpinning this report.

### **6.3.2 Wellington Regional Policy Statement**

The Regional Policy Statement<sup>2</sup> seeks to achieve the integrated management of the natural and physical resources of the whole region (s59 of the Act). The RMA requires all District Plan provisions to be in line with regional policy. As part of the current review of the zoning of the site officers have had regard to the Proposed Regional Policy Statement 2009 and are of the view the proposed provisions give effect to its content where relevant.

### **6.3.3 Regional Plans**

Regional plans are prepared by regional councils to assist them in fulfilling their functions under the RMA (Section 30). The scope and requirements of regional plans is specified in Sections 63 – 70 of the RMA. There are some areas of overlap between regional and district plans, notably in natural hazard planning, but generally district plans deal with land use and subdivision whereas regional plans deal with discharges, soil, water and the coast. Wellington Regional Council has produced five regional plans, these are:

- Regional Coastal Plan (2000)
- Regional Freshwater Plan (1999)
- Regional Soil Plan (2000)
- Regional Air Quality Management Plan (2003)
- Regional Plan for Discharges to Land (1999)

As part of the current review of the zoning of the site officers have reviewed these documents and are of the view that the proposed provisions are consistent with them. It should also be noted that Wellington Regional Council is in the process of reviewing these plans, with new plan(s) proposed for public notification late in 2013.

## **6.4 Relevant other documents and matters**

### **6.4.1 Wellington Regional Strategy**

The regional and territorial local authorities of the region have developed a non-statutory regional strategy called the Wellington Regional Strategy. Many of the principles of this strategy have fed into the Council's own strategic vision for the city in the Urban Development Strategy 2006 and the Centres Policy 2008. The strategy work outlines a vision that deals with social, economic, infrastructure, competitiveness, growth management and demographic matters for the region. District Plans should therefore reflect these directions in their objectives and policies. It is considered that the proposed plan change takes into account the strategic direction of the Wellington Regional Strategy.

---

<sup>2</sup> At the time of writing advice from Greater Wellington Regional Council is that the Proposed Regional Policy Statement 2009 will shortly be made operative. The operative Regional Policy Statement (1995) has also been reviewed by officers and they are of the view the proposed provisions are consistent with giving effect to its content where relevant.

### **6.4.2 Urban Development Strategy 2006**

In July 2006 Council adopted the Urban Development Strategy (UDS) to guide development of the city and cater for anticipated population growth. This strategy is a significant piece of strategic planning which is in line with regional level strategic policy directions for guiding and providing for growth in Wellington. The UDS focuses on preserving Wellington's compact urban form and encouraging transit orientated growth.

The current mixed zoning on site is not geared towards providing for growth in this way or for providing opportunities for more diverse and efficient use of the land. It is considered that this plan change allows for a range of land use options which will have a greater benefit to the City than currently provided for under the existing regulatory planning framework. In this regard, it is considered that the plan change is more suitably aligned with the strategic aims of the UDS.

### **6.4.3 Wellington City Centres Policy 2008**

In light of the UDS and emerging issues around retail activities, Council replaced its 2003 Retail Strategy with a new 'Centres Policy' in 2008. The Centres Policy is designed to be supported and implemented through more detailed policies (including the District Plan and centres plans) and the infrastructure investment decisions of Council.

The Centres Policy categorises suburban business zoned land into either 'Centres', 'Live/Work Areas' or 'Work Areas'. Centres are primarily retail focused and function to provide for peoples day-to-day retail needs. They also provide an important social focal point for their local communities. Live/Work Areas are mixed use areas comprising a mix of business, commercial, retail and residential activities. Most Live/Work Areas have a commercial character about them. Work Areas are primarily industry and business focused and have an industrial character about them. In addition the policy outlines a hierarchy for the Centres based on their retail offer, catchment and function, which in descending order is:

1. Central Wellington (CBD).
2. Sub-Regional Centres (Johnsonville and Kilbirnie).
3. Town Centres (Karori, Miramar, Newtown and Tawa).
4. District Centres (Brooklyn, Churton Park, Crofton Downs, Khandallah, Island Bay and Newlands – all of these centres has, or is planned to have, a supermarket).
5. Neighbourhood Centres, of which there are 24 and they include small to medium sized groups or clusters of local shops.

The policy framework introduced by the Centres Policy is geared towards a sustainable network of commercial land and activities in Wellington's suburban areas. It considers the needs of local communities; as well as other important resource management issues such as infrastructure (including roading) to service development; where larger scale retail activities should be located; and the protection of land for industrial and business uses. Considerations on these issues are underpinned by the identified function of an area (its role for the city or local community), its location, transport options and infrastructure services.

This plan change supports these philosophies and builds on providing greater commercial offer in the western suburbs, whilst also acknowledging the vital role of nearby Centres.

#### **6.4.4 District Plan Change 73**

DPC73 directly translated the strategic and policy directions of the UDS and Centres Policy into the District Plan. Of particular importance was the splitting of suburban business zones into “Centres”, “Business 1” and “Business 2” areas in line with the ‘Centres’, ‘Live/Work Areas’ or ‘Work Areas’ specified in the Centres Policy. It is anticipated that PC73 will become fully operative within the next six months, but land zoning is an ongoing responsibility for Council to manage with changing supply and demand dynamics over time. However, any further changes to suburban business zonings (including the current proposal) should be consistent with the UDS and Centres Policy to ensure that Council’s high order strategic and policy objectives for urban growth management are realised.

Officers have carried over the relevant parts of DPC73 into the proposed Curtis Street Business Area plan change. Specifically, it duplicates a number of technical environmental standards and broader policy intentions, including definitions. In addition, it also contains bespoke provisions that address specific resource management issues relevant to the site and environs. The new Curtis Street Business Area plan change is required to effectively separate it from Plan Change 73 which is still subject to Environment Court appeals.

#### **6.4.5 Wellington City Council Long Term Plan 2012-22**

The Long Term Plan for 2012-22 (LTP) was adopted by Council in June 2012. It identifies a vision for the city based on the “four pillars”:

- “People centred city”
- “Connected city”
- “Eco-city”
- “Dynamic central city”

Of particular relevance to the District Plan are the long term outcomes for urban development, transport, and the environment. Officers have developed the current proposal with reference to the LTP and are of the view that the proposed provisions are consistent with it.

## **7 Site specific resource management issues**

The key resource management issue for the site is set out in Section 4, and essentially this relates to the planning framework for the site (“zoning”) and how this must respond to the environmental constraints of the site and the most efficient use of the land.

