

6.0 SECTION 32 MATTERS / STATUTORY CONSIDERATIONS

Section 73 (2) of the Resource Management Act (RMA) allows any person to request a territorial authority to change its District Plan.

Part 2 of the First Schedule of the Resource Management Act 1991 deals with requests for changes to a District Plan.

In Clause 21 (1) it states that:

"Any person may request a change to a District Plan".

Any such application is required to be in writing:

1. To explain the purpose and reasons for it (22 (1))
2. Contain an evaluation under Section 32 of any objectives, policies, rules or other methods proposed (22(1))

Section 32 (3) and (4) outlines the matters to be covered by any evaluation.

3. An evaluation must examine –
 - a) the extent to which each objective is the most appropriate way to achieve the purpose of the 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
4. For the purposes of the examination, an evaluation must take into account-
 - a) the benefits and costs of the policies, rules, or other methods; and
 - b) the risks of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods".
5. "Where environmental effects are anticipated, the request shall describe those effects, taking into account the provisions of schedule 4, in such detail as corresponds with the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change, policy statement, or plan. (22(2))

In this report the Section 32 matters are assessed under the following headings:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Resource Management Act;
- Whether, having regard to their efficiency and effectiveness, the proposed policies, rules and other methods are the most appropriate for achieving the objectives;
- The benefits and costs of the proposed policies, rules or other methods and the risk of acting or not acting if there is certain or insufficient information about the subject matter of the policies, rules or other methods.

6.1 Reasons And Purposes For The Change

In the Auckland City District Plan (Isthmus Section), the site is zoned Residential 7b. The zoning provisions spell out the objectives, policies and rules for this site.

Constraints and problems have arisen for the applicant for several reasons in regard to these provisions.

1. The site is a small rear site wedged between Business 4 (special concept plan), Business 5, and Residential 7b zones.
2. Properties nearby to the south and adjoining Kenwyn Street, Watt Street and Faraday Street are zoned Mixed Use.
3. As a result of the adjoining zoning and the existing form of the apartment building to the west, the level of development is considerably greater particularly in terms of height than that of this site.
 - The current height limit for the subject site is 12.5m.
 - The height limit in the Mixed Use zone is 15m, (subject to height in relation to boundary limitations).
 - The height limit in the Business 4 zone is 15m.
 - The height limit in the Business 5 zone is 20m.
4. The residential property has steeply sloping topography with a gully in the western part of the site. The elevation of the site is below the level of Balfour Road.

5. The existing tall multi level apartment building at the western boundary creates overshadowing and visual domination on the subject site, especially at ground level.
6. The Residential 7b rules do not reflect how the land should be developed given the adjacent zoning pattern and the potential business/office activities the property may be suitable for.
7. A Business 4 (special concept plan) zoning would provide for more efficient use of the land and result in higher amenity outcomes for residential on the higher levels of any building on this site.

The owner of the site considers that the District Plan needs to be changed to reflect the zoning situation in the area while facilitating the best development of his site in a manner congruent with the purpose of the Resource Management Act 1991. This report and the attached reports support this approach.

6.2 The Extent To Which Each Objective Is The Most Appropriate Way To Achieve The Purpose Of The Act.

The purpose of the Act is outlined in Section 5 of the Resource Management Act 1991.

- (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.

Environment is defined in Section 2 of the Act as including:

- (a) Ecosystems and their constituent parts, including people and communities;
and
- (b) All natural and physical resources; and
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.

Section 2 of the Act defines “amenity values” as

“ Those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”

Section 6 of the Act identifies matters of national importance, which need to be recognized and provided for in achieving the purpose of the Act. The following matters are of relevance to the proposed plan change:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Section 7 deals with ‘Other Matters’ which, in achieving the purpose of this Act, 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.

The following ‘Other Matters’ are considered to be of particular relevance to the proposed plan change:

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

Section 8 provides that:

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 take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

6.3 The Manner In Which The Council Carries Out Its Function Of Controlling The Actual And Potential Effects Of The Use And Development.

The District Plan uses the technique of zoning to carry out this function. This is explained in Section 3.4.1 The Plans Method.

Zoning

The concept of zoning as the basic technique of land use control is retained in the Plan. Although this is less directive than in the past, the adopted technique of "activity areas" continues the practice of grouping areas of similar character. This technique recognizes the present day pattern of activities and allows a range of future opportunities for development in keeping with the character and amenities of those areas. Within activity areas, there is flexibility which allows for the location of a range of activities which can be serviced by the infrastructure in the area, and which are compatible with its character and amenities.

Development

Within the overlying pattern of activity areas, the Plan provides opportunity and guidance for sensitive and responsible development based on a careful evaluation of environmental, amenity and infrastructure opportunities and constraints. Consequently if the rules are observed satisfactory environmental outcomes will result.

In line with this approach the Council has given a Residential 7b zoning to the land. Zoning is the appropriate technique for dealing with the effects of development of the site and is also the most appropriate method of achieving the purpose of the Act.

Due to the mixed zoning and use pattern in the immediate area with more intensive zonings to the west and south an alternate zoning is considered more appropriate for this land.

6.4 Whether Having Regard To Their Efficiency And Effectiveness The Policies, Rules Or Other Methods Are The Most Appropriate Way Of Achieving The Purpose Of The Act.

Objectives, Policies and Rules are the most appropriate way of achieving the purpose of the Act. The question is whether the Residential 7b zoning is appropriate for this rear site.

The Residential 7b Objectives and Policies include:

To maximize design flexibility and allow residential activities to establish at a relatively high intensity, while protecting the surrounding environment from adverse effects of development.

- By providing for higher density residential development in appropriate locations.*
- By imposing minimal development controls on sites within the zone, while affording appropriate protection on the interface with lower intensity residential zones.*

Strategy

The Residential 7 zone is characterised by a range of building types and includes relatively high rise, high density development. Three and four storey multi-unit developments can be found in the residential 7a and 7b sub-zones while development at a greater scale can be found in the residential 7c sub-zone. The zone is often located in areas with favourable aspect and slope...

