

Report No:	REP12-03-04
File No:	L332-5
Date:	16 March 2012
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 29 March 2012
Report Author: Steve Markham, Policy Manager - Neil Jackson,
Lisa McGlinchey, Policy Planners

Subject: **RICHMOND WEST DEVELOPMENT AREA: ISSUES ARISING FROM APPEALS AND DRAFT VARIATION 3 TO CHANGE 10 AND DRAFT CHANGE 37**

“In Committee”

EXECUTIVE SUMMARY

This report recommends two sets of amendments to the Tasman Resource Management Plan (TRMP) to address issues raised in some appeals on Change 10 but which are not able to be fully resolved through them, together with miscellaneous technical drafting amendments. The first set of amendments is proposed as draft Variation 3 to Change 10 and the matters addressed are:

- Inconsistency of requirements for stormwater interceptor treatment devices in business zones, and the need for technical amendments to Light Industrial Zone (LIZ) and in MBZ rules for industrial activities
- Technical errors and inconsistencies with land use noise rule, community activity matters for MBZ, parking requirements for all activities.

The second set is proposed as draft Change 37 and is an altered approach to managing the network of urban open space encompassing the Richmond West and South greenway, following the final form of the public work requirement over the greenway.

RECOMMENDATION

It is recommended to approve for consultation, draft Variation 3 to Change 10 incorporating amendments to implement option 2 issue 1, and three options 2 for all sub-issues in issue 2; and draft Change 37 incorporating option 3 for issue 3, as attached to the report.

DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the Richmond West Development Area: Issues Arising From Appeals And Draft Variation 3 To Change 10 REP12-03-04 and approves the circulation of the Draft Variation 3 to Change 10 Richmond West Development Area and draft Change 37 Richmond west and south greenway rezoning attached to the Report, to key stakeholders for feedback before notification.

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Subject: **RICHMOND WEST DEVELOPMENT AREA: ISSUES ARISING FROM APPEALS AND DRAFT VARIATION 3 TO CHANGE 10 AND DRAFT CHANGE 37**

“In Committee”

1. PURPOSE

1.1 This report recommends amendments to the Tasman Resource Management Plan (TRMP) to address issues raised in some appeals on Change 10 but which are not able to be fully resolved through them, together with miscellaneous technical drafting amendments (draft Variation 3 to Change 10) and an updated approach to managing the network of urban open space encompassing the Richmond West and South greenway, following the final form of its public work requirement (draft Change 37).

2. BACKGROUND

2.1 This report deals with specific issues that have emerged in the course of responding to some of the appeals received in late 2009 on TRMP Change 10 Richmond West Development Area. The issues are, in summary:

- Inconsistency of requirements for stormwater interceptor treatment devices in business zones, and the need for technical amendments to Light Industrial Zone (LIZ) and in MBZ rules for industrial activities
- Technical errors and inconsistencies with land use noise rule, community activity matters for MBZ, parking requirements for all activities
- Conflicting and obsolete restrictions over greenway lands following the final form of its public work requirement, and the appropriate zoning of the land that is intended to become the urban greenway network across both Richmond west and south.

Change 10 has coded in the TRMP a large and complex strategic plan for the growth of a major regional business park and an adjacent residential precinct, to the west of SH 6, as the northwest front of urban development for Richmond. The vast bulk of planning issues have been addressed through the decisions version of Change 10 and the resolution of most aspects of most appeals by agreement, since September 2009. A part withdrawal of some specific zoning was done during consideration of submissions in May 2009, and two generally minor variations have since been made and are now merged with the Change.

However, there remain some specific issues that have arisen from both appeals and ongoing staff assessment of the change provisions that must be addressed to help secure a successful implementation of the change. Other appeal issues are sought to be resolved by consent order agreement with the parties and are to be briefed to the Committee separately from this report.

3. ISSUE 1: STORMWATER INTERCEPTOR TREATMENT DEVICES IN BUSINESS ZONES

3.1 Background

There is inconsistency of requirements for stormwater interceptor treatment devices in business zones, and a need for technical amendments to Light Industrial Zone (LIZ) and MBZ policies and rules regarding industrial activities.

3.1.1 Change 10 as notified included a package of policies and rules applying to the Beach Road area as a Mixed Business Zone. A subsequent decision removed the Mixed Business Zone and reinstated the Light Industrial Zone in this area. Appeals have identified that the necessary review of policies and rules was incomplete, and there is at present inconsistent requirements for SITDs in the BRLIZ.

3.1.2 Despite policies stating the intent to manage contamination effects for the Mixed Business Zone, the rules for that zone do not include the stormwater interceptor treatment devices as required for the Industrial Zone. Staff recommend that the requirement for stormwater interceptor treatment devices is added to the Mixed Business Zone to apply to any industrial activities locating in that zone as these all have potential for contamination of stormwater and uncontrolled escapes off each site.