Nevertheless, there are other relevant site specific management issues that also need to be balanced against the rezoning. To help understand these issues, a range of technical investigations have been undertaken, with the key points summarised below:

<ul style="list-style-type: none"> <li>• Traffic safety and the capacity of the road network.</li> <li>• Local landscape and residential character.</li> <li>• Actual and potential impacts of development on residential amenity (e.g. lighting, noise effects).</li> </ul>	<ul style="list-style-type: none"> <li>• Site stability and soil contamination.</li> <li>• Location of the site adjacent the historic “Devil’s Footbridge” site.</li> <li>• Actual and potential impacts of commercial development on identified “centres” in Council’s “centre hierarchy”.</li> </ul>
--	--

<ul style="list-style-type: none"> <li>• Ecological values of the escarpment on the western edge of the site and the Kaiwharawhara Stream.</li> </ul>	<ul style="list-style-type: none"> <li>• The presence of high voltage transmissions lines (part of the national grid) over the site.</li> </ul>
---	---

The full technical reports are attached in **Appendix 1**.

## 7.1 Broad level planning considerations

Council planning officers, with the aid of initial technical reports, have previously advised Council's Strategy and Policy Committee that a site specific business zoning is considered most appropriate for the site. This advice was accepted by the Committee at its meeting of 13 September 2012. Officer planning advice was based on the following fundamental points:

- The site is constrained for residential purposes by the presence of the overhead transmission lines, and other physical and topographical factors and there has been no demonstrated demand for residential development of the site including through the recent property boom.
- The site is privately owned and relevant Environment Court case law specifies that private landowners should not be expected to provide for public open space / recreational land except in circumstances where the land is of exceptional quality and in which case the landowner should be appropriately compensated. Further, there is an ample supply of public open space and recreational land in the immediate vicinity of the site.
- There has been ongoing interest in the site for commercial development and economic analysis has identified a shortfall of commercial land and activity in the Wellington western suburbs. On the basis of this and the assessment of alternative zonings (residential and open space) a business zoning is expected to represent the most efficient use of the land in resource management terms, including taking into account the relevant planning documents above. However, it is important that retail use occurs within limits so that it does not impose adverse effects on established centres in Council's centre hierarchy.
- Notwithstanding the suitability of the land for business purposes, there are a number of site specific constraints related to its landscape and residential setting that require specific planning responses, and therefore a site specific zoning is most appropriate.
- Local residents have highlighted potential impacts on residential amenity if particular commercial activities establish on the site or are not properly managed.

These broad level planning considerations have informed the scope of the work undertaken, and the technical assessments below have been directed to address the likely impacts of business development and to identify the environmental constraints within which this should occur. Section 7 of this report sets out a full evaluation of options for the site pursuant to Section 32 RMA.

## 7.2 Ecology

An ecological assessment has been undertaken by Wildlands Consultants Limited and is attached in **Appendix 1**. The assessment identifies that there are no regionally significant ecosystems on 55-85 Curtis Street. However, it is the site's location within the wider landscape context that is important. The ecologist has identified that the surrounding forest ecosystem

which is located both on public and privately owned land on the slopes of the valley and on old Karori Road (and associated bird community), the Kaiwharawhara stream ecosystem (and associated winged insect community) and the seepage wetlands located on Old Karori Road (and the associated insect community) meet the criteria for significance under section 6(c) of the RMA.

Although these values are situated to the west of the site, consideration needs to be given to the treatment of the vegetation on the subject site that protects the seepage wetlands and glow worm community.

In response to this, it is proposed to use a mix of regulatory (proposed plan change provisions) and non-regulatory (advocacy and mitigation) measure to protect and maintain ecological values in the wider area. These are as follows:

Proposed plan change provisions:

- Objectives and policies that recognise the ecological values of the Creswick Valley, including encouraging the retention of trees and vegetation, use of eco-sourced species and patterns of replacement planting and minimising the effects of runoff and flash flooding into the Kaiwharawhara Stream.
- Rules and standards associated with new development (including buildings and car parking) and earthworks that address mitigation measures and require landscaping and tree planting.

Non-regulatory measures:

- Increased Council advocacy and awareness of ecological values. This is especially relevant to the seepage wetland and glow-worms on Old Karori Road. It has been identified that the best protection option for the seepage wetlands and glow-worms 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 is under Council control.

### 7.3 Landscape

A landscape assessment has been undertaken by Julia Williams from Drakeford Williams Landscape Architects and is attached in **Appendix 1**. The following passage taken from the executive summary of that report provides a succinct account of its findings:

*“The site in itself has relatively low landscape values. It has been highly modified over time with little of the original landform, vegetation or waterways remaining. However viewed in its wider context, the site has strong landscape and visual links to the wider valley landform and the open space network in the Kaiwharawhara catchment.*

*“It is my opinion that neither of the District Plan Business zonings in their current form are a best fit for such a one-off site, and that any proposed development will require site-specific conditions beyond the more general provisions of the Business Areas Design Guide in order to manage landscape and visual effects.*

*“With regard to the Curtis Street site’s landscape values within an RMA context, outstanding natural landscapes and features are considered to be exceptional and iconic, and while not necessarily pristine, are landscapes in which the natural components dominate. The Curtis Street site therefore would fail to meet the threshold required for a s6b ‘outstanding’ natural landscape or feature”.*

Whilst the above concludes that the site in itself is not an RMA section 6b ‘outstanding’ natural landscape or feature’, the report does note some important wider landscape values, such as the valley form, which have been recognised in the planning framework, notably in earthworks, retaining wall, building and urban design provisions.

## 7.4 Urban Design

An urban design assessment has been undertaken by Lucie Derosiers from Council’s urban design team and is attached in **Appendix 1**. The assessment reinforces some of the findings from the landscape assessment, notably with regards to the residential and landscape setting of the site. The assessment concludes that the site can be developed for business purposes subject to some specific urban design controls as follows:

- A maximum building footprint of 500m<sup>2</sup> GFA beyond which resource consent is required for urban design reasons.
- A site specific maximum building height based on a maximum height above mean sea level – designed to control building profile and promote a sensitive landscape response.
- Site specific urban design assessment criteria.

These have been incorporated into the proposed plan change.

## 7.5 Heritage

In addressing heritage matters advice has been sought from Council’s heritage team and consultation has been undertaken with Port Nicholson Block Settlement Trust (PNBST) and Ngati Toa Rangatira (NTR) on Maori cultural matters.

Consultation with PNBST and NTR identified that there are historic trails and sites in the wider area. NTR have confirmed there no sites of significance to them on the site or in the immediate vicinity. PNBST have yet to complete their investigations, but are happy for the plan change process to proceed, noting they have further opportunities to liaise with Council and to participate in the statutory planning process.

Council’s heritage team identified that an historic footbridge (“Devil’s Footbridge”) linking Karori and the harbour was located in the vicinity of the subject site, but likely buried or demolished when the Kaiwharawhara Stream was culverted circa 1885. Advice is that any remains of the bridge are likely to be underneath the former Karori Garden Centre site (immediately south of the subject site) and a plaque commemorating the bridge is located somewhere in the vicinity (but has not been located). Any excavation of the area under the former garden centre site requires an archaeological authority from the New Zealand Historic Places Trust and for the purposes of this plan change, this requirement is considered to be adequate should archaeological remains be uncovered.

