

Mayor and Councillors
COUNCIL

25 JANUARY 2018

Meeting Status: **Public**

Purpose of Report: For Decision

OPERATIVE DATE FOR PRIVATE PLAN CHANGE 84

PURPOSE OF REPORT

- 1 The purpose of this report is to seek Council approval for the date to make Private Plan Change 84 (Airport Zone) part of the Operative Kapiti Coast District Plan (1999).

DELEGATION

- 2 Only Council has the authority to consider this matter.

BACKGROUND

- 3 Private Plan Change 84 (PPC84) was requested by Kāpiti Coast Airport Holdings Limited (KCAHL) on 23 July 2015 and was accepted by Council to proceed to notification on 24 February 2016.
- 4 The purpose of PPC84 is to remove prohibited activity status from certain activities in the Airport Zone to allow resource consent to be sought for some retail activities and for noise-sensitive activities in the Airport Zone but outside of the Air Noise Boundary.
- 5 A total of seven submissions and five further submissions were received on PPC84.
- 6 Following the close of submissions KCAHL applied to the Environment Court under Section 311 of the Resource Management Act 1991 (RMA) for declarations regarding the status of each of the submitters under the trade competition provisions of the RMA. The Environment Court decision found that Coastlands Shoppingtown Ltd, Sheffield Properties Ltd and Ngahina Development Ltd were trade competitors of KCAHL. However it declined to go so far as to state their submissions sought to gain an advantage in trade competition terms. Instead the Court left that to the Council to consider.
- 7 An Independent Hearing Panel (the Panel) was delegated authority by the Council under sections 34 and 34A of the RMA to hear all submissions and make recommendations on PPC84. The hearing commenced on 13 February 2017 with additional hearing days on 15 February 2017 and 20 March 2017.
- 8 The Panel's recommendations on PPC84 were received on 8 September 2017. On 19 October 2017 the Council resolved to adopt the recommendations of the Panel and to notify its decision on 25 October 2017. The period for appeals on the decision (30 working days) closed on 6 December 2017. No appeals were filed.

ISSUES AND OPTIONS

Issues

- 9 PPC84 amends specific policies, a definition, and rules applying to the Airport Zone. It removes the prohibited activity status of some specific land use activities so that resource consent can be sought for:
 - noise-sensitive activities inside the Airport Zone but outside the Air Noise Boundary as discretionary or non-complying activities (unless provided for as a permitted activity); and
 - the following retail activities:
 - one department store as a non-complying activity (more than one department store remains as a prohibited activity);
 - one supermarket as a discretionary activity and more than one supermarket as a non-complying activity; and
 - more than one store between 151m² and 1,500m² in gross floor area that retails groceries or non-specified food lines as a non-complying activity.
- 10 The final wording of PPC84 to be included into the Operative District Plan is appended as Appendix 1 to this report.
- 11 PPC84 has been through the prescribed process set out under Schedule 1 of the RMA for private plan change requests and no appeals have been lodged in respect of the Council's decision. There is no option for the Council to alter the plan change or to withdraw the plan change – the only discretion is regarding the date to make the plan change operative. The final stage of the PPC84 process is therefore to make the plan change part of the Operative District Plan under clause 17 and to set the operative date under clause 20 of Schedule 1 of the RMA.
- 12 A final public notice needs to be published advising when the changes to the Operative District Plan will become operative. Under the provisions of clause 20 the Council must publicly notify the date on which the plan change becomes operative at least 5 working days before the date on which it becomes operative. It is therefore recommended that PPC84 becomes operative on 16 February 2018, with this date being publicly notified on 31 January 2018.
- 13 PPC84 is a change to the Operative District Plan (1999) and does not directly affect the Proposed District Plan (PDP) process. The Council decision version of the PDP (notified on 22 November 2017) does however contain similar provisions to those sought by PPC84.
- 14 The inclusion of PPC84 into the Operative District Plan will enable the airport landowners to apply for resource consent for the activities that are the subject of the plan change.

CONSIDERATIONS

Policy considerations

- 15 PPC84 amends specific policies, a definition, and rules applying to the Airport Zone, as set out in the final plan change wording in Appendix 1 of this report.

Legal considerations

- 16 This report seeks Council's approval to make the changes resulting from PPC84 part of the Operative District Plan (1999) by setting the operative date under clause 20 of Schedule 1 of the RMA.
- 17 There is no right of appeal in respect of any decision Council makes on this matter given the appeal period on Council's decision on PPC84 ended on 6 December 2017 and no appeals were filed.

Financial considerations

- 18 The costs of making PPC84 operative are estimated to be in the range of \$2,000 and can be met from existing District Plan budgets. The costs are associated with meeting the legal requirements for publishing a public notice and printing and updating the relevant pages of the Operative District Plan.