3.1.3 Rules requiring stormwater interceptor treatment devices need to be supplemented with a requirement that the interceptors are cleaned and the intercepted material disposed of in an environmentally acceptable manner. Staff recommend this requirement is added to all rules requiring stormwater interceptor treatment devices.

3.2 Options for Addressing BRLIZ Situation

3.2.1 Option one is to reinstate the rules and permissions that existed for the Beach Road Light Industrial Zone (BRLIZ) (including McPherson Street) prior to Change 10 (the original Light Industrial Zone rules would apply). Some policies would need to be reviewed or removed also.

Benefits: None identified except reduced development costs for the few undeveloped sites.

Costs: Ecosystem damage from escapes of contaminated stormwater into the inlet.

Risks: Significant ongoing exposure of the Waimea inlet to stormwater contamination risk as limited information about stormwater control exists at the site scale.

This option is not recommended as the risks outweigh the benefits.

- 3.2.2 Option two is to confirm the the environmental performance conditions for SITDs in the BRLIZ from Change 10 (ie. remove the inconsistencies in the exceptions for this zone location so that the RWDA Light Industrial zone rules consistently apply),; as district land use rules to address the potential for contaminants to enter Waimea Inlet.

Benefits: Significantly reduced risk of the Waimea inlet to stormwater contamination risk for all new development in BRLIZ.

Costs: Costs of SITDs for those sites with further development potential.

Risks: Ongoing exposure of the Waimea inlet to stormwater contamination risk from developed sites as limited information about stormwater control exists at the site scale.

This option is recommended for the reasons given below.

- 3.2.3 Option three is to give the conditions requiring SITDs a regional land use rule status to so require in time all existing developed sites to install .SITDs.

Benefits: Over time, reduced contamination risk to the inlet.

Costs: Additional costs for all BRLIZ sites that may not be necessary.

Risks: Unnecessary imposition where individual developed sites have adequate onsite stormwater management systems.

This option is not recommended at present as it may not be cost-efficient.

3.3 Preferred Option for Addressing BRLIZ Situation

- 3.3.1 Option two is recommended for the following reasons. The BRLIZ has the highest risk of all Light Industrial Zone locations in the RWDA for stormwater to deliver contaminants to Waimea Inlet, and is high risk for hazardous substances and discharges to air. The Plan includes a water quality standard for Waimea Inlet, to be managed for fisheries and aquatic ecosystem purposes. Contaminant risk reduction measures are warranted to help meet the objectives and ambient standards for that classification.

- 3.3.2 Existing activities in the BRLIZ will have existing use rights in relation to rules included in part II of TRMP. The Change 10 rules in the Light Industrial Zone will apply to new activities, or to existing activities that expand significantly from their current operation. There may be compliance/enforcement difficulties if currently permitted activities significantly expand their scale of operation.

Advice to Council in 2007 indicated a then cost of \$2000 for a standard sediment and oil interceptor

3.3.3 The most efficient next step with stormwater management in the BRLIZ is for some liaison between Council and all existing landowners to assess the current situation for effective stormwater control at the site scale. The expectation is that both management practices and technology are variable, and that installation of further treatment systems may be either impractical or unnecessary on every site. Other solutions to managing escapes of contaminants may be needed. Until this is done it is not appropriate to apply the SITD requirement to all BRLIZ sites. However, as under option 2, new developments need to provide for SITDs. .

3.3.4 Under option three, existing “district” rules for SITDs in the BRLIZ would become “regional” rules. This would remove existing use rights relating to stormwater management. The default provision of the Act is that people would then have six months (from the date that new rules become operative) to either rectify any non-compliance with the new requirements or apply for consent to continue using their existing stormwater management. Alternatively the rules could include a delayed start date, giving people x years in which to upgrade their stormwater management. As limited information about stormwater control exists at the site scale, this option is not appropriate to consider until further assessment is done.

4. ISSUE 2: TECHNICAL ERRORS AND INCONSISTENCIES WITH SPECIFIC RULES

4.1 Background

There are land use noise rule, community activity matters for MBZ, parking requirements for all activities.

4.2 Mixed Business Zone: Noise rule

4.2.1 The Mixed Business Zone noise rule lists several measuring points, one of which is at the boundary of the Residential Zone. Other noise measuring points, in this zone and in the Industrial Zone, are described as “at or within the boundary” of a zone, or of a site within a zone.

4.2.2 There are instances where conditions or features, such as the bund wall between SH 6 and Arbour-Lea Avenue properties, may mean noise measured at the Residential Zone boundary is less than noise measured further inside the Residential Zone. The intent of the rule is to protect people in the Residential Zone from noise generated in the Mixed Business Zone.