## 7.6 Economics

An economic evaluation on the potential economic environment of the site and whether the a commercial zoning could be supported was carried out by Property Economics and is attached in **Appendix 1**. The assessment looked at commercial market growth the wider Wellington City context and in Karori and its environs. Notable findings include:

- Inline with the global financial crisis overall growth in Wellington has halted, with the the City's only meaningful growth experienced in "Professional Services" in the CBD.
- Karori as a Centre is lacking in business space and as a result is vulnerable to flow-on employment opportunities and unnecessary restriction on growth in the local suburban economy.
- In terms of retail spend generated by the Karori catchment, if local business provision is not increased, retail leakage out of the suburb will continue to increase.
- Demand for commercial floor space is not just restricted to retail
- If more commercial land is not made available, then future business decisions may not appropriately provide for the local community.

Specifically concerning the Curtis Street site, the report concluded:

- The site is well placed to meet the needs of Karori and surrounding communities and complement the other commercial / business zones in the network.
- The site size (and subsequently the activity able to be developed) restricts the scale of development yield from the land.
- The Karori market can sustain more convenience activity and commercial gross floor area than currently supplied in the market.
- Ideally the site should provide for a propensity for multiple tenancies and activities to be developed rather than a single large scale operation to absorb the entire site.
- The site would not undermine the existing Centres network. It would be a 'second tier' location, representing spill over as a result of constrained ability within Karori to provide additional business land. Nearby Centres would continue to be the preferred location and better location for the market being served.

The plan change has responded to these findings by including a policy that encourages a mix of activities. It also includes safeguard rules triggering resource consent requirements for integrated retail activities over 2500m<sup>2</sup> GFA and supermarkets over 1500m<sup>2</sup> GFA. These rules take into account the size of the site and are consistent with rules introduced into the District Plan in PC73.

## 7.7 Transport

A transport assessment has been undertaken by Opus International Consultants and is attached in **Appendix 1**. Also attached is a letter which is an extension of the assessment and sets out recommendations on the planning controls required to manage identified traffic issues. The assessment concludes that the site can accommodate business activities of a scale sufficient to justify a business zoning, but also identifies some constraints, notably:

- The effect of additional traffic on the safe and efficient operation of the Curtis Street / Chaytor Street intersection.

- The potential for on-street parking to disrupt traffic flow and cause a safety hazard to users of streets surrounding the site.
- The need to carefully manage the servicing of the site by heavy, articulated commercial vehicles.

Specific solutions to these issues are also recommended by Opus, taking into account detailed technical assessments of the impacts of different commercial activities (e.g. retail, bulk retail, industrial uses). The specific solutions are:

- A 500m<sup>2</sup> GFA floorspace limit on all retail activities – this has been identified as an appropriate trigger point for traffic assessments taking into account the constraints of the site and road network.
- A 2,500m<sup>2</sup> GFA floorspace limit on non-retail activities (likely to be other commercial uses) recognising that these have lower traffic generating qualities than retail activity.
- A requirement for all vehicle servicing areas and car parking to be accommodated on the site to which it relates or elsewhere in the zone.

The floorspace based rules have been developed taking into account the overall zone and are to be applied on that basis (as opposed to a site by site basis). This will ensure a comprehensive approach to traffic management for the zone.

## 7.8 Geotechnical and site contamination issues

An assessment of geotechnical issues (site stability) and soil contamination has been undertaken by Tonkin & Taylor and is attached in **Appendix 1**. Overall the assessment concludes that there are some site specific geotechnical and soil contamination issues, namely contamination issues associated with unauthorised fill and the former use of the site as a depot. The report concludes that all of these issues can be mitigated through good engineering practice and use of appropriate provisions in the District Plan. The proposed plan change provides site specific earthworks provisions and mitigation measures. For example, geotechnical issues can be mitigated through earthworks and foundation design. Soil contamination can be mitigated by removing or sealing contaminated materials, in order to comply with the National Environmental Standard for assessing and managing contaminants in soil to protect human health.

## 7.9 Noise

An assessment of noise issues relevant to the site has been undertaken by Matthew Borich from Council's environmental noise team and is attached in **Appendix 1**. The assessment specifically identifies that a number of residential properties have a direct line of sight onto the site, which means that there is little "absorption" that occurs from intervening ground, structures or vegetation. This is not however an "amphitheatre" effect as this requires more reflective surfaces generally in a smaller, more enclosed area. Having identified the noise issues for the site the report concludes that the noise limits specified for Business 2 Areas in Plan Change 73 are appropriate for managing noise in the site location, and also notes that these standards are within those of the New Zealand Environmental Noise Standards for residential areas.

## 7.10 Overhead transmission wires

The site is traversed by the Central Park – Wilton A (CPK-WIL-A) transmission line network, which is part of the national grid and administered by Transpower New Zealand Limited (“Transpower”) who have followed up with a written response which can be summarised as follows:

- Ideally Transpower would seek to maintain a 12m “buffer corridor” either side of the centreline of the transmission lines (with associated resource consent requirement for buildings and structures).
- However, it recognises that the constraints and location details of this site – specifically the topography and location of the transmission line support structures on the ridge above the site – warrant further consideration as to the appropriate response.
- Policy 11 of the National Policy Statement on Electricity Transmission (NPSET) does not support sensitive activities within the identified buffer corridor, and therefore Transpower supports the rezoning of this site from residential to business land. However, non-residential activities can also be sensitive and may need to be acknowledged.
- Future development of the site would be unlikely to compromise the operation or maintenance of the network.

The plan change responds directly to these concerns by explicitly identifying Transpower as a party that may be adversely affected by activity and development on the site and by classifying “sensitive activities” as discretionary activities in the rule framework.

## 7.11 Synthesis

Assessments have identified that business use of the site is most appropriate, but there are some resource management constraints to the development of the site. These fall into two categories:

- Context issues which relate to the wider setting within which the site sits (e.g. the capacity of the roading network and residential character).
- On-site issues which require specific mitigation techniques (e.g. earthworks and foundation design which respond to on-site geotechnical issues).

Taking the technical assessments together these issues can be managed within an appropriate resource management framework which includes appropriate environmental controls.

# 8 Consultation

## 8.1 Creswick Valley Residents Association

CVRA is a large residents group with members residing primarily in the Northland, Karori and Wilton areas. The association was established in opposition to the proposal to develop the subject site with a Mitre 10 hardware store and took the successful judicial review proceedings against Council’s previous proposal to rezone the land. Council has consulted closely with CVRA committee members since early August and sought their feedback on a wide range of matters related to the rezoning and development of the site. These views have been directly considered by officers in the development of the proposed plan change.