Tāngata whenua considerations

- 19 There are no specific issues for consideration relating to tāngata whenua in relation to this stage of the PPC84 process.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 20 Council's Significance and Engagement Policy specifically excludes decisions related to processes under the RMA 1991 as the RMA has specific consultation and engagement requirements.

Consultation already undertaken

- 21 PPC84 has been through two rounds of formal community consultation and submissions in accordance with the RMA requirements.

Engagement planning

- 22 This is the final stage for this plan change and no further engagement will be required.

Publicity

- 23 A public notice will be placed in the Kapiti News on 31 January 2018 advising that the plan change will become operative on the 16 February 2018. This will also be communicated through the Council's own communications channels.

RECOMMENDATIONS

- 24 That Council receives this report SP-18-410 Operative Date for Private Plan Change 84.
- 25 That Council resolves pursuant to clauses 17 and 20 of Schedule 1 of the Resource Management Act 1991 to set an operative date of 16 February 2018 for Private Plan Change 84 to the Operative Kapiti Coast District Plan 1999 and affix the Common Seal of Council to the plan change as set out in Appendix 1 to this report (SP-18-410).
- 26 That Council approves that a public notice be included in the Kapiti News on 31 January 2018 announcing that Private Plan Change 84 will become operative on the 16 February 2018.

Report prepared by	Approved for submission	Approved for submission
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ATTACHMENT

- Appendix 1** Wording of Private Plan Change 84 to be included into the Operative Kapiti Coast District Plan (1999)

Appendix 1

Wording of Private Plan Change 84 to be included into the Operative Kapiti Coast District Plan (1999)

The following section sets out the specific amendments to the Operative Kapiti Coast District Plan as a result of Private Plan Change 84. Text shown in ~~strike-through~~ indicates deletions and text shown in underlining indicates additions.

PART C – OBJECTIVES AND POLICIES

C.19 AIRPORT ZONE

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C.19.1 Objectives and Policies

OBJECTIVE 1.0 ...

1. Amend Policy 2: Uses (under Objective 1.0) and the explanation as follows:

POLICY 2: USES

A complementary range of activities in the "Airport Mixed Use Precinct" will be permitted to support aviation activities and provide for non-aviation, commercial and other employment opportunities, with residential, retail and commercial activities that have the potential to undermine the sustainability of the Paraparaumu Town Centre, or to generate adverse effects, requiring a resource consent.

Explanation: The "Airport Mixed Use Precinct" permits aviation activity to grow beyond the "Airport Core Precinct". Non-aviation business and commercial activity and development is permitted to support the sustainability of the Airport Core Precinct activities. Certain specified activities are classified as non-complying (i.e.g. residential activity in some areas, offensive trades, certain retail/commercial activities etc), discretionary (i.e.g. work associated with heritage buildings) or controlled activities (i.e.g. the external design, appearance and siting of buildings and associated development) to enable the Council to avoid, remedy or mitigate manage potential adverse effects as appropriate, particularly those that would degrade the vitality and vibrancy of the Paraparaumu Town Centre or the functioning and levels of service on the local road network. Supermarkets, Department Stores and more than one small scale retail grocery outlet are prohibited activities. More than one department store is a prohibited activity.

OBJECTIVE 2.0 ...

2. Add a new Policy 2A: Commercial Activity (under Objective 2.0) as follows:

POLICY 2A: COMMERCIAL ACTIVITY

In order to avoid significant adverse effects and protect the role, function, vitality and viability of the Paraparaumu Town Centre through the remedy and mitigation of other adverse effects, resource consent is required for the following activities:

- **department stores;**
- **supermarkets; and**
- **stores of between 151m² and 1,500m² gross floor area that retail groceries or non-specified food lines.**

3. Amend Policy 5: Traffic Effects (under Objective 2.0) and the explanation as follows:

POLICY 5: TRAFFIC EFFECTS

Development within the Airport Zone shall ensure that: ~~any traffic effects are avoided, remedied and mitigated through restrictions on the timing of development~~

- (a) any traffic effects are avoided, remedied or mitigated through restrictions on the timing of development; and**
- (b) in the case of department stores, supermarkets, and stores between 151m² and 1,500m² gross floor area that retail groceries or non-specified food lines, development is further restricted to ensure that:**
- (i) significant adverse effects on the safety and efficiency of the strategic transport network are avoided; and**
 - (ii) the safety and efficiency of the strategic transport network is protected through the remedy or mitigation of other adverse effects.**

Explanation: Development within the Zone will need to comply with the site access and the roading standards of the Plan. Such development will generate traffic on the external road network and contribute to the need for improvements. To ensure that development within the Zone does not outstrip the capacity of the road network, certain “floorspace thresholds” controls have been set. These controls specify certain roading improvements to be undertaken in parallel with increasing areas of gross floor area. The proposed rules allow some control flexibility, provided that a traffic assessment of the effects on the local road network and broader State Highway network within the District is undertaken. In recognition of the primary purpose of the Zone, i.e. aviation related activities, the threshold controls do not apply to activities within the Airport Core Precinct. This is because the threshold controls applying to the Airport Mixed Use Precinct assume that the Airport Core Precinct will be fully developed almost immediately upon these rules coming into effect.

