



26. 6. 2003

REPORT OF THE BRIGHTON MALL SPECIAL ORDER VARIATION SUBCOMMITTEE

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. REPORT ON HEARING OF OBJECTIONS - NEW BRIGHTON MALL SPECIAL ORDER

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The purpose of this report is to advise the Council of the recommendations of the subcommittee appointed to hear objections to the variation of the 1978 Special Order establishing New Brighton Mall.

BACKGROUND

New Brighton Master Plan

At its meeting on 12 December 2002 the Council formally approved the New Brighton Master Plan. Included within the master plan was the concept of a slow road through part of the existing mall (see plan attached). It should be noted that the details of the slow road are similar to that considered by the Council in October 2001 when it resolved at that time not to proceed with the proposal to vary the Special Order. The Council also, however, challenged the New Brighton community to establish a community forum to see whether it could collectively work on the issue of revitalising New Brighton. The master plan adopted by the Council in December 2002 is the product of that community involvement.

Special Order Procedure

At its meeting on 8 April 2003 the Sustainable Transport and Utilities Committee considered a further report recommending commencement of the Special Order procedures for revocation of the 1978 Special Order declaring a pedestrian mall in New Brighton, such revocation to apply to that part of the mall between Seaview Road and Oram Avenue. The Council at its ordinary meeting on 24 April 2003 adopted the Committee's recommendation to commence the Special Order procedures and appointed a subcommittee comprising Councillors Chrissie Williams, Carole Evans and Graham Condon to hear any objections to the variation and make a recommendation to the Council.

Public notice of the Council's resolution was subsequently given on 9 and 10 May 2003 in the Star and Press newspapers with a date of 26 May 2003 given for the closing of objections.

A total of 254 submissions were received as a result of the public notices and articles in City Scene. Of these 195 submissions (including a substantial number from the business community) were in support of the reintroduction of traffic into the mall via a slow road and some 63 submissions opposed the reintroduction of traffic. Some 10 submitters took the opportunity to make an oral submission to the subcommittee.

It should be noted that under section 336(2) of the Local Government Act 1974 only objections may be heard by the Council in relation to proposals to establish, vary or discontinue pedestrian malls. Unlike resource consent hearings there is no ability for the Council in a section 336 hearing to hear both those who support and those who object to a variation proposal.

The subcommittee met on 6 June 2003 to hear submissions from the 10 oral submitters. As a result of a late objection from one of the submitters the membership of the subcommittee was changed to comprise Councillors Sue Wells, David Cox and Graham Condon with Councillor Sue Wells being elected as chairperson.

The subcommittee received the following information to assist it in reaching a decision:

- A report from Kevin Mara (Project Manager, City Solutions, Christchurch City Council) providing a comprehensive history of the project together with details of the scope of work, estimated costs and budgets, community involvement, traffic assessment and perceived benefits.

- A report from the Retail Consulting Group, Auckland, (RCG), "Pedestrian and Vehicle Access in Retail Strips - The Need for Change in New Brighton" which provided information on the experiences of other similar communities in New Zealand who have had pedestrian space/shopping precinct revert back to road access. The report also provided information on the expected benefits for retailing and commercial activity in the New Brighton Mall should a slow road be introduced.
- A copy of the "New Brighton Master Plan" adopted by the Council in December 2002.
- A traffic assessment report prepared by Mr Tony Facey, traffic consultant, entitled "New Brighton Mall One Way Slow Road" which provided a comprehensive review of the traffic implications resulting from the introduction of a slow road.
- Advice from the Director of Legal and Secretariat Services regarding the variation of the Brighton Mall Special Order.
- Copies of all written submissions objecting to the proposal.
- Copies of "Vision 2005" (three volumes) which is the original study completed in December 1996 which identified strategies that could be implemented to revitalise New Brighton.
- A copy of the brief prepared by Council staff for the Retail Consulting Group.

In addition a letter was also tabled from Mr Pat Goosey, providing comments on the petition of some 600 signatures submitted with one of the objections.

Mr John Long, RCG, and Mr Tony Facey, traffic consultant, both spoke further to their reports at the commencement of the meeting.