## **8.2 Terrace Heights Holdings Ltd**

THH is the owner of the site and has aspirations to develop the land for business purposes. Council has consulted closely with THH since early August and sought its feedback on a wide range of matters related to the rezoning and development of the site. These views have been directly considered by officers in the development of the proposed plan change.

## **8.3 Transpower New Zealand Ltd**

Consultation with Transpower is addressed in Section 7.10 above.

## **8.4 Iwi**

Consultation with tangata whenua on plan changes is a requirement set out in clause 3(1)(d) of the First Schedule of the RMA. The nature of that consultation is further guided by clause 3B. Port Nicholson Block Settlement Trust and Ngati Toa Rangatira are recognised as the Iwi authorities representing mana whenua interests in Wellington City. Council has directly consulted with both authorities. NTR has confirmed that there are no cultural sites or features of significance to them on or in the immediate vicinity of the site. PNBST have yet to complete their investigations, but are happy for the plan change process to proceed, noting they have further opportunities to liaise with Council and to participate in the statutory planning process.

## **8.5 The Minister for the Environment**

Consultation with the Minister on plan changes is a requirement set out in Clause 3(1)(a) of the First Schedule of the RMA. Council wrote to the Minister and received a response from the Minister's office expressing no concerns or specific feedback.

## **8.6 Greater Wellington Regional Council**

Consultation with Greater Wellington Regional Council on plan changes is a requirement set out in Clause 3(1)(a) of the First Schedule of the RMA. Council wrote to Greater Wellington and received a response. Greater Wellington has indicated that it wishes to be informed when the plan change is notified.

# **9 Section 32 considerations**

## **9.1 Key Resource Management Issue – Rationalisation of Zoning**

Section 4 sets out in some detail the "problem" relating to the site and to which this plan change is directed to address. It is apparent that the existing zoning and associated planning framework does not fit the characteristics of the site, therefore *some* change to the framework is required (i.e. the do nothing approach is not appropriate).

There is a range of options available to address the most appropriate zoning and associated framework and these have been discussed in detail below. As a starting point, Council has identified at a broader scale, what the most appropriate overall use of the site should be which has helped determine its zoning. In looking at these zoning options, the specific history, context and characteristics of the site, Council has concluded that a tailored approach would be

necessary irrespective of which zoning was ultimately determined to be the "most appropriate". This has been evaluated as follows:

### 9.1.1 Residential zoning

The larger southern parcel of the site has been zoned Outer Residential Area in the operative District Plan for some time but has not been developed in line with this zoning despite the recent residential property boom. This is likely to be because of the amenity constraints of this part of the site - namely its low ground level relative to land on all sides (and associated shading issues) and the presence of high voltage transmission lines running directly over the site.

The northern part of the site adjoining Whitehead Road is zoned Open Space B in the District Plan and is elevated above the southern part. This land is also constrained by the presence of the overhead transmission lines. The National Policy Statement on Electricity Transmission (NPSET) and Transpower's own corridor management policy (CMP) discourage residential activity in close proximity to high powered transmission lines.

The table below summarises these points, considers the costs and benefits of a purely residential zoning and makes a recommendation on whether this is the most appropriate zoning for the land:

BENEFITS	DISADVANTAGES, COSTS AND RISKS	PLANNING OUTCOME
<ul style="list-style-type: none"> <li>The site is already largely residentially zoned.</li> </ul>	<ul style="list-style-type: none"> <li>Does not represent the most efficient use of the land</li> <li>Overhead power lines create sensitivities in developing the land for residential purposes</li> <li>Opportunities for non-residential activities are limited under this restrictive zoning.</li> </ul>	<p>This zoning is <b>not recommended</b> because:</p> <ul style="list-style-type: none"> <li>it does not represent the most appropriate or efficient use of the land</li> </ul>

On the basis of the above a residential zoning across all or part of the site is not considered to be the best zoning option.

### 9.1.2 Open Space zoning

A range of open space / recreational type uses are possible on the site, and Council currently has three open space zonings in the District Plan (A, B and C) which provide for passive and active recreational uses.

It is noted that the use of private land for open space purposes potentially presents tensions between the *private* aspirations of the landowner and the primarily *public* benefits to be gained through such a zoning. The Environment Court case *Capital Coast Health Ltd Vs Wellington City Council* (ENV W101/98) provides useful guidance on this matter. The case has particular application for the part of the site which is not currently zoned for open space purposes (i.e. the residentially zoned southern parcel).

The *Capital Coast Health* decision concludes that it is generally not the role of private landowners to provide for the recreational needs of the wider community and other zoning

types should be preferred where the land is capable of supporting other uses (e.g. residential, business). The decision also states that if a local authority prefers an open space zoning then the appropriate method for achieving this is through acquisition of the land or designation. Both of these methods would require a significant financial commitment on the part of Council to compensate the landowner.

In further considering the merits of an open space zoning it is noted that there is already an extensive amount of Open Space B zoned land commencing immediately north of the site (Ian Galloway Park) and stretching northwards along the valley to Wilton. There is also Open Space A and Conservation zoned land in this wider area. On this basis Council considers there is sufficient provision of public recreation land in this area and is not of a mind to purchase or designate further land.

The table below summarises these points, considers the costs and benefits of a purely open space zoning and makes a recommendation on whether this is the most appropriate zoning for the land:

BENEFITS	DISADVANTAGES, COSTS AND RISKS	PLANNING OUTCOME
<ul style="list-style-type: none"> <li>• Ready made zoning on part of the site that provides for recreation and open space use</li> <li>• Allows for possible community use of the land</li> <li>• Opportunity to further contribute to the site specific values including residential character and landscape values</li> </ul>	<ul style="list-style-type: none"> <li>• There is no identified demand for additional open space / recreation land in the area.</li> <li>• Does not represent the most efficient use of the land</li> <li>• Does not allow the landowner to provide for its own social, cultural and economic needs,</li> </ul>	<p>This option is <b>not recommended</b> because:</p> <ul style="list-style-type: none"> <li>• it does not represent the most appropriate or efficient use of the land</li> <li>• the landowner is left with largely undevelopable land</li> </ul>

Overall, given the private ownership of the land and already significant provision of open space land in the area an open space zoning is not considered to be the best option for the site.

