



#### Comment

The subject site is an 'island' with no contiguous boundaries with other sites bar a small reserve to the west. There is a commercial activity in the form of a tertiary training facility for the arts opposite the subject site and along Carlton Gore Road and is zoned as Residential 1, which appears to be a zoning which does not reflect the present, past or probably future use of that property. No doubt some flexibility in terms of 'adaptive sustainable re-use' has been acknowledged in this character heritage building.

From the motorway bridge south along both sides of Grafton Road is land zoned as mixed use but used entirely as commercial offices in a manner quite similar to the subject site.

- 4.22 *Criteria 2: Where the site can accommodate a conforming development (including parking) in terms of the provisions of the proposed zone;*

#### Comment

The site already exists as a conforming commercial development.

- 4.23 *Criteria 3: Where it can be demonstrated that there is either no alternative suitably zoned land within the existing adjacent centre or zone or that such land is unavailable or in a location that renders it unsuitable for the proposed activity;*

#### Comment

There is a limited supply of MUZ zone in this location.

- 4.24 *Criteria 4: Where the amenities of any adjacent residentially zoned land are protected from any significant adverse effects of the proposed activity;*

#### Comment

Adjacent residential sites will not suffer a reduction in amenity values as a result of the Plan Change. The pattern of development on surrounding residential properties is such that the outlook of these dwellings will not directly face the subject site and so their location at the fringe of the proposed Mixed Use zone will not reduce their amenity. In addition the Mixed use zone is a relatively low intensity zone with an emphasis towards retail, residential and commercial activity at an appropriate scale, specifically designed to preserve the amenity of surrounding residential areas. In effect the neighbouring sites will enjoy a level of amenity similar to or greater than that which is enjoyed by the subject site at present. Given also the existing development on site the use of the property for the purpose is considered to have a 'nil' effect on amenity.

- 4.25 *Criteria 5: Where relevant the proposed rezoning would meet the requirements*



of PART 5E - HAZARDOUS FACILITIES;

Comment:

The Mixed Use zone does not provide for 'hazardous facilities' as a permitted activity, and so any proposal to conduct such activities on site would be subject to the further scrutiny of the Council. It is unlikely that Council would grant consent to a hazardous facility in the Mixed Use zone, in a location so close to residential properties, and the applicant has no desire to establish such a facility.

4.26 *Criteria 6: Where the site must be of adequate size and be located such that any potential traffic effects are avoided;*

Comment:

The site comprises an area of 1754m<sup>2</sup>. This is considered more than adequate to accommodate the existing business development.

4.27 *Criteria 7: Where the proposal has been assessed in terms of the Schedule of Effects in Part 4 – General Provisions and Procedures of the Plan.*

Comment:

See Section 5 of this report for an assessment of the proposal in terms of Part 4 of the District Plan.

4.28 The development controls applicable to the site are not dramatically different between zones as the following analysis highlights

DEVELOPMENT CONTROLS			
	RESIDENTIAL 7B	MIXED USE	EXISTING DEVELOPMENT
Maximum Height	12.5m	15m	11m
GFA	No limit	2:1	1:176
Site intensity	1:25m <sup>2</sup>	Nil	Not restricted
Height in Relation to Boundary	Applies	Applies to Residential Zones and across the street	Existing complies
Site coverage	35%	Not applicable	47.8%
Landscaping	40%	Landscaping to frontage with residential zones required	22%
Paved	25%	Not applicable	30%



impermeable			
Yards	1.5m front	1.5m landscaping	7.0m landscaped yard to Carlton Gore Road

- 4.29 In addition the MUZ has a variety of controls relating to design and appearance that are not contained in the Residential 7b zone which seeks to manage and improve amenity.
- 4.30 The existing development may be slightly greater in area due to further GFA availability and some limited additional height (perhaps 1.5-2m) but existing limitations of a available parking suggest that in actuality a redevelopment of the site would assume similar dimensions and proportions as the existing building.
- 4.31 Assuming a minimum residential apartment size of approximately 50m<sup>2</sup> this would equate to perhaps 40 apartments each requiring one car space. There are 30 car parks on site at this time such that a conversion of the building would exhaust the on-site supply at about 38-40 units.
- 4.32 The site enjoys good pedestrian access to the CBD via the Grafton Bridge and public transport corridor such as Khyber Pass. There is also ease of access to railway stations (Boston Road and Mt Eden) meeting the ARC criteria for access and urban intensification.
- 4.33 Part of the baseline for development and consideration of the proposal is of course the existing building and development – all of which are lawful and could exist as is in perpetuity in reliance on section 10 of the RMA. In that context several development controls are currently lawfully exceeded. A redevelopment and change in use may see the development of the site brought in line with the development controls of the MUZ, which would also be subject to an examination of the urban design merits of the proposal.