Scope of Work

As noted in the report by Mr Mara the proposed scope of work identified in the master plan in relation to the roading network around New Brighton as a result of introducing traffic to the mall is as follows:

- (a) Create a slow road from the Seaview Road/Union Street intersection through the existing mall, exiting through Oram Avenue to Beresford Street.
- (b) Upgrade the Christchurch City Council car park in Beresford Street by bringing the parking area close to the mall. Upgrade the pedestrian crossing in Beresford Street.
- (c) Upgrade the Hawke Street car park by rationalising the layout and traffic and pedestrian circulation and improving servicing and landscaping.
- (d) Upgrade lighting, street furniture, plantings etc along the new slow road to tie in with the development at the eastern end of the mall.
- (e) Kerb modifications at the Seaview Road/Hardie Street intersection.
- (f) Kerb modifications at the Seaview Road/Union Street intersection outside the BNZ building.
- (g) Make Union Street into a two-way street between Seaview Road and Beresford Street.
- (h) Modify the Beresford Street/Union Street intersection with kerb modifications.
- (i) Install a roundabout at the Beresford Street/Oram Avenue intersection.

Objections

The submitters who objected stated that they were opposed to the proposal on the following grounds:

- Expenditure on a slow road was not justified and competition from nearby malls and shopping centres meant that New Brighton could not sustain a shopping centre of this size. Provision of a road would not in itself attract people nor benefit retailers.

- Funding should be used for other attractions that would revitalise New Brighton.
- Provision of a slow road would mean the loss of a pleasant, peaceful pedestrian area with resulting pollution from motor cars and hazards from traffic to pedestrians including both children and elderly people.
- The consultation process undertaken by the Taskforce was flawed and the slow road option did not reflect the majority view of the local community.
- The provision of slow road would compromise the children's playground area and result in a loss of valued space in this locality.
- Adequate car parking already existed close by the existing shops.
- Redevelopment should start at the foreshore, not in the mall.
- The report prepared by the Retail Consulting Group was not relevant to New Brighton.
- A petition of 600 signatures was also submitted which requested that the Council spend the \$1.1M allocated on the road on other amenities, attractions and landscaping to make New Brighton an inviting destination.

BASIS FOR CONSIDERATION OF OBJECTIONS

In considering the objections received to the proposal for revocation of the Special Order the subcommittee was guided by the advice of the Director of Legal and Secretariat Services, Mr Peter Mitchell, who drew attention to the decision of the Environment Court, *Blundell v New Plymouth District Council* (1996) and the issues that the Environment Court identified at that time in considering whether to uphold an appeal against that Council's proposed revocation of a pedestrian mall.

The Environment Court at that time indicated four main issues for consideration:

1. (a) Whether the opening of the road to vehicular traffic would be to the advantage of the community in general.
- (b) What proposal did the Council make in terms of the proposed design of the road?
- (c) Are there any traffic engineering issues arising out of the proposed change?
- (d) What are the anticipated traffic flows and does this lead to any benefits/pressures on nearby intersections?
2. The disadvantages to the community in general as against the advantages. Factors could include loss of pedestrian supremacy and open space - how is that intended to be compensated for with the mall being partly open to traffic?
3. (a) Is there any detriment to property owners and/or owners of businesses facing the road which is unreasonable in the absence of compensation by the community for the advantages the community may gain?
- (b) This would turn around whether or not the subcommittee believes that the mall is working effectively as a shopping precinct if that was the original intention of the mall.
4. Does the closure adversely affect other property owners and/or operators of businesses in adjacent areas who may have been dependent upon the existence of the pedestrian mall?

The subcommittee examined each of the above questions in detail and reached the following conclusions:

1. (a) Would the opening of the mall to vehicular traffic be to the advantage of the community in general?

The subcommittee considered the comments made by a number of submitters on the decline of the business community within the mall, as evidenced by vacant shops, lack of maintenance and investment, that the mall was now too large for its catchment area and that the future for retailing was that of a local shopping area.

It noted the study prepared by the Retail Consulting Group as a consequence of the brief by Christchurch City Council staff which had provided "**Scope:** *To produce a report which reviews other similar size communities that have had a pedestrian space/shopping precinct that has reverted back to having a road through the precinct*".