### 9.1.3 Status quo (mixed residential and open space zoning)

Given the assessment of residential and open space options above the status quo is not recommended. The table below summarises these points:

BENEFITS	DISADVANTAGES, COSTS AND RISKS	PLANNING OUTCOME
<ul style="list-style-type: none"> <li>• Requires no direct action on the part of the Council</li> <li>• Avoids costs and risks associated with a Council plan change</li> </ul>	<ul style="list-style-type: none"> <li>• Does not represent the most efficient use of the land</li> <li>• Difficulties in District Plan application (split zones across one property)</li> </ul>	<p>This option is <b>not recommended</b> because:</p> <ul style="list-style-type: none"> <li>• it does not represent the most appropriate or efficient use of the land</li> </ul>

BENEFITS	DISADVANTAGES, COSTS AND RISKS	PLANNING OUTCOME
	<ul style="list-style-type: none"> <li>Overhead power lines create sensitivities in developing the land for residential purposes</li> <li>Opportunities for non-residential activities are limited under these restrictive zonings.</li> </ul>	

### 9.1.4 Business zoning

Business activities typically generate a full range of effects that need to be considered for compatibility with the local environment. Such effects relate to issues like noise; traffic generation and visual impacts. Council has undertaken and commissioned a range of technical assessments to understand the capacity of the local environment to absorb business activity on the subject site. The assessments have confirmed the feasibility of business activity on the site subject to environmental controls.

On this basis a business zoning is considered to be the best zoning option for the site. However, given the specific resource management issues identified for the site the planning controls attaching to that zoning need to be carefully considered. Therefore a special Curtis Street Business Area (zone) is proposed.

The table below considers the costs and benefits of a site specific Curtis Street business zoning (with an associated suite of tailor-made provisions) and recommends that this is the appropriate zoning for the land:

BENEFITS	DISADVANTAGES, COSTS AND RISKS	PLANNING OUTCOME
<ul style="list-style-type: none"> <li>Would generally provide for efficient use of land and resources</li> <li>Allows for tailor-made provisions that recognise site specific values including residential character and landscape values</li> <li>Provides potential for greater commercial/office space in the western suburbs</li> <li>Minimises the risk of inappropriate development and activities</li> </ul>	<ul style="list-style-type: none"> <li>Would create an additional zoning layer and complexity in the District Plan</li> <li>Impacts on surrounding residential properties need to be carefully managed</li> <li>Impacts on identified centres in Council's centre hierarchy need to be carefully managed</li> </ul>	<p>This option is <b>recommended</b> because:</p> <ul style="list-style-type: none"> <li>Provisions can be tailored to the site specific values including residential character and landscape values</li> <li>It provides for the most appropriate and efficient use of the land.</li> </ul>

## 9.2 Site specific resource management issues and objectives to address them

Section 32(3)(a) of the RMA requires local authorities to identify plan change objectives and then to examine whether those objectives are the most appropriate way to achieve the sustainable management purpose of the Act.

Given the high level determination about the appropriate zoning for the site, Council has worked with residents, the landowner and other stakeholders to understand the site qualities. This followed a two step process that has ultimately determined the provisions that make up the plan change. This has involved:

- Identification of the issues and preparation of expert reports for the Council
- Recognition of these issues in the content and direction of policies and methods of the plan change.

Through this process, few genuine "alternatives" presented themselves and as a result Council has focused its efforts on ensuring the specific resource management issues are thoroughly addressed. These issues are shown in the table below along with objectives developed directly in response.

Resource management issue	Objective
<p><b>Site zoning and planning framework</b></p> <p>The site's zoning does not reflect actual or potential uses for the site and needs to be changed to provide for its efficient use within appropriate environmental parameters. Economic analysis has identified a shortfall of commercial land, goods and services in the western suburbs of Wellington and the suitability of the site to provide for development which can help alleviate this shortfall, thereby providing a range of economic benefits (subject to suitable retail controls).</p>	<p><b>To facilitate commercial activity in the Curtis Street Business Area to assist in meeting the social and economic needs of Wellington's western suburbs and the wider City</b></p>
<p><b>Opportunity for comprehensive development</b></p> <p>The site is currently undeveloped and unconstrained by existing land uses or fragmented land ownership. For these reasons there exists an opportunity to facilitate the creation of a high quality urban environment which is highly functional and efficient in terms of the use of land, and also visually attractive and sensitive to the Creswick Valley setting.</p>	<p><b>To promote the creation of a high quality urban environment in the Curtis Street Business Area</b></p>
<p><b>Context specific character, landscape and ecological values</b></p> <p>Urban design, landscape and ecological assessments have identified a range of values in the site's wider setting. The planning framework for the site needs to acknowledge these values and allow for balanced consideration of impacts on these values as site development proposals come forward. Of particular importance will be managing the visual impacts of development.</p>	<p><b>To recognise the residential character, landscape and ecological values of Creswick Valley</b></p>

Resource management issue	Objective
<p><b>Managing impacts on established residential areas</b> The site is located in close proximity to established residential properties and owners and occupiers of these properties are entitled to expect a high level of amenity. This is an objective of the District Plan generally. Commercial activity and associated traffic can be incompatible with adjacent residential activity if not properly managed.</p>	<p><b>To protect the amenity of adjacent residential areas from activity and development in the Curtis Street Business Area</b></p>
<p><b>Limited capacity in external roading network and general traffic issues</b> Traffic assessments have identified limited capacity in the roading network. It is important that development of the site is managed so that impacts on the capacity of road network, as well as more general safety and accessibility impacts, are appropriately managed.</p>	<p><b>To maintain the efficiency, convenience and safety of the surrounding road network and provide for safe and efficient movement within the Curtis Street Business Area</b></p>
<p><b>Reverse sensitivity</b> The site is traversed by high voltage transmission lines owned and operated by Transpower as part of the national electricity grid. It is important that this infrastructure is protected from direct reverse sensitivity effects associated with the development and use of the site. It is also important that realistic expectations are set around the type and nature of development and activity on the site, and that more sensitive activity and uses are carefully managed should they seek to locate in the business area.</p>	<p><b>Manage reverse sensitivity effects associated with the development and use of the Curtis Street Business Area</b></p>
<p><b>Subdivision</b> Subdivision can provide the certainty of tenure and land ownership patterns required to facilitate the efficient use and development of commercial areas. Provision needs to be made for the subdivision of the area to facilitate these benefits.</p>	<p><b>To facilitate subdivision which assists the development of the area for commercial use</b></p>
<p><b>Tangata whenua interests</b> Port Nicholson Block Settlement Trust, Wellington Tenth Trust and Ngati Toa Rangatira are Iwi authorities representing tangata whenua interests in Wellington City. Council is required to give effect to the principles of the Treaty of Waitangi and other Iwi resource management practices, including tino rangatiratanga and kaitiakitanga, in the District Plan.</p>	<p><b>To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Maori</b></p>
<p><b>Energy efficiency</b> Council encourages energy efficiency in the District Plan particularly in relation to building design. Promoting energy efficiency and environmental sustainability through building design can reduce electricity and water consumption supplied via reticulated networks.</p>	<p><b>To encourage energy efficiency and environmental sustainable building design</b></p>
<p><b>Hazardous substances</b> Council requires careful management of hazardous substances to reduce environmental risks to the community</p>	<p><b>To prevent or mitigate any adverse effects of the use, disposal or transportation of hazardous</b></p>