The zone is applied to locations suitable for the application of more generous building bulk controls to allow residential accommodation to be established at higher densities. It sits apart from the other residential zones because it contains

substantially more intense development which is often located on smaller sites with minimal areas of open space.

As a consequence, the zonal controls seek to maximise design flexibility. To this end development controls provide an appropriate density, and three height controls, all of which will accommodate multi-level development. The application of these height limits is based on the existing built environment which generally characterises these locations. A 10 metre height limit is applied to areas which exhibit relatively high intensity development usually at 2-3 storeys. A 12.5 metre height limit is applied to those locations which already include development at a greater scale, sometimes up to and greater than 4 storeys. A 20 metre height limit is applied to those areas which include development which has been established at a far greater scale than occurs elsewhere in the City including, in some cases, high rise apartment blocks.

In some areas this zone will be located beside the lower intensity zones. While minimum controls are applied to sites within the zone, it is considered important to protect the lower intensity zoned sites at this interface from any potential adverse effects generated by the higher intensity development. These effects include overshadowing, visual domination and to a certain extent the loss of privacy. To achieve this, stringent controls are applied at the interface.

The applicant has recently had his other land to the south, 28-30 Balfour Road rezoned from Residential 7b to Business 4 (special concept plan) which provides for office and residential activities as permitted activities. Currently the subject small site is surrounded by Business 5, Business 4 (special concept plan) and Residential 7b zoning. The development controls of the zone together with the sloping topography and scale of the site and the overshadowing and visual domination from the adjoining apartment block do not provide for reasonable development potential and high amenity outcome for this land. The current zoning does not reflect the most appropriate method of achieving the purpose of the Act.

6.5 The Benefits And Costs Of The Proposed Policies, Rules Or Other Methods And 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.

In considering whether a plan change is the most appropriate way to achieve the Act's purpose (Section 32(3)(b)), an analysis has been made of the alternatives. As an alternative, or in addition to the District Plan provisions, the Council could consider the use of such methods as the provision of information, services or

incentives, and the levying of charges to achieve the purpose of the Act with respect to the proposed development of the land.

None of these alternative methods will enable the Council to carry out its RMA function of managing potential effects on the environment. It would leave the existing zone in place thereby limiting development on the site and requiring any proposal outside the rules to be subject to resource consent applications.

6.6 Consideration of Options / The Alternatives:

In considering the possible alternatives for the subject site, the following zoning options apply:

- Do nothing – no plan change, retain the current zoning of Residential 7b.

Another Zoning

- Mixed Use or Business 4 (special concept plan) zoning.
- Business 4 zoning.
- Special Purpose zone.

6.6.1 Do Nothing - Retain the Current Zoning.

With regard to retaining the current zoning, the relevant objective and policies of the Residential 7b zone are:

To maximize design flexibility and allow residential activities to establish at a relatively high intensity, while protecting the surrounding environment from adverse effects of development.

- *By providing for higher density residential development in appropriate locations.*
- *By imposing minimal development controls on sites within the zone, while affording appropriate protection on the interface with lower intensity residential zones.*

Strategy

The Residential 7 zone is characterized by a range of building types and includes relatively high rise, high density development. Three and four storey multi-unit developments can be found in the residential 7a and 7b sub-zones while development at a greater scale can be found in the Residential 7c sub-zone. The zone is often located in areas with favourable aspect and slope. It is applied to areas with good access to local open space and leisure opportunities, business

centres, community services and public transport. Areas within the zone are generally found adjacent to the regional and district arterial roads of the Isthmus...

The Residential 7b zoning is usually applied to sites that are well serviced in regard to the provision of infrastructure, proximity to commercial centres and a range of public transport. These areas would include terraced apartments and townhouses and be grouped or linear in layout and not interrupted by other zonings.

Within the current Residential 7b zoning a range of permitted uses are provided for, these uses include:

- Residential dwelling units at a density of 1 per 200m² of site area. This would allow for up to two dwelling units on the small rear site. The building would also need to comply with the relevant District Plan development standards including height, and height in relation to boundary rules.
- A care centre catering for up to one person / child per 25m² of site area. This would allow for a care facility for up to 18 people including staff.
- A home occupation for each residential unit located on the property.

Any other uses for the site would require resource consent from the Council. Under Rule 7.7.1 there are a range of controlled and discretionary activities provided for in the Residential 7b zone. These activities include rest home, boarding house/hostel, care centre, hospital, office, and education facility.

Although a large section of Balfour Road is zoned Residential 7b and 7c, the majority of the properties immediately adjacent to the site are either zoned or used for business purposes. The range of surrounding commercial uses including adjoining emergency service in combination with the sloping contour, below road level elevation of the site, small useable nature of the rear site, bulk and scale of the building to the west all contribute to the limited residential feasibility of the site. The land locked site falls away to approximately 3m below the level of Balfour Road and the abovementioned constraints mean the site is not conducive to providing high level residential amenity for residents.

The applicant seeks the property to have a zoning that provides for a mix of both commercial and residential activities in the future. A Business 4 (special concept plan) zoning for the subject small scale rear site would most closely match the nature of the uses in the neighbourhood.

If the site was to remain in its current zoning and taking into account the intensity ratio the resultant residential units would be located near ground level. As a

result the living areas would be dominated, visually overlooked and substantially shaded by surrounding properties. For these reasons the continuation of the existing Residential 7b zoning is considered both restrictive and anomalous for the subject site.

The advantages of this would be:

1. It is the simplest approach and involves no change to the District Plan.
2. No cost to Council.

The disadvantages of this would be:

1. It limits the extent of development that may occur on the site.
2. It does not allow, without resource consent, for non residential usage of the site nor further development.

6.6.2 Mixed Use Zoning Option.

Mixed Use Zoning.

