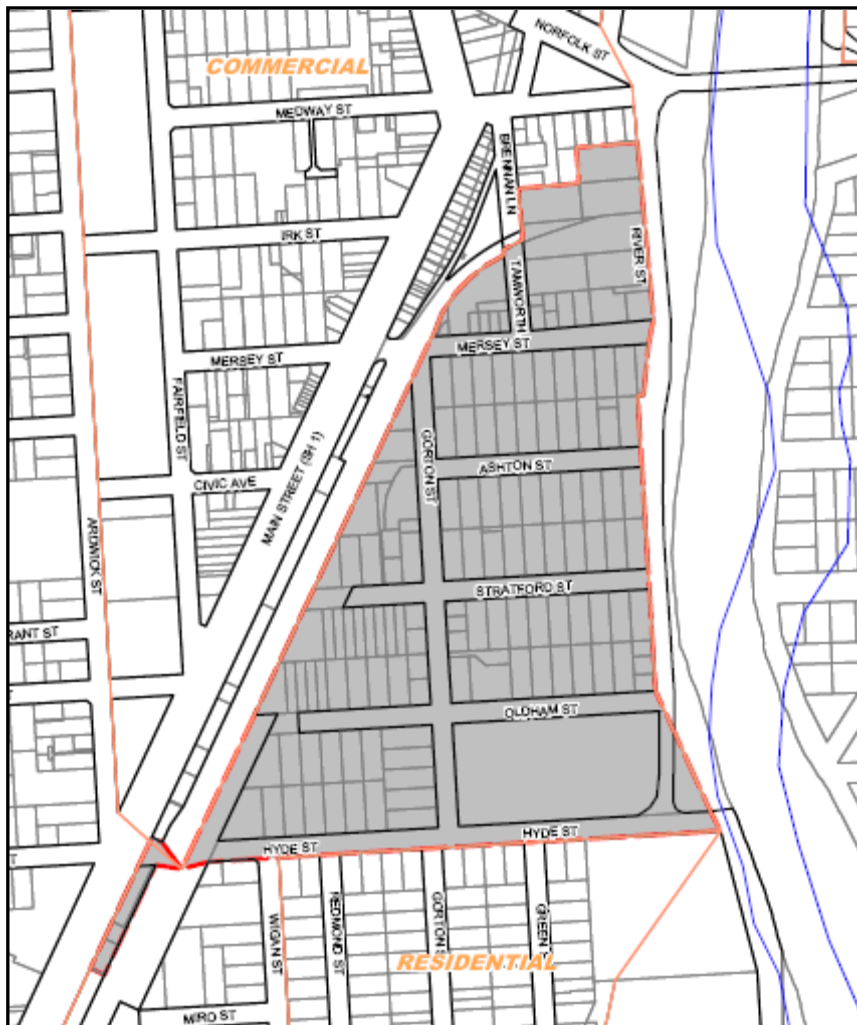


**GORE DISTRICT COUNCIL
RESOURCE MANAGEMENT ACT 1991
PLAN CHANGE No. 5
GORE CENTRAL INDUSTRIAL AREA**

SECTION 32 REPORT



October 2009

1. PURPOSE OF REPORT

This report has been prepared in order to meet the requirements of section 32 of the Resource Management Act 1991 (“the Act) as they relate to Plan Change No. 5 of the Gore District Plan which in effect seeks to provide for commercial activities within that part of the Industrial Zone adjoining the Gore town centre located between State Highway 1 and the Mataura River.

Section 32 states:

- 32 Consideration of alternatives, benefits, and costs
- (1) In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or plan change is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by—
- (a) the Minister, for a national policy statement or a national environmental standard; or
 - (b) the Minister of Conservation, for the New Zealand coastal policy statement; or
 - (c) the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of Schedule 1); or
 - (d) the person who made the request, for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of the Schedule 1.
- (2) A further evaluation must also be made by—
- (a) a local authority before making a decision under clause 10 or clause 29(4) of the Schedule 1; and
 - (b) the relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.
- (3) An evaluation must examine—
- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.
- (3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.
- (4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—
- (a) the benefits and costs of policies, rules, or other methods; and
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.
- (5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.