### **Auckland Regional Policy Statement**

- 4.34 The proposal has been assessed against the document known as Proposed Change 6 “*Giving Effect to the Regional Growth Concept and Integrating Landuse and Transport*” and the provisions of proposed Plan Change 175 which is concerned with managing growth in accordance with the Regional Policy Statement and the Local Government Act.
- 4.35 We have inspected these documents, and consider that in the broad terms they set out, that the proposed plan change is not contrary to the principles or intentions of these regulations. We particularly note that in the case of the Regional Growth Concept, the wording of the document seems to indicate that it is more appropriately defined as a prescription for local bodies on how best to plan for, manage and respond to already evident growth patterns on the region. In the context of a small site, these documents serve as a helpful guideline regarding the best locations for future growth, and in our opinion, expansion of existing suburban centres finds favour with that directive.



## **5.0 Effects of Change in Zoning**

- 5.1 In assessing the effects of the activity the applicant has considered what these effects might be. Any continued development of the site to its full capacity requires that these matters be addressed. Various effects have been identified and appropriate analysis undertaken. Copies of the technical reports are attached as annexures to the substantive report and summarised following.
- 5.2 The site is not known to have any infrastructure constraints that would limit development of the type that currently exists on the site or inhibit the potential for residential development or other development in the future. An infrastructural assessment has been undertaken and details of the report provided to Council. It is concluded that there are no infrastructural matters of any significance that would suggest that the rezoning not be permitted.
- 5.3 The applicant has had the likely effects of traffic to and from the site for servicing and access and egress assessed having regard to the needs of the activity and the qualities of the surrounding roading network.
- 5.4 It is the traffic engineer's opinion as set out in the report attached that the effects of the development on the roading network having regard to a Mixed Use Zone being applied to it on the safety and health of the pedestrian and vehicle going public is not more than minor.

## **6.0 Effects of Activities**

- 6.1 We are required to assess potential activities on site which could occur as a consequence of a change in zoning permitting a change in use. It is considered inappropriate to assess activities that would require a resource consent under either zoning as such matters would necessarily be subject to scrutiny in terms of their relative merit under the Act and the Plan.
- 6.2 The Residential 7 zone provides predominantly for residential activities with exceptions that offices comprise discretionary activities, as do hospitals and other allied activities such as boarding houses. Generally business and commercial activities are not provided for – particularly retail and food and beverage type activities such as cafes and shops and restaurants. These are permitted activities (subject to constraints on size) in the MUZ.
- 6.3 Given that the site is 'stand alone' it could enjoy its own set of rules as a variant on the MUZ provisions to restrict food and beverage activities away from residential zone interfaces as with Arotau Street and the south eastern end of Carlton Gore Road were these to eventuate.
- 6.4 Impacts on the enclave of residential housing will be effectively nil. These sites



about the southern motorway and it is reasonable to presuppose that the noise arising from the change in use of the subject site will be subsumed beneath the background noise levels that it generates most of the day and night.

- 6.5 No change in levels of character or amenity enjoyed by these sites is therefore expected to arise.

## **7.0 Consultation**

- 7.1 No consultation has been undertaken as the site is, as described, an isolated one and generally remote from residential properties having little or no effect on them.
- 7.2 The Council has determined in at least two cases in respect to this site where resource consents were required, to not notify these applications reinforcing the view that the Council itself has considered that the commercial use of the site does not impact on its neighbours.
- 7.3 It is reasonable to presuppose that the introduction of a residential or alternative commercial activity that conforms to the District Plan's performance standards would have a similar lack of effect.
- 7.4 Applications for plan changes such as this are necessarily widely publicly notified for submissions and cross submissions. Directly affected persons may in the usual way make submissions on the matter should they consider themselves to be affected by the possible changes in use. Of itself this is a form of direct consultation and in our view probably sufficient for present purposes.

## **8.0 Section 32 Analysis**

- 8.1 The Resource Management Act 1991 ("Act") requires that a plan change to be considered in terms of section 32 of the Act, which 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 variation 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.*

8.2 This report stands to fulfil the applicant's obligation under 32(1)(d) of the Act.

- (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,*
  - (c) the policies, rules, or other methods are the most appropriate for achieving the objectives.*

8.3 Upon receiving a request for Plan Change, it is incumbent upon Council to undertake such an evaluation as directed by Section 32(2) of the Act.

*[[ (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. ]]*

8.4 The Plan Change requested here does not seek to impose a stricter standard than any national environmental standard.

- (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.*

8.5 For the purposes of Section 32(4), the applicant offers a consideration of alternatives, benefits and costs below.

- (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.*

8.6 This report stands to fulfil the applicant's duty under Section 32(5).

- (6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.]*

8.7 The applicant consents to this report, and its attachments being made available for public inspection.

## **Section 32 - Alternatives, Benefits and Costs**

8.8 Alternatives

8.9 A discussion of alternate proposals to this Plan Change request is as follows:

8.10 *Do Nothing*

### Comment:

An alternative is to retain the Residential 7b zone over the site. However it is difficult to identify a more appropriate site for expansion of the commercial area. The question of the merit of expanding the commercial area (rather than leaving it at its present size) is a matter of the economic justification of doing so. On this point, in our opinion the intention and desire of the applicant to initiate a Plan Change, and to continue to operate the existing business on the site provides ample evidence that a demand exists for the commercial area to be expanded.