The relevant objectives and policies of the Mixed Use zone are contained under Rule 8.6.10.1 and include the following:

To allow the development of vibrant urban areas by enabling a diverse and compatible mix of residential, business, educational and leisure activities in areas of the City, close to the Central Area or existing town centres, which have easy access to public transport service.

- *By applying a Mixed Use zone to allow the development and enhancement of mixed use urban areas where opportunities exist to live, work, learn, shop and undertake leisure activities.*
- *By providing for Mixed Use zone areas close to main public transport routes.*
- *By encouraging buildings to be adaptable to other suitable activities over time.*

To ensure that any adverse environmental or amenity impact of activities within the zone on adjoining activities or on adjacent Residential or Open Space zones is avoided or mitigated.

- *By managing potential compatibility issues within development, between developments and their neighbours, and between developments and public spaces, including roads and open space, through the application of design criteria and rules, while recognising that amenity values in this zone are lower than in Residential zones.*
- *By limiting noise levels at the interface between neighbouring Residential zones and the Mixed Use zones, and within residential developments in the Mixed Use zones.*
- *By adopting controls which seek to protect privacy and amenity of occupants in adjoining Residential zones.*

To encourage mixed use development which contributes to the amenity of the surrounding neighbourhood in terms of streetscape appearance and pedestrian amenity and safety, while recognising that these values are derived from a mixture of business activities and intensive residential development.

- *By requiring new developments to meet urban design criteria relating to streetscape appearance and pedestrian amenity and safety and building scale, form and layout.*
- *By offering bonuses in floor area for new developments, where specified plazas, landscaped areas pedestrian facilities and cycleways are provided.*

Zone Strategy

The Mixed Use zone within the city is applied to former business zoned areas of the City, which are located in close proximity to the Central Area or to existing Business 2 or 3 zoned centres, and which are experiencing an increase in residential activity. The increase in residential activity, coupled with the range of business and leisure activities which currently exist in these areas, is creating a unique and diverse mixed use urban environment. The zone is designed to enable the development of an urban environment which is supportive of alternative forms of transport such as public transport and cycling and adds economic vitality by increasing the diversity of services offered to employees during the day and residents at night. A high level of amenity which contributes to the liveability of the areas will be achieved by requiring new activities and new development to meet urban design criteria. . .

The Mixed Use zone is often in areas adjacent to residential or open space zones. The protection of amenity values between the Mixed Use zone and the residential and open space zone is achieved through application of development controls at this interface.

Activities that predominate within the Mixed Use zone due to their permitted use status include offices, residential units, servicing and light manufacture, care centres, places for cultural activity, cafes, retail uses and warehousing.

The permitted activities for the Mixed Use zones are those whose generated effects are generally not expected to have any adverse impact on the environment if they comply with the relevant development controls.

The advantages of this would be:

1. It could provide a zoning that could allow further development to occur. This could be either residential or business or a combination of both.
2. It would provide a zoning that reflects the character, the mixture of zoning and activities that exist in the area.
3. A Mixed Use zoning would provide for reasonable and practicable development potential of the site and efficient use of the land.
4. The zoning would result in higher amenity outcomes on a site which currently incurs overshadowing and visual dominance effects from a high intensity use to the west.
5. It would be consistent with the objectives and policies of the zone as the site is located close to the CBD, a main public transport route and within walking distance of Parnell Town Centre.
6. It removes the residential zoning on a small rear site with difficult topography.
7. A Mixed Use zoning would reflect the Mixed Use zoning of Kenwyn Street, Watt Street and Faraday Street to the south.

The disadvantages of this would be:

1. The time and costs of a Plan Change.
2. More intensive developments could adversely impact on other sites.

6.6.3 Business 4 (special concept plan) Zoning.

Business 4 (special concept plan)

The Business 4 (special concept plan) zoning currently applies to the applicants adjoining land immediately to the south. This zoning has arisen as a result of a decision by the Environment Court in respect of 28-30 Balfour Road, Parnell. This particular zoning provides for a range of activities as permitted activities, and includes offices, residential units, care centres, healthcare services, laboratories, and tourist complexes.

The Business 4 (special concept plan) zoning is similar to the Mixed Use zone as it provides for a reasonably extensive range of permitted activities. These activities are those which will enable a compatible and sustainable mix of residential and non-residential uses to develop within a feasible site layout which is determined by Council.

The applicant's proposal including office use and upper level residential use aligns with the character of the Business 4 (special concept plan) zoning which currently exists immediately to the south. The subject site is considered to be compatible with the intent of the Business 4 (special concept plan) zoning. The subject site can therefore be included within this zone. There are several substantive reasons which support a rezoning to Business 4 (special concept plan).

- The immediate neighbourhood contains a mix of commercial activity which is generally separate from the residential activity further south in Balfour Road.
- An increase in the permitted height limit from 12.5m to 15m is not anticipated to create major dominance effects on the other residential zoned and used properties within the central, southern or western portions of Balfour Road. The other residential properties are oriented away from the subject site. Residential properties to the eastern side of Balfour Road are zoned Residential 7c with the maximum height limit being 20m (subject other development controls of the District plan).
- The adjoining property to the west, zoned Business 5 and containing a tall multi-unit apartment complex do not assist in the realization of the site's development potential. There is dominance and shading from the apartment complex that reduces the current and future on site amenity of the land.