Section 32 of the Act, amongst other matters, requires Council to consider options for achieving outcomes, whether those options will promote sustainable management, and the efficiency and effectiveness of those options.

In the context of Plan Change No. 5, the outcome Council seeks to achieve is to provide for commercial activities as permitted within the identified area.

2. THE PROCESS FOLLOWED

In December 2008 Council received a resource consent seeking approval to relocate a retail activity from Main Street, Gore to a vacant building in Tamworth Lane. The processing of that consent highlighted the suitability of the area between the state highway and the Mataura River near the centre of Gore for a range of commercial activities in addition to the activities already permitted.

In April 2009 a report was submitted to the regulatory and Planning Committee outlining three options for responding to this issue:

- (i) Retain the status quo of Industrial Zoning
- (ii) Rezone the land Commercial
- (iii) Rezone the land for a mixture of industrial and commercial activities, as a Mixed Use Zone.

Council opted for the third option – a Mixed Use Zone.

Consultation was then undertaken with the owners and occupiers of properties within the area. The options were set out and a request was made to fill out a questionnaire and return it to the Council. 62 questionnaires were sent out and 30 were returned. Of the responses received all indicated support for the mixed use zone concept.

Draft plan provisions were prepared and circulated to the 15 persons who requested to receive a copy. One person responded indicating support for the approach.

In August 2009 a further report was submitted to Council recommending the adoption of a Mixed Use Zone approach, together with district plan provisions and an amended map of the area to be rezoned. This was adopted and notification of the plan change is in train.

A copy of the reports and consultation letters referred to above are attached as Appendix 1.

3 THE DISTRICT PLAN

The Gore District Plan became operative on 31 July 2006. Activities are managed according to their effects, with zoning being used to group activities of similar effects.

The existing zoning of the land subject to this plan change is Industrial. Under that zoning the following activities are permitted:

- (a) Agriculture;
- (b) Animal Boarding Activity;
- (c) Commercial Recreation Activity;
- (d) Communal Activity;
- (e) Essential Services;
- (f) Health Care Activity;
- (g) Industrial Activity;
- (h) Land Development, provided that it complies with NZS 4404:2004 Land Development and Subdivision Engineering;
- (i) Service Station.

The district plan rules also limit the form and effects of development within the industrial zone. Those rules relevant for the land subject to this plan change are:

- Rule 4.5 Noise
- Rule 4.6 Lightspill
- Rule 4.7. Daylight Admission
- Rule 4.9 Site Coverage
- Rule 4.10 Signs
- Rule 4.13 Ground Disturbance and Earthworks
- Rule 4.14 Transport Routes
- Rule 5.9.1 Site Access
- Rule 5.9.2 Car Parking
- Rule 5.9.3 Vehicle Loading

It is considered that compliance with these rules can adequately protect the amenity of surrounding areas and avoid the adverse effects of any industrial development that occurs on the land.

4 LEGISLATION

The sections of the Resource Management Act 1991 that are relevant in this instance include the following:

Section 5 - Purpose of the Resource Management Act 1991

Section 5 of the Resource Management Act 1991 identifies the purpose of the Act as:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *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 wellbeing 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, or mitigating any adverse effects of activities on the environment.*

The Plan in its present form will to only partially achieve this purpose. The district is unable to provide for the future needs of those commercial businesses that seek to have a location away from the main commercial hub of the district. Overall therefore the plan change is consistent with the purpose of the RMA.

Section 7

Section 7 lists the matters Council shall have particular regard to when preparing a plan change. The following are relevant in this instance:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (f) Maintenance and enhancement of the quality of the environment:

The plan change is consistent with these matters from section 7. Amenity values and the quality of environment will be protected through the district plan rules.