Resource management issue	Objective
and environment.	substances including waste disposal

The objectives directly address the identified issues and are therefore regarded as the most appropriate way of achieving the purpose of the RMA. Giving effect to the objectives will be achieved by other methods, and these are explored in Sections 7.2 and 7.3

### 9.3 Methods

A regulatory approach to managing the use of private property is well established and proven in the Wellington District Plan, and across New Zealand. Further, given that the problem is regulatory in nature, a regulatory response is regarded as the most appropriate. Overall, the following package of methods is proposed:

**Application of District Plan rules, environmental standards and assessment criteria for the purpose of controlling on-site development and activity, supported by:**

- Direct consideration of the objectives and policies in the assessment of resource consent applications.
- Consideration of higher level Council strategies and policies during the assessment of resource consent applications (this includes the Urban Development Strategy 2006 and the Centres Policy 2008).
- Consideration of external documents including the Wellington Regional Strategy and higher order documents prepared under the Act including national policy statements and the Wellington Regional Policy Statement during the assessment of resource consent applications.
- Council infrastructure and transport delivery projects (as appropriate).
- Council plans and strategies prepared under other legislation (including Annual Plans and Long Term Plans).
- Advocacy.

This is a thorough approach and is consistent with Section 32(3)(b) which requires the methods used to achieve stated objectives to be appropriate, having regard to their “efficiency and effectiveness”.

### 9.4 Assessment of efficiency and effectiveness

Set out below is an assessment of the efficiency and effectiveness of the methods chosen. This is structured under the identified objectives for the site.

**35.2.1 To facilitate commercial activity in the Curtis Street Business Area to assist in meeting the social and economic needs of Wellington’s western suburbs and the wider City**

**Policies**

**35.2.1.1 Specifically provide for and encourage a range of commercial activities in the Curtis Street Business Area.**

**35.2.1.2 Encourage the co-ordinated, comprehensive development of the Curtis Street Business Area in accordance with a pre-approved concept plan.**

**35.2.1.3 Encourage a mixture of commercial tenancies to maximise the efficient use of the economic wellbeing.**

**35.2.1.4 Provide for temporary activities that contribute to the social, economic and cultural wellbeing of the community, whilst controlling any adverse effects in a manner that acknowledges their infrequent nature and limited duration.**

**35.2.1.5 Control the establishment of large integrated retail developments and large supermarkets**

**General method**

See general approach above

**Special methods**

- Providing for commercial and retail activities as permitted activities in Section 36.1 subject to compliance with other rules and activities standards.
- Providing for integrated retail activities over 2500m<sup>2</sup> GFA and supermarkets over 1500m<sup>2</sup> GFA as restricted discretionary activities in Section 36.3 (subject to an assessment for impacts on identified centres).

**Assessment**

The economic assessment prepared by Property Economics identifies significant economic and employment benefits to be derived from development of the land for business use (see Section 5.6 and the attached technical assessment in **Appendix 1**).

Drawing on that assessment Section 7.2 sets out that a business zoning is most appropriate for the site. The policies and other methods identified above reflect a business zoning which is tailored to the opportunities and constraints presented by the site. The proposed rules providing for commercial and retail activities as permitted activities which responds directly to the issues raised in the economic assessment. Safeguard rules have been included to ensure integrated retail activities over 2500m<sup>2</sup> GFA and supermarkets over 1500m<sup>2</sup> GFA require resource consent and can be considered for impacts on identified centres.

The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.1.

**35.2.2 To promote the creation of a high quality urban environment in the Curtis Street Business Area**

**35.2.2.1 Promote co-ordinated, comprehensive development of the Curtis Street Business Area.**

**35.2.2.2 Encourage the use of a pre-approved concept plan that details the co-ordinated and efficient layout and location of buildings; vehicle access ways; servicing areas and landscaping across the whole Curtis Street Business Area.**

**35.2.2.3 Promote an overall high standard of urban design and specifically encourage the development of sensitively designed and articulated buildings (including facades and roofscapes).**

**35.2.2.4 Ensure that all spaces accessed by the public are safe and designed to minimise the opportunities for crime.**

**35.2.2.5 Ensure that signs contribute positively to the visual amenity of Curtis Street Business Area by:**

- **Maintaining and enhancing the architectural integrity and visual amenity of the**

<p><b>host building or site.</b></p> <ul style="list-style-type: none"> <li>• <b>Minimising visual clutter and viewer confusion.</b></li> </ul>
<p><b>General method</b></p> <p>See general approach above</p>
<p><b>Special methods</b></p> <ul style="list-style-type: none"> <li>• Rule 36.2(c) encouraging the use of a concept plan to guide comprehensive development of the site (voluntary process)</li> <li>• Rule 36.2(a) covering subdivision specifies Council control over site layout and contribution to comprehensive development outcomes</li> <li>• Activities standard 36.6(c) specifying zone specific standards.</li> <li>• Assessment criteria in Sections 36.7(b) and (e) covering building development and subdivision which recognise the benefits of building and subdivision which is consistent with a pre-approved concept plan</li> <li>• General assessment criteria promoting comprehensive development</li> </ul>
<p><b>Assessment</b></p> <p>The site is currently vacant, meaning there are no existing land fragmentation constraints or constraints associated with existing built development (other than the high voltage transmission lines). This presents an opportunity to create a high quality urban environment which is in keeping with the economic, social and cultural needs of the community. This can be achieved through the efficient and functional layout of activities on the site and good quality urban design and architecture.</p> <p>The policies and other methods identified above reflect this opportunity, and a voluntary “concept plan” mechanism is included in the plan change to encourage comprehensive development of the site over time. This mechanism is not a requirement, as it is recognised that a concept plan approach requires the co-operation of the landowner and that the ownership of the land may fragment over time, making a planned approach potentially unwieldy. However, there are also general urban design requirements in the plan change that promote co-ordinated development of the site over time.</p> <p>The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.2.</p>

### **35.2.3 To recognise the residential character, landscape and ecological values of Creswick Valley**

**35.2.3.1 Design buildings, structures and spaces in the Curtis Street Business Area to respect the integrity of the wider landscape and residential setting.**

**35.2.3.2 Discourage the use of reflective and brightly coloured building materials and cladding.**

**35.2.3.3 Encourage the retention of trees and vegetation along the western edge of the area adjacent to Old Karori Road.**

**35.2.3.4 Where existing vegetation cannot be retained, use type, species and patterns of replacement planting that are characteristic of the locality.**