- Land to the east and north is occupied by non residential activities. This includes the Parnell Fire Station at the eastern boundary and offices for the Auckland Harbour Board to the north.
- Uses other than sole residential use on this land adjoining the fire station site would be environmentally beneficial in terms of mitigating reverse sensitivity issues including emergency services noise impacts to occupants.
- Potential adverse effects to the east are likely to be minor due to the separation distance provided by the width of Balfour Road. In addition the eastern side of Balfour Road has a higher topography and sites are orientated to the north.
- Land to the west is zoned Business 5 although the site is occupied by a multi-unit apartment complex. The District Plan specifically excludes amenity considerations for residential activities that choose to establish within Business zones.
- The Business 4 (special concept plan) is considered to be an appropriate zoning for the subject land which is of small scale, by providing compatible mixed residential, and business activities adjacent to residential activity.
- The land immediately to the east is also zoned Residential 7b but is occupied by a commercial use (fire station). In the future should the land be converted to residential use any effect of the rezoning of the subject site is likely to be minor. The applicant has obtained the consent of the fire service with regard to the siting of his building in the south eastern corner of the site.
- The land to the south is also owned by the applicant and has recently been the subject of rezoning to Business 4 (special concept plan). This land was earlier zoned Residential 7b.
- Preliminary investigations indicate that existing drainage and sanitary sewer infrastructure is likely to be able to service the land (refer to Appendix 6).
- A recent traffic assessment has been undertaken in relation to the proposed rezoning of the application site. This assessment confirms that the proposal will have no more than a minor effect on the neighbourhood and the road network. The traffic assessment is attached as Appendix 7.
- The applicant has supplied a plan showing an indicative building foot print and building profile for the subject land. Any future development based on

adherence to the bulk and location controls is likely to have no more than a minor effect on surrounding properties in the neighbourhood.

The Business 4 (special concept plan) zoning for this small, confined portion of land is an appropriate zoning option as it provides for feasible and flexible land use possibilities whilst maintaining zoning consistency in the local area.

Any future building on the land would be based on effective architectural design principles. The applicant's development intent is to achieve sensitive and sustainable urban design whilst incorporating some energy efficiency within the structure. Retention of the current Residential 7b zoning would result in poor environmental and development outcomes characterized by visual domination and shading by adjacent development of the existing residential property and any future occupants.

Changes to the use of land in the vicinity of Balfour Road have overtaken the area since it was first zoned. This area contains a lot of residential activity whilst also having a variety of zonings as part of its character. A suitable long term solution for the subject property would be the provision of high grade residential and commercial development within a Business 4 (special concept plan) zoning.

The advantages of this would be:

1. It could provide a zoning that could allow further development to occur. This could be either residential or business or a combination of both.
2. It would provide a zoning that reflects the character, the mixture of zoning and activities that exist at the northern part of Balfour Road. It would also reflect the zoning and associated use of the applicant's adjoining land at 28-30 Balfour Road, Business 4 (special concept plan), which provides office and residential activities as permitted activities.
3. The Mixed Use or Business 4 (special concept plan) zoning would provide for more reasonable and practicable development potential of the site and efficient use of the land.
4. The zoning would result in higher amenity outcomes on a site which currently incurs overshadowing and visual dominance effects from a high intensity use to the west.
5. It removes the residential zoning on a small rear site with difficult topography.

6. A Business 4 (special concept plan) zoning would provide greater certainty to neighbouring property owners as to the potential development on the site.
7. The zoning of the property to Business 4 (special concept plan) would provide greater zoning consistency at the northern end of Balfour Road.
8. A Business 4 (special concept plan) zoning would avoid any spot zoning, with no additional zone emerging in the area.

The disadvantages of this would be:

1. The time and costs of a Plan Change.
2. More intensive developments could adversely impact on other sites.

6.6.4 Business 4 Zoning Option.

The relevant objectives and policies of the Business 4 zone are:

To provide for medium intensity business activity.

•By recognising through zoning, existing light industrial and service centres on the Isthmus.

•By permitting a wide range of business activity in the zone, subject to controls imposed to maintain the zone's environment.

To maintain and enhance the quality of environment in the zone.

•By imposing controls which require new activities to enhance the streetscape.

•By limiting the scale of development to one which can be sustained by the existing infrastructure.

•By adopting parking and traffic measures which seek to avoid congestion and parking problems.

To ensure that any adverse environmental or amenity impact of business activity on adjacent residential or open space zones is prevented or reduced to an acceptable level.

Policies

•By requiring acceptable noise levels at the interface between residential zones and business activity.

•By adopting controls which maintain levels of amenity and privacy for any adjacent land which is zoned residential.

•By requiring the establishment and maintenance of buffer areas between activities within the zone and any residential or open space zone.

•By adopting controls which limit activities to those which do not cause traffic conflict or congestion through or within residential roads.

Zone Strategy

The Business 4 zone is applied to existing areas throughout the City, where low to medium intensity light industrial and service uses are the dominant activities...

A common feature of the zone is the proximity of areas to residential activity. They either adjoin, are surrounded by or are overlooked by housing. Their location is relatively remote from the primary road network and access is often through residential roads. As a consequence, there is a particular need to ensure that activities within the zone do not have an adverse impact on the amenities of neighbouring residential zones.

This zone is designed to encourage an environment which is conducive to the development of quality, medium intensity business activity. The Council considers that an important aspect in encouraging economic growth is the provision, throughout the Isthmus, of good quality locations where medium scale businesses can locate with the knowledge that other development in the zone will be subject to the same controls on amenity and environment.

A wide range of activities is permitted in the Business 4 zone. The ability of industrial activities to establish in the zone will be determined by the type of processes and substances utilised, particularly any hazardous, noxious or offensive elements...

The land concerned is considered to be reasonably compatible with the intent of the Business 4 zone however this zoning is not considered to be the best zone choice as opposed to that of the Mixed Use zone.

The advantages of this would be:

1. It would provide a zoning that could allow further development to occur. This would be business type activities.
2. It would provide a zoning that is similar to the business zoning of land immediately to the south and west of the site.
3. The Business 4 zoning would provide a height limit of 15m for the site.

4. It removes the residential zoning on a small rear site with difficult topography.

The disadvantages of this would be:

1. The time and costs of a Plan Change.
2. More intensive developments could adversely impact on other sites.
3. Residential Units in a Business 4 zone would be non complying activities.