That report noted the experiences of:

- Onehunga Mall, Manukau City
- Hastings
- Hawera
- Wanganui
- New Plymouth
- Tauranga
- Rotorua

who previously had open pedestrian mall areas, and concluded that reintroduction of traffic to the New Brighton Mall could be expected to result in:

- a reduction in crime and graffiti
- more activity in the mall by traffic which also allows for casual surveillance by passing cars
- discouraging businesses from reorientating towards the car parks and turning their backs on the mall
- acting as a catalyst for property owners to upgrade their premises
- concentration of pedestrians towards the shops to make the mall seem more busy
- potential customers being able to see what the shopping precinct has to offer, by driving through before parking
- provision of a drop-off point within the mall
- allowing for quick purchases to be made
- opening up of the views through the mall
- encouraging people to park in the under-utilised car park on the south side of the mall
- upgrading of the environment of the mall and surrounding car parks
- improved traffic and pedestrian circulation

It concluded that Main Street environments tended to provide a wider shopping experience, a decrease in vandalism and vacant shops and an increase in business turnover. It agreed, however, that central city malls, such as the Cashel Mall, and enclosed malls, were in a different category and had been successful.

The subcommittee noted that the New Brighton Master Plan, including the slow road, was the initiative of the community rather than just the Council or business operators, and was of the view that to just leave the "status quo" would not be in the best interests of the community. The proposal for partial revocation of the Special Order was overall considered to be to the best advantage of the community as an essential element of the master plan.

1. (b) **What proposal does the Council make in terms of the proposed design of the road?**
- (c) **Are there any traffic engineering issues arising out of the proposed change?**
- (d) **What are the anticipated traffic flows and does this lead to any benefits/pressures on nearby intersections?**

The proposed design of the road provides for a one-way slow road in Seaview Road between Shaw Avenue and Oram Avenue. Should the proposal proceed the future detail of the design of the road will be subject to the normal consultation procedures with the community. The plan produced at this stage is merely a concept plan and future community input into the design will be allowed for. The subcommittee noted the comments made by Mr Tony Facey, traffic consultant, that the slow road would be expected to attract approximately 500 motor vehicles per day but should this traffic volume significantly increase then there was no reason why with appropriate design higher volumes (up to 2,000 mvpd) could not be accommodated. It is not intended that the slow road will be used by buses. Mr Facey's report advised that the positive aspects of the proposal ie:

- improved pedestrian access to the mall from the south;
- removal of the metered parking in Beresford Street and replacement with a slow street;
- increased amount of parking south of the mall;
- improved access to the mall from the south along Union Street;

outweighed the negative aspects which were seen as:

- additional through traffic diverted onto Seaview Road between Hardie Street and Union Street mixing with manoeuvring vehicles parking and leaving car parks;
- safety risks to pedestrians from traffic driving through the mall;
- reduced reliability of bus travel times (ongoing consultation is required with Environment Canterbury on such proposals)

and he commented that these risks could be minimised by appropriate engineering design. He considered that on balance the potential benefits of the proposed road changes outweighed any potential negative aspects.

In respect to question 1(d) the subcommittee noted the comments in the report that:

- All intersections are expected to have sufficient capacity to accept the expected traffic.
- The proposal has considerable potential to reduce crashes, particularly on Beresford Street.

2. The disadvantages to the community.

As submitted by a large majority of objectors the disadvantages to the community from the proposal related to the loss of pedestrian-friendly open space, impact on the existing children's play area and noise and pollution from motor vehicles within the mall. Some submitters suggested that there would be a negative effect on the business community, both owners and operators, from the additional costs imposed by a special targeted rate to fund the road. It should be noted that a large number of submitters did not appreciate that it is intended a separate targeted rate of \$610,000 be paid by the business community towards the costs of road reconstruction as noted in the amended project budget approved by the Council in December 2002.

The subcommittee accepted the merit of these comments but noted that it is intended to introduce a narrow slow road only through a portion of the mall and that sufficient pavement space would still exist for pedestrian circulation, landscaping and outdoor dining. It also considered that the provision of a special targeted rate, if agreed by the majority of business ratepayers, would provide an incentive and commitment to development and investment and noted the information contained in the RCG report on the extent of revitalisation investment that occurred elsewhere with admittance of vehicular traffic to similar pedestrian malls.

In respect to the petition signed by some 600 people the subcommittee noted the comment by the petition organiser, Ms Sue Trayling, that it could have been better worded and may have given the impression that an option existed between spending funding on either the road or hot water pools etc.

3. (a) Is there any detriment to property owners and/or owners of businesses facing the road?