**35.2.3.5 Ensure that earthworks and associated structures are designed and landscaped**

**to reduce and soften their visual impact having regard to the character and visual amenity of the local area.**

**35.2.3.6 Ensure earthworks are managed to minimise the adverse effects of runoff on the ecological values of Kaiwharawhara Stream.**

**35.2.3.7 Encourage the use of permeable surfaces to enhance visual amenity and reduce incidences of sudden, large volume discharges to the Kaiwharawhara Stream.**

#### **General method**

See general approach above

#### **Special methods**

- Activities standard 36.6(b) requiring all buildings over 500m<sup>2</sup> GFA to obtain resource consent and be assessed for impacts on landscape, residential character and general visual impacts.
- Activities standard 36.6(b) specifying maximum building height based on a maximum level above mean sea level (114m) or 6m above ground level whichever is the greater, to respond to local context.
- Activities standard 36.6(f) requiring at least 5% of large car parking areas to be landscaped
- Activities standard 36.6(b) and (e) for building height, earthworks and retaining walls
- Assessment criteria in Section 36.7 addressing specific residential character, landscape and ecological effects.

#### **Assessment**

The ecological, landscape and urban design assessments set out in Sections 7.2, 7.3 and 7.4 respectively identify a number of site and context specific values which need to be reflected in the planning framework for the site. These issues are represented in the policies listed above.

Special methods included in the plan change are listed above, and are directed to ensure that appropriate environmental standards are in place, and that full consideration of relevant ecological, landscape and urban design issues can be made when these standards are breached. The thresholds included in the standards (e.g. 500m<sup>2</sup> GFA building footprint) have been directly informed by the technical assessments and are regarded as striking an appropriate balance between facilitating the development of the zone on one hand and recognising environmental factors on the other.

The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.3.

### **35.2.4 To protect the amenity of adjacent residential areas from activity and development in the Curtis Street Business Area**

**35.2.4.1 Control the height, bulk and location of buildings and developments for the purpose of managing shading, daylight, privacy, scale and dominance effects on adjacent residential areas.**

**35.2.4.2 Ensure that the visual effects of signage do not adversely affect the amenities of nearby residential areas.**

**35.2.4.3 Ensure that activities creating effects of noise, lighting, dust and the discharge of any contaminants are managed to avoid, remedy or mitigate adverse effects on nearby residential areas.**

**35.2.4.4 Ensure that the traffic generated by development and activity does not impose significant adverse effects on local residential streets.**

**35.2.4.5 Manage the scale, intensity and placement of signs to a form and scale appropriate to the amenity of nearby residential areas.**

#### **General method**

See general approach above

#### **Special methods**

- Activities standard 36.6(b) requiring all buildings over 500m<sup>2</sup> GFA to obtain resource consent and be assessed for impacts on landscape, residential character and general visual impacts
- Rules 36.3(b) and (c) setting floorspace limits for retail (500m<sup>2</sup> GFA) and commercial activities (2,500m<sup>2</sup> GFA) to set resource consent triggers with a requirement for traffic assessments, to be applied on a zone wide basis.
- Activities standards 36.6(g), (h), (i) and (n) for lighting, dust, discharge and noise effects
- Assessment criteria in Section 36.7 addressing specific residential amenity effects.

#### **Assessment**

Various assessments undertaken by Council and expert consultants identified the need to protect the residential amenity of adjacent residential properties. This is a well established principle in the District Plan where business areas and residential areas abut one another, and a standardised set of policies and environmental standards are proposed to manage these issues. These have proven to be effective in other parts of the District Plan. It is also recognised that traffic generated from business activities on the site could have adverse amenity impacts on local residential streets and so these effects will be able to be considered where proposed retail activities exceed 500m<sup>2</sup> GFA and where non-retail activities exceed 2,500m<sup>2</sup>.

The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.4.

**35.2.5 To maintain the efficiency, convenience and safety of the surrounding road network and provide for safe and efficient movement within the Curtis Street Business Area**

**35.2.5.1 Control the type and scale of retail activity which establishes in the Curtis Street Business Area to manage the generation of traffic and associated impacts on the road network.**

**35.2.5.2 Ensure that the location and design of developments that cater for activities that generate significant levels of traffic or increase demand for parking are accessible by multiples transport modes and do not result in:**

- A significant increase in traffic that would be incompatible with the capacity of adjoining roads and their function in the road hierarchy, or would lead to unacceptable congestion.
- An on-street parking demand that extends into Residential Areas and/or leads to unsatisfactory parking arrangements.

- **The creation of an unacceptable road safety risk.**

**35.2.5.3 Design the layout of parking areas so that on-site circulation space is safe, convenient and easily understood by motorists and pedestrians.**

**35.2.5.4 Encourage buildings and spaces to have a high level of accessibility, particularly for people with restricted mobility.**

**35.2.5.5 Require the provision of appropriate servicing and site access for activities in the Curtis Street Business Area.**

**35.2.5.6 Manage the scale, intensity and placement of signs to: a form and scale appropriate to viewer distance and viewing speed.**

#### **General method**

See general approach above

#### **Special methods**

- Rules 36.3(b) and (c) setting floorspace limits for retail (500m<sup>2</sup> GFA) and commercial activities (2,500m<sup>2</sup> GFA) to set resource consent triggers with a requirement for traffic assessments, to be applied on a zone wide basis.
- Activities standard 36.6(m) which includes requirement to provide all car parking and servicing areas within the site

#### **Assessment**

The traffic assessment prepared by Opus International Consultants identifies limits in the capacity of the Chaytor Street / Curtis St intersection and the ability of the adjacent road network to accommodate on-street car parking and service vehicle movements (see Section 5.7 and the attached technical assessment in **Appendix 1**). Ultimately the assessment concludes that the zone can be developed for business purposes subject to:

- A 500m<sup>2</sup> GFA floorspace limit on all retail activities – beyond which a resource consent with associated traffic assessment would be required.
- A 2,500m<sup>2</sup> GFA floorspace limit on non-retail activities – beyond which a resource consent with associated traffic assessment would be required.
- A requirement for all vehicle servicing areas and car parking to be accommodated on the site to which it relates or elsewhere in the zone.

A standardised set of policies and environmental standards are also proposed to manage these issues. These have proven to be effective in other parts of the District Plan.

The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.5.

### **35.2.6 Manage reverse sensitivity effects associated with the development and use of the Curtis Street Business Area**

**35.2.6.1 Ensure that activities that create adverse noise, lighting, dust and the discharge of any contaminants effects are managed to avoid adverse effects on other activities within the Curtis Street Business Area.**

**35.2.6.2 Discourage sensitive activities from establishing in the Curtis Street Business Area to avoid conflicts with the commercial activities encouraged for the area and only**

allow these to establish where reverse sensitivity effects can be properly avoided, remedied or mitigated.