6.6.5 Special Purpose Zoning Option

The site could potentially be rezoned Special Purpose 2. This possible zoning would be consistent with the property further to the south, which is occupied by Industrial Research which is a specialist research facility. The purpose of the Special Purpose 2 zone is to provide for large education and research facilities, while avoiding or mitigating any adverse effects of such facilities.

With regards to the subject site a Special Purpose zoning is not considered to provide for the most appropriate or efficient use of the site. Zoning the site Special Purpose would require the owner to select a specific occupant for the site. The use of the site for specialist activities is not in accord with the applicant's current or envisaged tenancy arrangement.

The advantages of this would be:

1. It would provide a zoning that could allow the site to be used for educational and research facilities.

The disadvantages of this would be:

1. The time and costs of a Plan Change.
2. It limits the use and development potential of the site for specialist purposes and is not in line with the applicants envisaged plans.
3. The height limit would be reduced to 10m.
4. The small size of the site is contrary to the large scale use and development envisaged for this zoning.

6.7 Development Standards Comparison – Residential 7b and Mixed Use Zone

The table below provides a comparison of the activity rules and development controls that apply to the Residential 7b and Mixed Use zones. This comparison shows the principle differences between these two zones.

Table 1. Activity Rules

Activity Status	Residential 7b zone	Mixed Use zone
Permitted Activities	Care centre (up to 1 person/Child per 25m ² site area) Residential units	Ancillary activities for any allowed activities Care centre Community welfare facility Education facility Entertainment facility(max. floor area less than 500m ²) Funeral parlour Healthcare services Home occupations Laboratories Light manufacture/servicing within a building Motor vehicle service premises Non-permanent accommodation Offices Place of assembly (max. floor area less than 500m ²) Premises for cultural activity Residential Units Restaurants/Cafes Retail premises(max. floor area 500m ² within 200m of Bus.2 zone) Retail premises (within 200m of Bus 3 zone max. floor area 3000m ²) Tourist complex (max. floor area less than 500m ²) Warehousing and storage Workrooms
Activities Requiring Resource Consent	Care centres (not provided for above) Education facility Hospital Innovative housing development Healthcare services Places of assembly Non-permanent accommodation	Construction and/or relocation of new buildings Bus transfer station Commercial/public parking Drive-through facility Entertainment facility (max. floor area between 500m ² and 2000m ²) Hospitals with up to 50 beds Motor vehicle sales premises

	Non-permanent accommodation for care	Outdoor eating areas Place of assembly (max. floor area between 500m ² and 2000m ²) Residential units with habitable room windows within 3m of side or rear boundary Residential premises (max. floor area of 2000m ² within 200m of Bus.2 zone) Service stations Taverns Tourist complex(max. floor area between 500m ² and 2000m ²)
--	--------------------------------------	--

The Mixed Use zone would enable a greater range and intensity of activities than that provided for under the Residential 7b zone. Offices are not provided for as either a permitted or discretionary activity in the Residential 7b zone and therefore require a resource consent for a non-complying activity in that zone.

Table 2. Development Standards

Rule	Residential 7b zone	Mixed Use zone
Density/Intensity	1 household per 200m ² 1 person per 25m ² site area	No density control applies
Maximum Height Daylight control	12.5m Bulk to boundary indicators apply.	15m Building in relation to boundary rules apply to boundaries which abut residential or open space zoned land. Daylight to existing habitable room windows of residential units. Protection of windows of existing residential uses.
Building Bulk	35% of net site area	Basic floor area ratio 2:1 Maximum floor area ratio 4:1
Yard/Landscaping	1.5 front yard setback 60% of 6m to be landscaped along road frontage No side or rear yards apply	Sites opposite mixed use, business, or special purpose no front yard is required. Site's opposite residential or open space a 2m front yard, no less than 60% landscaped
Landscaping Paving	40% minimum landscaped Permeable surface 25% maximum paved impermeable surface	

Car Parking	2 spaces per residential unit	Eg. Studio one bedroom -1 park per residential unit Two bedrooms or more- Max. 2 parks per residential unit.
Noise Controls	Mon-Sat 7am – 10pm & Sun & holidays 9am-6pm = L 10 50dba Other times = L10 40dba	Mon-Sat 7am – 10pm & Sun & holidays 9am-6pm = L 10 50dba Other times = L10 40dba Lmax 75dba
Private Open Space	80m ² in area Minimum dimension 6m	New units-outdoor living at ground level 25m ² A balcony with an area of 8m ² and minimum width of 1.6m A rooftop space with an area of 10m ² and minimum width of 2m

There are differences in respect of the development controls for the two zones. These include the overall bulk and location of buildings which could be constructed on the land, associated landscaping and the parking requirements on the site. The Mixed Use zone has a thorough range of development controls to ensure high development standards for new residential units located there.

The specialist investigations detailed below help further to determine the potential environmental effects that may be generated by the rezoning.

6.8 Non Regulatory Methods

These could include research, education, training, providing information and brochures. This approach would not address resource management concerns for the site and consequential effects on the environment. Information relating to the plan change is an appropriate method in conjunction with changing the provisions of the zone.

7.0 REQUESTED APPROACH

1. A Business 4 (special concept plan) zoning for this small rear site.

Benefits

1. A Business 4 (special concept plan) zoning would allow more flexibility of landuse in response to the amenity issues that pertain to the site at ground or lower levels.
2. The new zoning would be more reflective of the sites location between land zoned Business 4 (special concept plan), Business 5 and Residential 7b.

3. A more appropriate intensity of development would be allowed on this rear site and would ensure an efficient use of the land.
4. The construction of a new building on the site will be subject to a resource consent process.
5. The change of zoning to Business 4 (special concept plan) would result in greater zoning consistency between the applicant's site and adjoining properties located at the northern end of Balfour Road, Parnell.
6. A change of zoning to Business 4 (special concept plan) would not result in any additional zoning category from that which already exists within the local environment.
7. A Business 4 (special concept plan) zoning for the site is a logical planning outcome and would avoid the issue of spot zoning in this vicinity.
8. A Business 4 (special concept plan) zoning would provide greater certainty to neighbouring property owners as to the potential development on the site.