Sections 74 and 75 – Matters to be considered by Territorial Authorities and Contents of District Plans

Section 74(2)(a) requires territorial authorities to have regard to the relevant regional policy statement. Sections 75 (2) (a) and (c) also requires that a district plan is not inconsistent with the National Coastal Policy Statement, Regional Policy Statement or Regional Plan.

There are no provisions in any of these documents relevant to the plan change.

Section 32

The objective of the plan change is to provide additional land for industrial use. Section 32 seeks to ensure that the plan change achieves sound environmental outcomes and cost effective plan provisions.

Section 32 requires particular regard to be given to the principal alternative methods - costs and benefits. In that regard, the following alternative methods have been identified:

- Option 1. Remove District Plan Controls From the Land

Removal of all restrictions and rules on activities taking place on the land would allow for development of that land and consequential economic benefits for the community. Lack of compliance costs would also be seen as a significant benefit to developers. However, a complete absence of regulation or control on development would mean that potential adverse effects on the surrounding environment would not be avoided, remedied or mitigated. It would also result in a lack of certainty on behalf of adjacent property owners as to the effects of development that could take place on the site.

An absence of controls would not achieve the purpose of the Act as it would not avoid, remedy or mitigate actual or potential effects on the environment. Lack of control would not provide for the integrated management of effects and would be inconsistent with the approach taken elsewhere in the Plan. The potential benefits would be outweighed by potential environmental costs and would result in a lack of certainty for adjoining land owners as to the impacts of development on the site.

This option is therefore not considered an effective or efficient means of achieving the purpose of the Act. It is therefore rejected as a viable option.

- Option 2. Maintain the existing provisions of the District Plan

Under this option, the locality would continue to be zoned Industrial with land use consent required for any commercial use within the area. Any potential commercial development would attract resource consent processing costs and time delays. While interested parties would benefit by being given the opportunity to comment on individual proposals, no certainty would exist for any applicant until after the period for appeal in relation to any decisions had elapsed.

The use of the land solely for industrial purposes would not be the most efficient use given its location and former use as a sales yard.

- Option 3. Rezone the site to allow for a mix of commercial and industrial development

This is the approach adopted by Plan Change. Benefits could accrue to the general public from the establishment of the mixed use zone allowing for an expansion of commercial activities on sites not previously allowed.

This method is regarded as the most effective or efficient method of achieving the purpose of the Act.

Conclusion

The Plan Change is considered the most appropriate alternative in terms of enabling future development of commercial activities within the area subject to the plan change while at the same ensuring through the district plan rules appropriate standards are adopted for such development. When compared to the principal alternatives available to Council, the Plan Change is regarded as more likely to deliver certain outcomes for both potential developers and the community. Overall the benefits of the approach adopted by the Plan Change are considered as outweighing any potential costs.

5 CONCLUSIONS

Taken as a whole the Council is satisfied that Plan Change No. 3:

- Is necessary in achieving the purpose of this Act; and*

- ii) *Is the most appropriate means of exercising the function, having regard to its efficiency and effectiveness relative to other means*

As a consequence it is appropriate to adopt the Plan Change for the purposes of public notification.

Report Prepared By:

Keith Hovell

Planning Consultant to the Gore District Council

Appendices

- 1 Relevant District Plan Rules
- 2 Reports to Council



Gore

District Council

**GORE DISTRICT COUNCIL
RESOURCE MANAGEMENT ACT 1991**

**PLAN CHANGE No. 5
MIXED USE ZONE**

SECTION 32 REPORT

**APPENDIX 1 – REPORTS AND
CORRESPONDENCE**

October 2009



Gore

District Council

**GORE DISTRICT COUNCIL
RESOURCE MANAGEMENT ACT 1991**

**PLAN CHANGE No. 5
MIXED USE ZONE**

SECTION 32 REPORT

APPENDIX 2 – DISTRICT PLAN PROVISIONS

October 2009