4.2.3 The equivalent rule for the Industrial Zone applies to noise received in the Tourist Service Zone as well as the Residential Zone

4.3 Options

4.3.1 Leave the noise measuring point at the Residential Zone boundary as is as Option 1; or amend the measuring point to be at or within the Residential Zone and Tourist Services Zone as option 2.

4.4 Pros and Cons of Options

4.4.1 Leaving the rule as is will mean some occupiers of Residential Zone or Tourist Services Zone properties will not get the level of protection intended by the noise limit. Amending the measuring point will restore the intent of the rule, and including the Tourist Services Zone will make it consistent with the Industrial Zone noise rule. This option (option 2) is recommended.

4.5 Mixed Business Zone: Visitor and Tourist Accommodation; Community Activities

4.5.1 The Mixed Business Zone has a restricted discretionary activity rule for visitor and tourist accommodation, residential activity ancillary to a business, and community activities. The rule has conditions relating to noise and to hazardous facilities and substances. The rule lists those same topics in its matters of discretion. Exercising discretion is not compatible with standards that have been fixed by conditions. People are entitled to rely on what has been allowed or restricted by conditions in rules.

4.6 Options

4.6.1 Options are to retain the conditions and remove the related matters of discretion (option 1); or remove the conditions and rely on the issues being satisfactorily resolved through Council's exercise of discretion (option 2).

4.7 Pros and Cons of Options

4.7.1 Retaining the conditions in the rule states for all parties, the standards that Council considers are appropriate for these activities. The full discretionary option is available for an applicant wanting to avoid the standards fixed by the conditions. Removing the conditions means no party knows what Council considers to be an appropriate standard, which is then set on a case-by-case basis.

4.7.2 Retaining the conditions as option 1 is preferred for this restricted discretionary activity rule.

4.8 Parking requirements: RWDA and Mapua

4.8.1 Change 10 added a requirement for specimen trees to be planted in car parking areas in the Richmond West Development Area, where more than five car parks are required. This was achieved through a new controlled activity rule which operates as a default from the permitted activity rule for parking and

loading. Subsequently, Change 22 has extended that requirement to car parking areas at Mapua.

4.8.2 The controlled activity rule requiring specimen trees is a self-contained rule, dealing only with the requirement for specimen trees in car parks in RWDA and Mapua. It does not import, or cross-link to, the other conditions of the permitted activity parking rule, or provide for those to be addressed as matters of control. Consequently, where more than 5 car parks are required in RWDA or Mapua, there are no conditions governing off-site parking, size of parking spaces, manoeuvring areas, loading space, cycle parking, disability parking, surface finish, or stormwater management.

4.8.3 The rule lists maintenance and replacement of plantings both as a condition and as a matter of control. It can only be one or the other.

4.9 Options

4.9.1 Options are to make no amendment (option 1), or to restore the full range of parking conditions where more than five car parks are required for developments in RWDA and Mapua (option 2).

4.10 Pros and Cons of Options

4.10.1 Making no change would result in sub-standard car parks for larger developments in RWDA and Mapua. Reinstating the normal parking requirements, in addition to the specimen tree requirement, is the preferred option (option 2).

5. ISSUE 3: THE APPROPRIATE ZONING OF THE LAND THAT IS INTENDED TO BECOME THE URBAN GREENWAY NETWORK ACROSS BOTH RICHMOND WEST AND SOUTH

5.1 Background

5.1.1 The development of plans for expanding Richmond in the south and west through Changes 5 and 10 have incorporated an urban network on land corridors called greenways for future stormwater drainage, stream ecosystem enhancement, open space amenity and recreation, and active transportation via walking and cycling. This greenway network is currently notated as indicative reserve overlying what in all of the land affected is also zoned with deferred urban (residential, mixed business or light industrial) zonings that overly in turn, the current rural zone. The indicative reserve was applied through both Changes 5 and 10, as the means of securing the land for this future urban network. The reason for this in 2006 and 2007 respectively, was that at those times, the design planning for the stormwater management function of the greenway network elements had not been refined sufficiently to confirm the design basis and so the precise extent and location of this network.

5.1.2 Under the TRMP at present, the indicative reserve is to be secured more or less in the position notated, through subdivision rules that require vesting of the land in Council upon individual subdivision. This means of greenway securement has resulted in appeal issues with both changes. Persisting with the indicative reserve would have meant disconnected pieces of it would be acquired, and coherent development compromised. As well, landowners opposed the requirement that they give up the land without compensation for stormwater drainage, and only receive it for recreation reserve needs in the network space.

5.1.3 Design planning for the network in relation to stormwater drainage was advanced in 2009, and Council then accepted that the lands within the network were better secured by way of a public works requirement to designate the lands under Part 8 of the RMA. Requirements for the use of the lands as greenway were notified, and confirmed by Council in 2010, essentially applying over the final locations of the indicative reserve. One requirement appeal remains to be resolved before the requirement can become a designation and so require Council to purchase the lands in a sequence that could be negotiated between Council and each affected landowner. However, this means of securing the greenway lands has raised the issue of the deferred urban zoning applying in the TRMP, and its implications for resolving the price of lands.