Costs Include

1. Financial costs associated with the statutory processing and possible defence of the change.
2. Possible increased monitoring and enforcement costs.
3. Additional restrictions and controls that will apply.
4. Additional costs for applications in preparing resource consents.
5. Increased traffic using the site arising from additional development.

No Action Option

If no action were taken the benefits and costs would include:

Benefits

1. Greater certainty and keeping development within existing rules.
2. No costs involved in a Plan Change.
3. The District Plan remains unchanged.

Costs

1. More resource consents required for developments not complying with these rules
2. Less certainty for the community.

7.1 Risks Associated With Available Information

Section 32(4)b) of the Act states:

- (4) For the purposes of this examination, an evaluation must take into account-
 - (b) The risk of or acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

It is considered that there will be no risk of acting or not acting as there is sufficient information available to indicate that a Business 4 (special concept plan) zoning is an appropriate Resource Management Act technique for the site in terms of the policies, rules and other methods. The Plan Change accords with the District Plans approach to developing and recognizing land by way of zoning and as reflected in the objectives and policies regarding Mixed Use sites.

7.2 Other Documents

The following documents are considered to be relevant:

Regional Policy Statement (Operative 31 August 1999)
Auckland City Growth Management Strategy

7.3 Regional Policy Statement

This document indicates that:

1. The regional will need to accommodate continued population growth (2.3.1).
2. Urban development threatens several environmental qualities (2.3.2).

3. "To promote transport efficiency and to encourage efficient use of natural and physical resources, including urban land, infrastructure and energy resources".
2.5.1.6 (Strategic Direction)

2.6.1.2 seeks

To encourage urban intensification along selected nodes and transport corridors, achieve high standards of amenity within the existing urban area and avoid conflicts between incompatible land use.

7.4 Auckland City Growth Management Strategy

This document sets out where and when and how the city will grow. Parnell has been identified as one of several areas of stability, albeit allowing considerable levels of further development as befits its location on the periphery of the CBD.

These traditional communities will continue with the level of growth and development currently allowed for under the district plan. Some already allow for mixed-use or more intensive development, with guidelines to ensure it is of a high quality. The requested rezoning of the applicant's small rear site will be consistent with this document as it will allow for mixed use activities on the site.

8.0 SPECIALIST COMPONENTS / ENVIRONMENTAL EFFECTS

A range of specialist reports covering infrastructure, geotechnical and traffic are submitted with the application. These reports accompanied the applicant's previous private plan change request for his adjoining property at 28-30 Balfour Road. The subject rear site has been subdivided from the applicant's adjoining land at 28-30 Balfour Road.

These specialist investigations have been carried out to ascertain the suitability of the site for possible business/mixed use development and to determine potential effects associated with development of the site for re-zoning purposes.

The following specialist inputs have been obtained and copies of the respective reports and their findings are attached within the Appendices of this report:

- Stormwater and Sanitary Drainage Assessment
- Traffic Impact Assessment
- Geotechnical Assessment

Detailed below is a summary of these specialist inputs in respect of the subject site and its environs.

8.1 Stormwater and Sanitary Drainage

Existing stormwater and foulwater drainage systems in proximity to the land are adequately sized to cater for a future redevelopment of the land within a Business 4 or Mixed Use zoning.

Water supply for consumption and for fire fighting purposes can be adequately catered for by the existing infrastructure and reticulation in the vicinity of the site. Power, telecommunication and gas services can be upgraded at such time as a specific development is confirmed for the subject site.

The applicant has indicated an intention to retain stormwater on site via edging to the proposed sealed carpark and directing flows into tanks at ground level near the southwest corner of the site. This would be further assessed at the time specific development is confirmed and as part of the resource consent process.

8.2 Traffic Impact Assessment

The traffic generation effects of the rezoning are not anticipated to adversely affect the amenity of Balfour Road. The residential properties on Balfour Road are concentrated to the south of the subject land, and most traffic accessing the land is anticipated to arrive and leave via the intersection of Balfour Road and Gladstone Road to the north.

There is sufficient spare capacity at the adjacent intersections of Balfour Road / Gladstone Road and Gladstone Road / The Strand to cater for the office type development of the site under a Business 4 or Mixed Use zoning. No aspects of the proposal would exacerbate any existing safety problem within the adjacent road network. Safe and efficient access will be provided to and from the adjoining land owned by the applicant.

All car parking required to be provided in association with any development of the subject land is required to be provided on site. Any application to reduce or waiver these standards would require resource consent and would be assessed on its merits. Accordingly the proposed rezoning is not anticipated to create any adverse or additional demand on the kerbside parking facilities on Balfour Road.

The rear site could possibly be served with two levels of covered car parking at basement and ground floor level to cater for the parking needs associated with the office and residential activities. The applicant advises that vehicular access to this rear site would be achieved via a right of way to the proposed building on the adjoining southern site owned by the applicant. This access would also be through levels of the covered car parking area of the proposed building on the adjoining site. Parking and access matters will be assessed as part of resource consent for any new building on the land. Under the District Plan the parking requirements for office type uses is a ratio of 1 space per 40m² of gross floor area and two parking spaces are required to be provided for each residential unit on the property.

The applicant has also confirmed that the number of parking spaces provided on his adjoining site to the south at 28-30 Balfour Road will be in excess of the envisaged 100 parking spaces required, as advised in the traffic report compiled by John Parlane. Within the proposed building on the adjoining site the applicant can provide up to 23 parking spaces for the needs of the subject rear site.

