

8. PROPOSED VARIATION 90: LOCATION OF RESIDENTIAL UNITS

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The purpose of this report is to identify a variation to the proposed City Plan to close a loophole that currently exists in both the land use and subdivision standards in all zones that allows the creation of house lots detached from the balance of the land in the allotment concerned.

BACKGROUND

The City Plan zone rules typically refer to minimum site sizes for house construction, and a site is defined to include "an area of land which is comprised in a single allotment or other legally defined parcel of land and held in a single certificate of title". An allotment is defined as (writer's emphasis):

"allotment;

shall have the same meaning as in Section 218 of the Resource Management Act 1991; except that, for the purpose of this Plan, in the case of:

- land being subdivided, the word "allotment" shall be extended to include an area of land or volume of space the boundaries of which are separately shown on a plan submitted with an application for subdivision consent, including two or more areas, whether adjoining or not, which are held, intended to be held, or required to be held together in a single certificate of title, and any balance area; and/or*
- land being subdivided under the cross lease or company lease systems or the Unit Titles Act 1972, the word allotment shall be extended to have the same meaning as site."*

So therefore a 'single allotment' can actually contain land parcels that are physically separate.

NEED FOR VARIATION

These provisions allow for house lots that are detached from the balance of the land in the allotment concerned. Thus, an urban cluster can be constructed in a rural area, detached from other urban areas and in a way which fails to achieve objectives and policies for urban growth and rural areas. There has been limited take-up of this opportunity to date but some examples exist, several more are currently proposed and many more could occur over the lifetime of the plan, rather defeating the intentions of the plan for limiting urban growth and preserving the rural environment. This loophole can also be used to defeat the policy on noise sensitive activities close to Christchurch International Airport, as has been proposed by Clearwater and Lady Diana Isaac for a cluster development within the noise contours of the airport.

To date this issue has only arisen in Rural Zones, although theoretically it could occur in any zone. It could for example be used to defeat the purposes of the Living Hills A and B Zones and any other low density Living Zone by clustering house sites closely together.

CONSULTATION

Local surveyors were contacted in relation to this issue, and have been invited to comment on the draft variation or seek their client's comments on the proposal. Of the 32 letters sent, three responses were received, one in support, and one seeking to clarify a detail but not opposed to the substantive basis for the variation. The third, from Mr Justin Prain of Clearwater Land Holdings Ltd, opposes the proposed use of a critical standard that will have the effect of making the clustering of residential units a non-complying activity. He suggests that there are many occasions where clustering can achieve a better environmental outcome than spreading residential units out over a series of larger blocks. The variation adds to the explanation for the policy on rural dwelling densities to recognise that in very limited circumstances clustering may be appropriate, but that this must be assessed as a non-complying activity to enable the environmental effects, specific circumstances and overall policy implications of each application to be fully assessed. Non-complying activity status is considered to be appropriate given the policy direction of the City Plan in terms of limiting urban growth and maintaining a distinctive rural character.

PROPOSED VARIATION

A copy of the draft variation and assessment is attached to this report.

Staff

Recommendation: That the Regulatory and Consents Committee recommend to the Council that it publicly notify a Variation 90 to the proposed Christchurch City Plan pursuant to Clause 16A of the First Schedule of the Resource Management Act 1991.

Chairman's

Recommendation: That the above recommendation be adopted.