

**ADDERLEY HEAD**



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**COMMENT FORM**

**LAND USE RECOVERY PLAN REVIEW: DRAFT RECOMMENDATIONS**

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## LAND USE RECOVERY PLAN REVIEW: DRAFT RECOMMENDATIONS

### Introduction

- 1 This submission is made by K I Commercial Limited (the submitter) and relates to the submitter's property at 51 Heberden Avenue, Sumner.
- 2 The submitter's property currently has a split zoning, being part residential and part rural. The residential portion of the property is located within the urban limits in the Land Use Recovery Plan (the LURP). However, the balance rural portion of the property is located outside the urban limits. The total property is approximately 2,750m<sup>2</sup> in size and is illustrated on **Appendix A**.
- 3 This submission focuses on the comments in **section 3.3.3** of the Consultation Pamphlet in relation to development outside the urban limits.

### Section 3.3.3 – Development outside greenfield priority areas

- 4 Section 3.3.3 of the Consultation Pamphlet notes that some comments have suggested that development has been unnecessarily or inadvertently inhibited by Chapter 6 to the CRPS. However, it goes on to state that the initial view of the strategic partners is that this concern is unfounded and greater flexibility exists to address these matters on a case-by-case basis through resource consent applications.
- 5 The submitter **does not agree** with this position. A case in point is the submitter's property at 51 Heberden Avenue. As noted above, this property is currently split zoned, with part of the property being zoned residential and part rural. However, the property is accessed from a residential street and is surrounded by residential dwellings. It has full access to all necessary services and has no viable rural use.
- 6 Interested parties have been considering subdividing the property and/or building a house for many years. However, these development plans have been complicated by the fact that the rear part of the site that is flat and most suitable for a dwelling has a rural zoning. This rural zoning would mean that any consent application would be non-complying and result in a clash with the policy framework for development of rural land. This creates uncertainty and unnecessary consenting requirements compared to a situation where all of the submitter's land was residentially zoned. The split zoning also undermines the value of the land as an investment for the submitter.
- 7 In response to these issues, the submitter had been assured by Christchurch City Council (CCC) as far back as 2006 that the zoning would be amended when the City Plan was next reviewed to ensure that the zoning followed the title boundary. However, to the submitter's disappointment and frustration, this did not occur when the Proposed Christchurch

Replacement District Plan was notified. It therefore made a submission on the District Plan seeking that all of its property be zoned residential.

- 8 In any other circumstance, the merits of this minor rezoning request would be able to be fully considered as part of the District Plan process, with a decision made as to whether or not it is appropriate to approve such a request. However, the restrictive nature of the LURP and the CRPS is currently preventing this consideration from taking place.
- 9 The position of CCC is that any request to rezone land outside the urban limits cannot be accepted given the statutory obligations to “give effect to” the CRPS<sup>1</sup> and to not make a decision that is “inconsistent” with the LURP<sup>2</sup>. This position is being applied regardless of the size of the land or the merits of enabling urban development on that land.
- 10 In relation to the submitter’s property, CCC has specifically confirmed through its own evidence that the rezoning request has merit. In particular, CCC has confirmed that the site can be supplied with water and wastewater services and there are no stormwater concerns or significant landscape issues. The only reason why the zoning change is not being approved is due to the urban limits and associated policies in the LURP and the CRPS.
- 11 This is not just an issue that affects the submitter. It is also affecting a large number of other submitters on the Proposed District Plan in similar circumstances and is preventing meritorious developments from proceeding due to a legal technicality in the absence of any sound resource management reasons. This is the very antithesis to an effective recovery, which is the purpose that the LURP is intended to serve.
- 12 The submitter understands that several requests have been made to amend the urban limits to include additional land. If any such requests are approved as part of the LURP review, this approach should also be applied to include all of the submitter’s property. However, even if the urban limits remain unchanged, the submitter considers that it is critical that both the LURP and the CRPS are amended to provide additional flexibility and enable urban development outside the urban limits in certain circumstances.
- 13 Dealing first with the LURP, Draft Recommendation 3 is to amend the LURP to show Figure 4 (being the map showing the urban limits) as being indicative only and to remove Appendix 1 relating to Chapter 6 of the CRPS. The submitter supports these changes on the basis that they would reduce the restrictive effect of the LURP.
- 14 However, it is also critical that the CRPS is amended. If the urban limits and associated policy framework in the CRPS remain unchanged, the requirement to “give effect” to the CRPS when considering any changes to a District Plan will continue to unnecessarily prevent consideration of development that should be allowed to proceed.

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<sup>1</sup> Section 75(3) of the Resource Management Act 1991

<sup>2</sup> Section 23 of the Canterbury Earthquake Recovery Act 2011

15 In particular, the submitter considers that Policy 6.3.1 of the CPRS should be amended to provide an exemption that enables urban development outside the urban limits where certain requirements are met. These requirements could include a limit on the size of the area of land to ensure that it does not inadvertently allow large scale greenfield developments. In addition, it could incorporate other provisions of the CRPS to ensure that the land is not subject to any significant constraints or impediments to urban development.

16 In particular, Policy 6.3.11(5) of the CRPS already contains the following list of criteria, which could easily be applied in order to qualify for an exemption to the urban limits:

- (a) infrastructure is either in place or able to be economically and efficiently provided to support the urban activity;*
- (b) provision is in place or can be made for safe, convenient and sustainable access to community,*
- (c) the objective of urban consolidation continues to be achieved;*
- (d) urban land use, including industrial and commercial activities, does not increase the risk of contamination of drinking water sources, including the groundwater recharge zone for Christchurch's drinking water;*
- (e) urban development does not lie between the primary and secondary stopbanks south of the Waimakariri River which are designed to retain floodwaters in the event of flood breakout;*
- (f) the landscape character of the Port Hills is protected;*
- (g) sufficient rural land is retained to maintain the open space landscape character either between or surrounding the areas of urban activity within Greater Christchurch; and*
- (h) the operational capacity of strategic infrastructure is not compromised.*

17 If a block of land meets all of the above criteria, there is no sound reason why it should not be able to be considered for urban development through a change to a district plan. It is therefore reasonable and appropriate that the CRPS should contain an exemption to the strict application of the urban limits where these or similar requirements are satisfied.

18 The submitter recognises that if the LURP and/or CRPS are not amended, an available option is to simply apply for subdivision consent and debate the merits through that process. However, this is not a satisfactory solution. This will expose the submitter to considerable additional cost and uncertainty to address a zoning problem that is clearly an oversight and should have been remedied some time ago.

19 The LURP and CRPS should be amended to provide the Council with the opportunity to amend its District Plan to address such errors and enable appropriate development to proceed. If this does not occur, the LURP and CRPS and effectively preventing rather than enabling recovery and are resulting in outcomes that are contrary to the sustainable management purpose of the Resource Management Act.

**Summary of outcome sought**

- 20 In summary, the submitter seeks the following outcomes from the LURP review:
- (a) That the LURP be amended in accordance with Draft Recommendation 3;
  - (b) That the Minister direct an amendment to the CRPS to include the submitter's property at 51 Heberden Aveue within the urban limits; and
  - (c) That the Minister direct an amendment to Policy 6.3.1 of the CRPS to enable development outside the urban limit where certain requirements are met, as discussed above.

Dated this 28<sup>th</sup> day of August 2015



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APPENDIX A

51 Heberden Avenue, Sumner