5.1.4 In the light of what is a complex pattern of planning restrictions over the greenway network, both in TRMP and through the designation process, there is a need to review the appropriate land use planning status of the greenway lands. The current indicative reserve notation and its requirement for vesting is obsolete given the designation. And the deferred urban zoning is inappropriately applying over lands that were never intended to be built on for urban purposes. This has sent a wrong signal in the business of negotiating purchases.

5.2 Options

5.2.1 There are three options: status quo; remove indicative reserve and deferred urban zonings to remain rural; and remove indicative reserve and rezone as open space zone.

Option 1

This is to take no action, and leave the two means of securement in the TRMP, and allow in time with uplifting of current deferrals, an urban zoning over the greenway.

Benefits: None

Costs: Additional costs of greenway land under an urban deferred or urban zoning when this is an inappropriate method of signalling the end-use of the land concerned.

Risks: Confusion about which method of land securement prevails.

This option is not recommended as it does not resolve the issues identified, and will continue the complexity and inconsistent effects of the various restrictions over the lands. Most significantly, it signals some built development value over land that is not intended to be ever built on.

Option 2

This option is to amend the TRMP by a separate plan change to:

- Remove the indicative reserve notation and the rules applying to indicative reserves for subdivision in the RSDA and RWDA for residential, mixed business or rural zones
- Amend the policies concerning urban greenways to clarify the intended means of securement, and the appropriate zoning to reflect the intended end-use of the lands
- Remove the deferred residential, business zonings to leave the lands rural zoned throughout the network

Benefits: Removal of conflicting restrictions affecting subdivision of greenway lands and less landowner costs; and less cost to Council in pricing the lands under the designation

Costs: Plan change processing

Risks: Appeals on plan change

This option is not recommended as it does not provide the most appropriate zoning for the greenway lands in recognition of the suite of public purposes, and the setting of an urban environment.

Option 3

This option is the same as option 2 except that the rural zoning is amended to open space zone, to reflect the public open space function and character of the future network, and so signal its permanent unbuilt end-use.

Benefits: As for option 2 but a greater benefit as open space zoning is a more appropriate signal of the unbuilt, open public space value of the lands concerned within the future urban setting.

Costs: As for option 2

Risks: As for option 2

5.3 Evaluation of Options

Option 3 is recommended as the open space zoning is a more effective and appropriate zoning to show the end-use and function of the network lands than is a rural zoning. A rural network in an urban location is anomalous, and might signal some development opportunity for such time as the lands remained in private ownership.

This zoning would operate to regulate land use activities other than those within the purpose for the greenway requirement, as the amended underlying zone. This means that following this amended zoning, activities establishing in advance of either Council acquisition or forming of the greenway, provided that they were acceptable by Council as not interfering with the eventual use of the land for urban greenway, would be subject to the Open Space Zone rules.

Because the extent of the network is beyond the RWDA, the TRMP amendments required are proposed to be as a separate change.

6. FINANCIAL/BUDGETARY CONSIDERATIONS

- 6.1 There are no significant financial or budgetary considerations; the recommendations if adopted will lead to a lesser need for financial expenditure by Council over time in relation to the matters covered.

7. SIGNIFICANCE

- 7.1 This is not a significant decision under Council's Significance Policy, but it is likely to have a significant localised impact on land within the Richmond west development area because of amended restrictions on urban development. The recommendation if adopted will require consultation with those likely to be affected.

8. RECOMMENDATION

It is recommended to approve for consultation, draft Variation 3 to Change 10 incorporating amendments to implement option 2 issue 1, and three options 2 for all sub-issues in issue 2; and draft Change 37 incorporating option 3 for issue 3, as attached to the report.

9. TIMELINE/NEXT STEPS

- 9.1 All RWDA landowners affected by deferred zoned land, LIZ landowners both in the Beach Road area and deferred, Mixed Business Zone landowners, and the landowners in both Richmond west and south over greenway lands, all have stakes in the two sets of draft amendments. It is important to consult with these affected parties before moving to adopt as proposed amendments. A focused programme of invitation to provide feedback within a period, and a meeting with parties is recommended.

10. DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the Richmond West Development Area: Issues Arising From Appeals and Draft Variation 3 to Change 10 and draft Change 37 Report REP12-03-04, and approves the circulation of Draft Variation 3 to Change 10 Richmond West Development Area and draft Change 37 as attached to the Report, to key stakeholders for feedback before notification.



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APPENDICES:

1. *Draft Variation 3 to Change 10*
2. *Draft Change 37*