If the situation should arise where approved development in the Airport Mixed Use Precinct proceeds in advance of the completion of the Western Link Road (WLR), any potential adverse traffic effects will be addressed by traffic management measures (eg traffic signal timings) implemented by the roading authority to ensure that any effects are not necessarily imposed upon existing road users along Kapiti Road and the wider road network.

In relation to Policy 5(b)(ii) the strategic transport network includes:

- Kapiti Road;
- Roads that connect to Kapiti Road (including unconstructed but designated routes);
- the Mackays to Peka Peka expressway, including its interchanges; and
- State Highway 1 (or the route that follows the State Highway 1 alignment if it is revoked to become a local road).

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PART D – RULES AND STANDARDS

D.9 AIRPORT ZONE RULES AND STANDARDS

D.9.1 Airport Zone Rules

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4. Amend D.9.1.4 Discretionary Activities as follows:

D.9.1.4 Discretionary Activities

The following are discretionary activities:

- (i) The alteration or modification, which is not a minor work as defined in Part Q of this Plan, and the demolition or removal of any heritage feature or building recorded in the Heritage Register. In relation to historic buildings, "modification" includes any subdivision of land containing the historic building and its curtilage.
- (ii) Activities within the "Aviation Heritage Precinct" not provided for as permitted activities and not defined as non-complying or prohibited.
- (iii) The alteration or modification which is not a minor work as defined in Part Q of this Plan and the demolition or removal of the control tower, as a historic building. In relation to historic buildings, "modification" includes any subdivision of land containing the historic building and its curtilage (except where specified in this Plan to be a non-complying activity or prohibited activity).
- (iv) Activities which do not comply with any restricted discretionary activity standards are discretionary activities.
- (v) One only supermarket within the zone.
- (vi) Noise sensitive activities between the Outer Noise Boundary and the Airport Noise Effects Advisory Overlay not specifically provided for as a permitted activity.

5. Amend D.9.1.5 Non-complying Activities as follows:

D.9.1.5 Non-Complying Activities

The following are non-complying activities:

- (i) Offensive trades.
- (ii) The keeping of free flight birds.
- (iii) Retail and commercial service activities, not being a prohibited activity, that are not listed as permitted activities in rule D.9.1.1 or do not comply with the permitted activity retail/commercial activity floorspace threshold standards in D.9.2.1.
- (iv) Aircraft operations occurring between 10.30pm and 6am that are not exempt by the "Noise from Aircraft Operations" permitted activity noise standard.
- (v) Any other activity not being a permitted, controlled, discretionary (restricted), discretionary or prohibited activity.
- (vi) Any development in the Airport Zone, not being a prohibited activity, which results in the development in the Airport Zone exceeding 339,400m² GFA.
- (vii) Any above ground development, within the area defined on the Precinct Plan as Runway 12/30, which is inconsistent with the use of that area for imperative landings and other limited uses.
- (viii) One only Department Store within the Zone.
- (ix) Supermarkets other than as provided for in rule D.9.1.4.
- (x) More than one store of between 151m² and 1,500m² GFA that retails groceries or non-specified food lines.
- (xi) Noise sensitive activities outside the Air Noise Boundary but inside the Outer Noise Boundary not specifically provided for as a permitted activity.

6. Amend D.9.1.6 Prohibited Activities as follows:

D.9.1.6 Prohibited Activities

The following are prohibited activities:

- (i) Noise sensitive activities within the Airport Noise Boundary ~~not specifically provided for as a permitted activity.~~
- (ii) Department Stores other than as provided for in rule D.9.1.5.
- ~~(iii) Supermarkets.~~
- ~~(iv) More than one store of between 151m² and 1,500m² gross floor area that retails groceries or non-specified food lines.~~

PART Q – DEFINITIONS

Q. DEFINITIONS

7. Amend the definition of 'Supermarket' as follows:

Supermarket means an activity of more than 1,500m² gross floor area within a single building mainly engaged in retailing groceries or non-specific food lines, whether or not the selling is organised on a self-service basis, except that in the Airport Zone the minimum gross floor area shall be 1000m².