

## 1. POLICY ON PRIVATE VARIATIONS TO CITY PLAN

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The purpose of this report is to seek a policy direction from the Council about private requests for variations to the City Plan.

The Council has an existing policy generally not to notify further variations apart from a defined list of priority variations. The purpose of this is to avoid further delays in making the City Plan operative. The Council does not have the staff resources at the present time to work on anything other than progressing the remaining references and urgent variations, and other urgent work.

The Council departs from this from time to time by resolution for particular variations that are urgently needed in the public interest.

A long list of potential variations or plan changes is building up. These are mostly minor matters identified by staff or outside parties.

From time to time outside parties approach the Council to consider varying the plan to enable something to proceed that would be difficult to achieve by way of resource consents because of the existing plan provisions. If the Plan was operative, these parties would be able to request a plan change and the Council would be obliged to process the request, at the applicant's cost. There is no similar right to request a variation and have it processed, so parties are entirely dependent on the Council's goodwill in this regard.

There are several factors which could influence a Council policy on requests made for variations:

- The first consideration should be the impact on staff resources for making the City Plan operative, at least in part. This means completing existing references and variations. This should be the primary task of the City Plan team and related staff at present, and there is limited staff availability for new work.
- The second issue is time delays in making the plan operative. New variations may be controversial and give rise to references, thus delaying the ability to make that part of the plan operative.
- The third issue is the desirability of being helpful to the community whenever possible. There are occasions when the plan could be more helpful to parties without compromising its overall role.
- A fourth factor is complexity in administering the Plan. If people cannot get the Plan varied they are likely to apply for resource consents instead, and these applications may be much more complex and difficult than they would be if the Plan was less restrictive.
- A fifth factor is cost. The Act assumes that people can apply to have the Plan changed, once it is operative, and this is at their expense as the Council can recover its costs. When the Plan is initially prepared they can make submissions and references and the Council cannot recover any costs. Some privately requested Plan changes are not of any great public interest or benefit, even though they may be suitable and appropriate for adoption under the Resource Management Act. In other words the benefits are largely private rather than public.

A technique which addresses most of these factors is for an applicant to prepare a potential variation itself, generally using consultants, in consultation with Council staff. This gives the Council input without demanding large amounts of time. Such proposals should be specific to a particular site, or perhaps a particular objective, policy, rule or zoning. A typical example would be a request to rezone a particular piece of land. This would have no impact on the rest of the Plan. The rest of the Plan could be made operative in part. Alternatively, such proposals may be small-scale or have little potential for controversy, so that they can be completed in the time before the Plan is made operative. In addition there are a number of topic areas that are not likely to be made operative for some time, including airport issues, floodplain issues, retailing and Living 4 zoning. Proposals affecting those topics may not affect the overall progress with the Plan at all.

The Council has already agreed to such a process with the Clearwater Resort. Attached are two letters outlining similar requests.

It should be noted that there will come a time, probably in the first part of 2004 when all such requests should be declined, to enable staff to get the actual City Plan document corrected, formatted and ready to be made operative in part. It will be important at that time to draw a line between those provisions the Council wishes to get operative and those provisions which will be put aside because of on-going work.

**Recommendation:** That privately initiated requests for variations to the City Plan be considered on the following basis:

1. That the requests are to be in relation to specific sites only by the owner of the fee simple of the land or any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force, and shall not affect broadly applicable City Plan provisions.
2. That the requests will not be granted where applying for resource consents would be a practical alternative.
3. That such requests should not delay the Council's ability to make the majority of the City Plan operative in part.
4. That any such variations are to be prepared by the applicants, at their expense, in consultation with relevant Council staff.
5. That the Council will consider any such variation on its merits but gives no assurance that it would introduce it, or if introduced as to its eventual decision on it.
6. That the Council will reserve the right to withdraw any such variation at any stage if it became protracted to the point where it affected the ability to make important parts of the City Plan operative.
7. That the Team Leader City Plan be given delegated authority to decide on requests to prepare variations to the City Plan under this policy. All such variations are to be considered by the Regulatory and Consents Committee prior to public notification.
8. That applicants shall agree to reimburse the Council for its actual and reasonable costs in processing the request and any subsequent variation.
9. That the policy on private variations be reviewed at the Regulatory and Consents Committee's December 2003 meeting.