

2 November 2006

The Chairman and Councillors
Environment Committee

PRIVATE PLAN CHANGE REQUEST 06-01 (CATAL DEVELOPMENTS LTD)

1. Reason for report

- 1.1. To provide advice on how to process private plan change request 06-01.

2. Background

- 2.1. Private plan change request 06-01 seeks the inclusion of a Large Format Overlay over the old Honda factory site on Quarantine Road in Tahunanui. The purpose of the request is to provide for large format retailing. The proposed Large Format Overlay provides for retail outlets of no less than 500m² and associated activities, to a maximum of 30,000m². The plan change request includes restrictions on the extent of food and supermarket retailing.
- 2.2. The proposed plan change amendments are attached to this report (Attachment 1) and a full copy is available in the Councillor's lounge.

3. Consultation

- 3.1. This decision does not require any consultation with other parties. The public's opportunity to submit on these proposed plan changes will occur if the Committee decides to accept the plan changes for notification.

4. Funding

- 4.1. Council's funding policy provides for a 95% cost recovery of private plan changes from plan change proponents. It is difficult to estimate with any certainty the full cost to Council of processing this plan change as a private request, given the large variables such as the number of possible submitters, and the issues they may raise. These costs would be mainly staff time.
- 4.2. If Council was to adopt this plan change as its own, then it would incur 100% of the processing costs from this point on. A cost sharing arrangement may be possible with the private developers if Council adopted the plan change as its own. This is discussed in more detail under 'options'.

5. Views and preferences of interested or affected persons

- 5.1. The proponents have been advised of the recommendations in this report. They advise they have no preference in respect of a private plan change versus a council adopted plan change.
- 5.2. Views of affected parties will be considered through the statutory submission process.

6. Significance of Decision

This is not a significant decision according to the Council’s Significance Policy as it relates only to process, rather than the merits of the plan change.

7. Relevant Council policies

7.1. There are no Council policies relevant to this decision, which relates to a statutory RMA process.

8. Options

Accept options

8.1 The Resource Management Act 1991 (RMA) First Schedule provides Council with a number of options for accepting the request:

Accept Option 1 - Council plan change. Adopt the plan change as Council’s own plan change:

Advantages	Disadvantages
<p>(a) Potentially better integration with Council asset management plans and other strategies and plans.</p> <p>(b) Allows Council full discretion to modify the plan change before it is notified.</p>	<p>(a) Council would be 100% financially responsible for all processing costs. Difficult to estimate, but possibly in the range of \$15,000 to \$20,000, <u>not</u> including any appeals. There is no provision in the budgets or LTCCP for council to adopt this plan change as its own. A cost sharing partnership with the proponents may be possible.</p> <p>(b) Still required to notify the plan change within four months, so may not achieve better integration with other Council processes (e.g. business and employment activities strategy with TDC).</p> <p>(c) Brings this plan change request ahead of Council’s programmed Plan Changes.</p>

Accept Option 2 - Private plan change. Accept the plan change, in whole or part, as a private plan change and prepare change in consultation with the person who made the request:

Advantages	Disadvantages
<p>(a) Council retains statutory authority to accept, reject or modify the requested plan change through the public process to address any concerns it has with the request.</p> <p>(b) Council can recover 95% of all processing costs under its funding policy.</p> <p>(c) The applicant bears the risk of the plan change not proceeding due to submissions.</p> <p>(d) Reduced staff time involved in processing the plan change.</p>	<p>(a) The proposed plan change may not be as well integrated with the plan and other strategies as if it was the Council’s own plan change.</p>

Accept Option 3 - Process as a resource consent. Deal with the plan change as if it was an application for resource consent:

Advantages	Disadvantages
(a) As for option 2, except that Council can only recover 55% of costs under its funding policy.	(a) As for option 2. (b) Large format retailing is contrary to the existing Industrial Zone objectives and policies of the plan that apply to the Quarantine Road site and a resource consent application is less likely to be successful. (c) A resource consent application would require specific detail on the nature, area, and type of retail activities that is unlikely to be currently available. A plan change provides more flexibility.

Reject options

8.2 The RMA also provides options for the private plan change request to be rejected at this stage. However, there are limited grounds for rejecting a request. The reject options are as follows:

Reject option 1: Reject on the grounds that the request is frivolous or vexatious:

Assessment: The plan change has been prepared by legitimate proponents, and is not considered to be frivolous or vexatious

Reject option 2: Reject on the grounds that the plan change has been considered by the Council or Environment Court within the last two years:

Assessment: The plan change has not been considered previously by the Council or the Court.

Reject option 3: Reject on the grounds that the request is not in accordance with sound resource management practice:

Assessment: Three issues to consider under this option are:

Regional retail/industrial strategy

Nelson City Council and Tasman District Council are considering developing a Business and Employment Activities Strategy to look at the future provision for these activities. The timing is such that this private plan change request precedes any possible regional land use strategy. While this is not ideal, it is not considered to constitute unsound resource management practice.

Incompatible activities

The proposal is for an overlay which permits both retail and industrial activities to co-locate. This could result in issues of compatibility, if this were to occur. This in turn could be considered unsound resource management practice if it gives rise to significant cross boundary effects. The plan change proposes mitigation measures to address this issue. As such, it is considered that this matter can be addressed at the hearing, and that it does not provide grounds for rejecting the private plan change at this stage.

Transport system

A final consideration relates to whether impacts on the land transport network are unsound resource management practice. The Corridor Study and review of the Regional Land Transport Strategy are still to be completed. Ideally, these would both be in place to provide guidance for this request. This issue relates more to one of timing. The relationship between the proposed overlay and the transport system can be considered as part of the officer's report, and this is therefore not considered unsound resource management practice.

On this basis, there are not grounds for rejecting the plan change request because it is not in accordance with sound resource management practice.

Reject option 4: Reject on the grounds that the plan change would make the Regional Policy Statement or Resource Management Plan inconsistent with the purpose of the RMA:

Assessment: The plan change does not propose changes to the RPS, and the proposed changes to the Plan are not considered to make it inconsistent with the purpose of the RMA.

Reject option 5: Reject on the grounds that the Nelson Resource Management Plan has been operative (in part) for less than two years:

Assessment: The Nelson Resource Management Plan was made operative (in part) in October 2004. The relevant parts of the plan have been operative for just over two years, so this clause is not relevant.

9. Staff recommendation

- 9.1 The analysis in 8.2 shows there are no grounds for rejecting the requested plan change.
- 9.2 It is therefore recommended that proposed plan change 06-01 is accepted for processing as a private plan change for the following reasons:
 - Council retains the statutory authority to accept, reject or modify the plan change through the public process to address any concerns it has with the request; and
 - Council can recover 95% of the processing cost.

10. Delegations Register reference

- 10.1 *87. Power to hear, consider and determine submissions on policy issues arising from the preparation, operation, change or review of the Nelson Resource Management Plan ...*
- 90. Power to set the priorities for the preparation or review of the NRMP under the RMA 1991, and to confirm for public notification and submission discussion documents, strategies, variations and plan changes – First Schedule, RMA*
- 91. Power to determine procedural matters relating to the preparation, review, or changes to a plan or policy statement under the Resource Management Act, 1991.*

11. Recommendation

***THAT** proposed plan change P06-01 (Catal Developments Ltd) is accepted under Clause 25(2)(b) of the First Schedule to the Resource Management Act 1991, as a private plan change.*

***and that** proposed plan change P06-01 is publicly notified as soon as practicable having regard to the notification timeframes in the First Schedule of the Resource Management Act 1991.*

V R Altmants
Chief Executive
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