**35.2.6.3 Ensure activities, development and vegetation planting in the Curtis Street Business Area does not compromise the operation, maintenance and upgrading of the high voltage transmission lines traversing the area.**

#### **General method**

See general approach above

#### **Special methods**

- Sensitive activities defined and listed as discretionary activities under Rule 36.4
- Activities standard 36.6(b) requiring all buildings over 500m<sup>2</sup> GFA to obtain resource consent and be assessed for impacts on operation and maintenance of overhead transmission lines – includes specific requirement to consider Transpower as an affected party
- Assessment criteria 36.7(i) specifically addressing high voltage transmission line issues

#### **Assessment**

There are a number of actual and potential reverse sensitivity effects which could arise from the development of the site for business purposes. These could occur in two main ways:

- Effects of site development and associated activities on adjacent residential properties.
- Effects within the proposed zone if sensitive activities are established alongside business / commercial activities.
- Site development and activity which is incompatible with the high voltage transmission lines owned and operated by Transpower.

The policies and special methods above have been developed to directly address reverse sensitivity risks associated with the development of the site for business purposes and are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.6.

### **35.2.7 To facilitate subdivision which assists the development of the area for commercial use**

**35.2.7.1 Support subdivision which facilitates the development and use of the Curtis Street Business Area for its intended commercial purpose.**

**35.2.7.2 Ensure that subdivision in the Curtis Street Business Area does not compromise the ability for the area as a whole to be developed in a co-ordinated, comprehensive manner.**

**35.2.7.3 Support subdivision which is consistent with any concept plan which has already been approved under Rule 36.2(c).**

**35.2.7.4 Ensure the sound design, development and appropriate servicing of all subdivisions.**

#### **General method**

See general approach above

<p><b>Special methods</b></p> <ul style="list-style-type: none"> <li>• Rule 36.2(a) providing for subdivision as a controlled activity</li> <li>• Assessment criteria 36.7(e) including criterion recognising the benefits of subdivision which is consistent with a pre-approved concept plan</li> </ul>
<p><b>Assessment</b></p> <p>Subdivision is important in providing the certainty of tenure that encourages new operators and tenants to occupy and develop land. For this reason subdivision is provided for as a controlled activity, which is consistent with the approach across the District Plan. However, it is important that subdivision occurs in such a way that the comprehensive development outcomes promoted for the area are not compromised by inefficient fragmentation of land or configuration of lots. For this reason subdivision which is consistent with a pre-approved concept plan is encouraged in the subdivision assessment criteria.</p> <p>The policies and other methods identified above are regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.7.</p>

<p><b>35.2.8 To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Maori</b></p>
<p><b>35.2.8.1 In considering resource consents, Council will take into account the principles of tino rangatiratanga, kaitiakitanga and of the Te Tiriti o Waitangi / the Treaty of Waitangi.</b></p>
<p><b>General method</b></p> <p>See general approach above</p>
<p><b>Special methods</b></p> <p>None</p>
<p><b>Assessment</b></p> <p>Consultation with Port Nicholson Block Settlement Trust and Ngati Toa Rangatira has not identified any significant Maori cultural issues. However, under the RMA Council has a duty to uphold the principle of the Treaty of Waitangi, tino rangatiratanga and kaitiakitanga. Therefore it is appropriate that the plan change include a policy reference to these principles so that should any Maori cultural issues emerge during the development of the site they can be given appropriate weight. On this basis policy 35.2.8.1 is regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.8.</p>

<p><b>35.2.9 To encourage energy efficiency and environmentally sustainable building design</b></p>
<p><b>35.2.9.1 Promote a sustainable built environment in the Curtis Street Business Area involving the efficient end use of energy and other natural and physical resources and the use of renewable energy, especially in the design and use of new buildings and structures.</b></p>
<p><b>35.2.9.2 Ensure all new buildings provide appropriate levels of natural light to occupied spaces within the building.</b></p>
<p><b>General method</b></p>

See general approach above
<b>Special methods</b> None
<b>Assessment</b> Energy efficiency and environmentally sustainable building design are key priorities in the District Plan with objectives and policies already in place in other chapters. It is appropriate that these directions be included in the current plan change to ensure a consistent approach. Policy 35.2.9.1 is regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.9.
<b>35.2.10 To prevent or mitigate any adverse effects of the use, disposal or transportation of hazardous substances including waste disposal</b>
<b>35.2.10.1 Ensure the environment is safeguarded by managing the storage, use, handling and disposal of hazardous substances.</b>
<b>35.2.10.2 Control the use of land for end point disposal of waste to ensure the safe disposal of solid and hazardous waste to acceptable standards.</b>
<b>35.2.10.3 Reduce the potential adverse effects of transporting hazardous substances.</b>
<b>35.2.10.4 Ensure that development and activity appropriately avoids, remedies or mitigates the adverse effects of contaminated soil on human and environmental health.</b>
<b>General method</b> See general approach above
<b>Special methods</b> None
<b>Assessment</b> Careful management of hazardous substances is a key priority in the District Plan with objectives and policies already in place in other chapters. It is appropriate that these directions be included in the current plan change to ensure a consistent approach. Policy 35.2.10.1 is regarded as the most appropriate, effective and efficient means of giving effect to objective 35.2.10.

## 9.5 Notification of resource consents

Given the proximity of the Curtis Street Business Area to established residential areas the approach to public and limited notification is particularly important. The rules and standards chapter adopts a different approach to notification than other business area chapters in the District Plan. In particular the Curtis Street Business Area includes a lesser number of “non-notification / service” provisions. This is a deliberate approach which reflects the 2009 amendments to the Resource Management Act 1991, which created a presumption towards non-notification. In addition it is considered generally appropriate that Council, when making notification decisions, exercise full discretion under Sections 95-95F of the Resource Management Act 1991. Notwithstanding, it is specifically noted that the relative absence of non-notification / service provisions, does not create a presumption towards notification.

## 10 Conclusion

This report has been prepared to address the requirements of Section 32 of the RMA. In doing so it has addressed:

- The planning background for the site.
- Council's role and functions.
- High order statutory considerations under the RMA.
- Site specific resource management issues underpinned by technical assessments.
- Consultation with key stakeholders.

Ultimately it concludes that a regulatory planning response is required to resolve the planning and development issues for the site. Specifically it concludes that a site specific Curtis Street Business Area (zoning) is required, accompanied by a mixture of standard and site specific environmental controls. Site specific environmental controls are required to address issues unique to the site (e.g. landscape setting, road network issues).

A plan change has been prepared which responds to the issues identified through the planning background, technical investigation and consultation, and ultimately the analysis contained in this report.

## **Appendix 1 – Technical assessments**

- Ecology
- Landscape
- Urban Design
- Heritage
- Economics
- Transport
- Geotechnical and site contamination
- Noise