8.11 *Alternative Business Zone*

### Comment:

It is considered that the Mixed use zone is the most appropriate zone to assign to the site as it forms a logical 'transition' zone between the Residential 7b



zone. The Mixed Use zoning has an emphasis towards retail, residential and commercial activity and also recognises that other activities (some with a long and continued occupancy of sites now zoned Mixed Use) at an appropriate scale and suitably designed and operated can sit amongst these activities and will in fact provide a mutual benefit further enhancing the overall mixed use environment.

In particular, as the site sits at the interface of commercial and residential activity, a Mixed Use zone may be considered more appropriate than a Business 1-4 zone.

Any alternative business zone, whilst fulfilling any one of a number of other objectives, would have the result of complicating the planning rules for the area more than necessary, the merit of which is argued in this report.

#### 8.12 *Non-Complying Application*

##### Comment:

An alternative solution would be for the applicant to realise the utility of the site by making an application for resource consent for future commercial activities on the site as it is currently zoned. With the exception of a home occupation, this would entail making an application for a non-complying activity. The applicant has reviewed such a proposition, and has elected to pursue the plan change process in order to offer the public an opportunity to have input into the process, and for the site to be developed in a manner consistent with a true business zoning, rather than an ad hoc series of consents to give rise to future commercial activities, which would require fresh consents should the make-up or description of the activity ever change. In effect, any future changes to the consent would attract further resource consents for non-complying activities.

#### 8.13 *Benefits*

##### Comment:

A discussion of the benefits of this Plan Change request is as follows:

The benefits of this Plan Change are that it will allow for the logical expansion of the site, with minimal impact on the surrounding residential amenities. The plan change fulfils the purpose of the Act as stated in Section 5, which is as follows:

##### *5. Purpose*

- (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.

8.14 The proposal fulfils the above objective by allowing the use of the land in the most efficient manner possible, increasing its utility whilst minimising adverse effects on the environment.

8.15 *Costs*

Comment:

A discussion of the costs of this Plan Change is as follows:

It is considered that the effects of the Plan Change on the traffic network and on underground infrastructure will be no more than minor (and in fact comparable to nil).

The other cost is that the proposal may reduce the City’s residential housing stock. However, it is considered in light of the fact that a non-residential activity currently exists on the site, that the most efficient use of land is as a commercial or retail premises. It is also noted that residential use is a permitted activity in the MUZ.

Therefore, the costs of the proposal are those related to the administration of the Plan Change, and these are borne solely by the applicant.

8.16 A tabulated analysis of the benefits and costs of each of the alternatives discussed above follows:

8.17 Adopt the Plan Change as proposed (Mixed Use zone)

<b>Benefits</b>	<b>Costs</b>
Allow for the sustainable use of the land in conjunction with its existing use	Will shift the frontier between commercial and residential areas
Allow for the expansion of the site	Loss of residential housing stock.



#### 8.18 Do Nothing (Status Quo)

<b>Benefits</b>	<b>Costs</b>
Avoids costs associated with Plan Change	Majority of costs borne by applicant
	The land will not meet the needs of the applicant
	The land will not be put to its most sustainable use.

#### 8.19 Apply an alternative Business Zone

<b>Benefits</b>	<b>Costs</b>
Allow for a possible Business 1-4 development at the commercial/residential interface	Development controls of Business 1 to 4 may permit a greater bulk of development that will not be compatible with this low scale residential/commercial precinct.
	May allow a range of activities to establish that are not compatible with type of commercial centre or residential area, or may have greater adverse effects than those permitted in the Mixed Use zone.

#### 8.20 Non-Complying Application

<b>Benefits</b>	<b>Costs</b>
Simplify the process by advancing straight to a final development plan for the site	Prevent the continued use of the site as a business.
Reduce administrative burden by shortening 'two step' development process.	Increase administrative burden as minor changes to activities may attract further consents.
	No baseline or development controls prevents applicant designing a proposal with complying envelope.

8.21 In summary, the foregoing tables leads to the conclusion that the Plan Change



as proposed represents the best option for the future development of the site as a business premise. On balance, none of the other options allow for a level of public participation.

## **9.0 Conclusion**

- 9.1 The applicants seek consent to a Private Plan Change, which will rezone land currently zoned Residential 7b to Mixed use.
- 9.2 The proposal is able to demonstrate that the effects of the activity are minor and confined to the site subject of the application and that such a rezoning is the best logical approach to the long term development of the subject property.
- 9.3 The proposal fulfils the above objective by allowing the use of the land in the most efficient manner possible, increasing its utility whilst minimising adverse effects on the environment.
- 9.4 An analysis of alternative options in terms of s.32 of the Act leads to the conclusion that such a rezoning is logical, reasonable and advances the stipulated criteria of the Plan for such a change. It is acknowledged that the Council may itself consider the rezoning of this land in the upcoming District Plan review. However, the applicant is prepared in the interests of commercial certainty to shoulder the burden of cost to achieve this desired outcome as soon as possible.
- 9.5 We conclude that the proposal merits approval and recommend it to the Council.

**Martin Green**  
**Duly Authorised Agent for Barney Holdings Limited**