It was not considered that there was any detriment to property owners/business operators who would be adjacent to the road that could be considered unreasonable. While it would be expected that the impact/benefit would vary for individual businesses and further changes to retailing in the area would occur the expected number of motor vehicles per day utilising the road at 500 only could not be considered excessive. In addition the subcommittee was advised that it is intended to hold a further poll of commercial property owners to confirm again the support for a targeted rate to fund the road construction costs and this would allow property owners to express their support at that time. It should be noted that no objections from property owners in the mall were received to the proposal. The subcommittee was of the opinion, supported by comments made by a number of the submitters, that the mall as existing does not operate effectively as a shopping precinct and that retention of the status quo would further exacerbate the decline in this area. A number of submitters suggested that the commercial area is now too large for its catchment and with the loss of Saturday shopping and the construction of other malls within close proximity of New Brighton it now needed to be downsized with perhaps the inclusion of residential accommodation.

4. Does the closure adversely affect other property owners/operators of businesses in adjacent areas?

As the surrounding area is largely residential it was not considered that the introduction of the slow road would affect adjacent areas. As indicated in the report by the RCG it would be expected that different clusters of retail/commercial activity would develop within the two portions of the mall ie the area containing the slow road and the pedestrian only zone. However, this was seen as being complementary and providing an overall synergy. As indicated previously no property owners within the mall area objected to the proposed revocation.

OTHER MATTERS

Some submitters voiced their opinion that 'piazza' style malls were becoming increasingly popular overseas, and that to back away from the current pedestrian status of the mall was effectively a retrograde step. Printed material was submitted to the subcommittee to back this up. However, upon review of that material, the subcommittee could find no examples to contradict the work of RCG.

The subcommittee was clearly of the view that the consultation for this project had been comprehensive and thorough. It heard concerns about 'loading' the Taskforce and evaluated those carefully. The members of the subcommittee were unanimously of the view that the consultation had been more than adequate, and that this was a robust proposal that properly evaluated not just the benefits and disbenefits for the business community, but for the wider community of the area.

The subcommittee acknowledged that 'change' can be seen by some as a disadvantage. It noted, however, that objectors were also of the view that if nothing was done to help the New Brighton area, the business part of the area would continue to fail to thrive. At best, a no change situation might result in a 'market' environment.

CONCLUSION

In reaching a decision on an appropriate recommendation to the Council the subcommittee considered what elements were different and distinct to this proposal from that which was considered and rejected by the Council in October 2001.

In the previous instance the slow road proposal was a stand-alone option promoted largely by the business community as a means of revitalising the area. At that time a large amount of community opposition was received to the proposal (135 objections in 2001 as opposed to 63 in 2003). In deciding not to revoke the Special Order at the time the Council noted the comments in the report by the subcommittee *"all but one person submitting against the proposal expressed the willingness to look again at some depedestrianisation of the mall if it were part of a bigger picture proposed that had compensating benefits"*.

The October 2001 decision by the Council to hold a community forum on New Brighton was the catalyst for the master plan which has been supported by the local community and the Council and of which the slow road now forms an integral part. It is intended that the master plan be progressed in two parts ie firstly the revocation of the Special Order to allow for the slow road and secondly the preparation of a registration of interest document for the development of the foreshore area. Both processes have now been started. An essential element of the present proposal is, in the view of the subcommittee, the fact that the slow road option has arisen from community consultation undertaken by the New Brighton Taskforce. In addition, detailed information on the experiences of other communities in New Zealand who have readmitted motor vehicles to pedestrian malls was also supplied to the subcommittee in support of the proposal.

Accordingly, the subcommittee, after careful consideration of all the material supplied to it by staff, professional consultants and the submissions both written and oral, is of the view that the Council should confirm the revocation of the pedestrian mall in New Brighton Mall between Seaview Road and Oram Avenue. It is aware that a right of further objection to the Environment Court exists and that any action on the actual construction of the slow road will be subject to acceptance of a special targeted rate by the New Brighton business community.

Subcommittee

Recommendation: That the Council disallow the objections and confirm the revocation of the 1978 Special Order declaring a pedestrian mall in New Brighton, in respect of that part of the mall between Seaview Road and Oram Avenue.

CONSIDERED THIS 26TH DAY OF JUNE 2003

MAYOR