8.3 Geotechnical Appraisal

The geology of the area, ground contour, soil type and test pit analysis indicate that the site is suitable for a commercial / industrial development. It is noted that further detailed geotechnical investigations would be required at the appropriate time to determine the specific costs and engineering design details required to develop the embankment at the western extent of the site, and confirm or not whether a building line restriction would need to be applied. Any potential physical limitations in respect of the bank in the western portion of the site would apply regardless of the zoning of the site and would not preclude the remainder of the site from being able to be developed.

8.4 Landscape and Visual Assessment

Development at a scale commensurate with that which is permitted in the Business 4 or Mixed Use zone would not compromise the objectives of the District Plan relating to the Auckland Museum viewshaft or the landscape effects within the neighbourhood.

The development of the land to a maximum height of 15m would not adversely affect views from the surrounding residential zoned and used properties and public spaces due to the location, orientation and topography of the land and the existing built and landscape features in the locale.

The subject site is currently vacant and contains mature trees including three Pohutukawa and one Gum tree. Resource consent has been granted for the removal of the southernmost Pohutukawa tree as part of the recent subdivision consent for the site. The majority of the site has a sloping topography containing a gully that falls away to the north. The site is predominantly below the level of Balfour Road. The western portion of the site slopes steeply away to the western boundary. The western third of the site comprises a steep embankment with a slope of 30 degrees. The embankment comprises a 13m slope predominantly covered with scrub.

The general conclusions reached by the respective specialist inputs provided is that re-zoning and development of the site under a Business 4 or Mixed Use zoning is a suitable and appropriate form of land use and will be consistent with the principle of sustainable resource management. Many of the effects identified are minor.

8.5 Environmental Effects

In respect of any possible environmental effects arising from the proposed plan change a consideration of matters under Clause 22 of the First Schedule of the Resource Management Act 1991 is made below.

Clause 22 of the First Schedule states:

- (2) Where environmental effects are anticipated, the request shall describe those effects, taking into account the provisions of Schedule 4, in such detail as corresponds with the scale and significance of the actual and potential environmental effects anticipated from the implementation of the change, policy statement, or plan.
- (a) Any effect on those in the neighbourhood and, where relevant, the wider community including any socio-economic and cultural effects:

Comment

The proposed change will allow for more intensive development of the site. The height limit for the Business 4 (special concept plan) zone is 15m, the same as that for the Mixed Use zone but less than that of the adjoining tall apartment block to the west. The proposed building on the site would be sited in the southeast corner of the site adjoining the rear of the Fire Station site and the applicant's other property to the south. The design and final form of the building would be subject to the development controls in the District Plan.

- (b) any physical effect on the locality, including any landscape and visual effects:

Comment

The proposal will have physical and traffic effects on the locality. The subject site is a small rear site and the development is likely to have minimal impact on the streetscape.

- (c) Any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

Comment

The site is located within a modified urban environment. No particular ecosystems have been identified.

- (d) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations:

Comment

The proposal will provide for efficient and rational use of the land and provide a means for development with high amenity outcomes for the site.

- (e) Any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants:

Comment

Noise limits are controlled by the District plan. Drainage issues are dealt with in the attached report. Other contaminants, should they arise, would be controlled by the Auckland Regional Plan.

- (f) Any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.

Comment

No hazardous issues have been identified in relation to this site.

- (g) Impacts on other sites.

Comment

The plan change would mean that this rear site could be used for office and residential activities. Any new building on the site will require resource consent and the future building will be located within the southeast corner of the property. The potentially affected party to the east, The New Zealand Fire Service, has given their support to this proposal. The present Residential 7b zoning provides for a 12.5m height limit and 35% site coverage. The Business 4 (special concept plan) zoning has a height limit of 15m and would be subject to a layout plan finalized by Council. A Mixed Use zoning provides a maximum height limit of 15m, a basic floor ratio of 2:1 and maximum floor area ratio of 4:1. However, it can be adduced any affect will be similar or less than surrounding zoned or developed land. The District Plan rules, assessment criteria and urban design implications will be addressed as part of any future development on the site.

8.6 Evaluation of Appropriate Zone

The following factors, listed below, have been taken into account as part of the process of determining the most appropriate zoning for the site:

- The purpose and principles of the Resource Management Act.
- The relevant objectives, policies and strategies of the Regional Policy Statement.
- The physical characteristics and character of development on adjacent and surrounding properties.
- The privacy and amenity characteristics of surrounding properties.
- The location and Character of the site in relation to the road network and commercial centres.
- The capacity and potential of infrastructure to service additional business development in the area.
- The business objectives, policies and strategies of the District Plan.
- The Mixed Use objectives, policies and strategies of the District Plan.
- The objectives, policies and strategy of the zones which surround the site.

Within sections 6 and 7 of this report it is identified that a Business 4 (special concept plan) zoning would be appropriate for the site. Taking into consideration the matters mentioned above and the matters mentioned in the specialist reports provided in section 8 it is considered that the Business 4 (special concept plan) zoning would be the most appropriate zone for the subject site. This is due to the following reasons:

- A Business 4 (special concept plan) zoning would provide the landowner with a degree of flexibility to establish a non-residential component on the land within the capacity of existing infrastructural resources and services, and without compromising local residential amenity values.
- The applicant's other property, immediately to the south is Business 4 (special concept plan), continuation of this zoning would avoid any spot zoning and would provide consistency with adjoining land uses.
- The Business 4 (special concept plan) provides for high quality office and residential use in the area. This zoning outcome would provide consistency and avoid the establishment of any additional zone in this vicinity. The final layout would be finalized by Council and the relevant rules for the zone will facilitate an appropriate form of development.
- The additional achievable height of two and a half metres in the Business 4 (special concept plan) zone will not result in a development form capable of dominating surrounding properties. The nearby commercial and residential zoned land has been or can be developed to comparable building heights. Recreation and community uses to the east of the land will not be dominated as they are at a higher elevation and orientated away from the site and are effectively screened by existing, mature vegetation.

A Business 4 (special concept plan) zoning for the subject site would not result in spot zoning in the area. The subject site is located amongst a range of zones which are primarily business or residential by nature. Land immediately to the south is also zoned Business 4 (special concept plan). The Business 4 (special concept plan) zoning is considered to be compatible with all the surrounding zones and land uses in this northern part of Balfour Road, Parnell. However, it is noted that there is some existing Mixed Use zoning of land further to the south, including properties that adjoin Kenwyn Street, Watt Street and Faraday Street.

9.0 CONSULTATION

Council Officers

The applicant's proposal to rezone the land has been discussed with Sue Parsons, Senior Planner in City Planning division of the Auckland City Council. The proposal has been further discussed with the consultant planner David Boersen of Babbage Consultants Ltd in respect of the surrounding zoning to the subject site.

Neighbours

The applicant has undertaken discussion and consultation with the adjoining property owners to the north and east of the subject site. The properties immediately to the north and east are respectively owned by the Auckland Harbour Board and the New Zealand Fire Service. Both parties have given their verbal agreement to the proposal to rezone the 452m² rear site to Mixed Use in line with the applicant's initial rezoning preference. The New Zealand Fire Service has given their written consent to the private plan change.

Consultation also consisted of forwarding a letter to landowners and occupiers of adjacent and nearby properties whom it was considered may be potentially affected by the proposal. The letter detailed the proposal to change the land from Residential 7b to Mixed Use zoning in line with the applicant's initial rezoning preference for the site. A copy of the letter and map indicating the extent of distribution is attached in Appendix 9.

Consultation Dialogue and Feedback

34 Balfour Road (The New Zealand Fire Service)

The property occupied by the Parnell Fire Station has recently been renumbered as 34 Balfour Road. The New Zealand Fire Service has been extensively consulted with in relation to the Plan Change request. The New Zealand Fire Service has given their written approval and are not opposed to the rezoning of the applicant's property to Mixed Use zoning.

112 Gladstone Road (Auckland Harbour Board)

The Auckland Harbour Board has offices at 112 Gladstone Road, Parnell and has been consulted with in respect of this plan change request. They have verbally advised that they are not opposed to the rezoning of the applicant's rear site to Mixed Use zoning.

27 Balfour Road Parnell Trust Early Childhood Centre

The occupant of this property Gladstone Park Early Childhood Centre (Parnell Trust) has replied in writing and has not given their consent to the proposal for rezoning of the subject site.

9.1 Section 32 of The Resource Management Act 1991

When dealing with the change to land use within a city the correct process needs to be followed in order to ensure the best environmental outcomes are obtained in achieving the purpose of the Resource Management Act. Adoption of the correct process will ensure rigorous resource management decision making. It is identified that the most appropriate regulatory process to effect mixed residential and business use development of the subject site, in a comprehensive and coordinated manner which ensures environmental outcomes, is a Plan Change to the Operative District Plan.

The Resource Management Act 1991 is an effects based Act with its purpose being to promote the sustainable management of the environment. In addition this Act enables people and communities to provide for their wellbeing whilst avoiding, remedying or mitigating adverse effects on the environment. The Section 32 process and the provisions of the Act can assist in achieving this purpose.

The content of this application for a zone change has considered and evaluated the issues and alternatives to enable a rational and effective decision on the most appropriate future zoning. This indicates that a Plan Change process supporting a Business 4 (special concept plan) zone is considered to be the most appropriate mechanism to provide a degree of certainty to the public, flexibility and maximum benefit to the land owner, while ensuring that the effects on the environment would be minor.

A failure to permit the rezoning would be injurious to the applicant. The current zoning is an inappropriate zoning for this small confined rear site as it does not provide for development compatible with the very mixed character of the area and the bulk and form of existing buildings in the northern part of Balfour Road Parnell.

10.0 CONCLUSION

The subject property is a rear site and has an area of 452m² of land. The site is located at the rear of the Parnell Fire Station. The land due to its sloping topography is surplus to the needs of the New Zealand Fire Service. The land, given its central location within the Isthmus, proximity to the central area of the city and ability to be serviced is not being used for its most efficient and economically feasible capability.

The site's present zoning of Residential 7b, and the associated development controls, are not conducive to the establishment of a use, such as residential

activities, that is economically viable. This situation is primarily due to the specific locational, topographical and built features of the locale. The site's present zoning has been significantly compromised by the adjacent land uses that have established since the notification of the District Plan.

The most appropriate regulatory mechanism to provide for efficient use and the optimisation of land value for development purposes is by way of a change in zoning through a private Plan Change. A Business 4 (special concept plan) zoning is recommended as the appropriate zoning, as the zone provides for residential units and business type uses. The Business 4 (special concept plan) zone is in keeping with the character of the uses that surround the subject site and is consistent with the zoning to the south and the infrastructural capacity of the area.

A Business 4 (special concept plan) zoning would provide for high quality residential and business activity integrating with the current use patterns of the surrounding environs. A Business 4 (special concept plan) zoning for the subject land would reflect the use and zoning of the applicant's adjoining site to the south. It would provide zoning consistency, avoid any spot zoning and give more certainty in respect of the location of uses on the site. This zoning would also provide office and residential activities as permitted uses.

There has been consultation with persons considered to be potentially affected by this proposal for rezoning of the land. Construction of a new building on the site would require resource consent from Auckland City Council. The development of the site would need to be in accordance with any of the objectives, rules and character of the Business 4 (special concept plan) zoning.

This proposal requesting the rezoning of the subject site to Business 4 (special concept plan) zoning is considered to be in accordance with the purpose of the Resource Management Act 1991. The proposed rezoning would result in the site being a logical transition between adjoining and surrounding zones that include Business 4 (special concept plan), Residential 7b, and Business 5. Also the rezoning would remove the current anomalous zoning of the applicant's site, provide more practical development potential of a site incurring dominance and shading effects and lead to higher amenity outcomes with minor effects. The result would be a move towards a more rational and responsive zoning approach for the northern portion of Balfour Road, Parnell.