

6. CORRECTION OF ERROR AND APPROVAL OF CHANGES TO PROVISIONS IN THE CITY PLAN

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Acting Programme Manager, District Planning
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**PURPOSE OF REPORT**

1. The purpose of this report is to recommend that the Regulatory and Planning Committee recommend to the Council that it make an amendment to a provision in the City Plan; and that it approve changes to the City Plan introduced by decisions on various plan changes, variations and appeals.

**EXECUTIVE SUMMARY**

2. A minor error has been identified in a provision introduced by Variation 93 to the City Plan. Variation 93 provided for the expansion of the Clearwater Resort by increasing the maximum number of residential units and hotel rooms. It created a Conservation Park on land owned by the Isaac Wildlife Trust and allowed a greater part of this land to be used for quarrying than is permitted under the existing Rural Quarry zone but otherwise limited its use to conservation and recreational activities.
3. The variation introduced an amendment to Rule 2.4 5 in Part 6 to provide minimum ground levels for residential buildings located within Resort Community Areas (RCs) at Clearwater. The levels are set out in a table in the rule which is reproduced below.

**Table 3**

<b><u>Column A</u></b> <b><u>Area to which</u></b> <b><u>minimum ground</u></b> <b><u>levels apply (as</u></b> <b><u>shown on plan in</u></b> <b><u>Appendix 3b)</u></b>	<b><u>Column B</u></b> <b><u>Grid reference (NZMS Grid)</u></b>		<b><u>Column C Minimum</u></b> <b><u>finished ground</u></b> <b><u>level (metres above</u></b> <b><u>mean sea level)</u></b>
	<b><u>Northing</u></b>	<b><u>Easting</u></b>	
<b><u>RC5 – A</u></b> <b><u>Westernmost extent</u></b> <b><u>Easternmost extent</u></b>	<b><u>2477660 N</u></b> <b><u>2477909 N</u></b>	<b><u>5751420 E</u></b> <b><u>5751719 E</u></b>	<b><u>12.05</u></b> <b><u>11.9</u></b>
<b><u>RC5 – B</u></b> <b><u>Westernmost extent</u></b> <b><u>Easternmost extent</u></b>	<b><u>2478180 N</u></b> <b><u>2478449 N</u></b>	<b><u>5751568 E</u></b> <b><u>5751870 E</u></b>	<b><u>11.07</u></b> <b><u>10.46</u></b>
<b><u>RC5 – C</u></b> <b><u>Westernmost extent</u></b> <b><u>Easternmost extent</u></b>	<b><u>2478238 N</u></b> <b><u>2478525 N</u></b>	<b><u>5751034 E</u></b> <b><u>5751611 E</u></b>	<b><u>12.85</u></b> <b><u>10.40</u></b>
<b><u>RC6</u></b> <b><u>Westernmost extent</u></b> <b><u>Easternmost extent</u></b>	<b><u>2477191 N</u></b> <b><u>2477466 N</u></b>	<b><u>5750165 E</u></b> <b><u>5750286 E</u></b>	<b><u>15.2</u></b> <b><u>14.4</u></b>

4. The northings and eastings set out in Column B above have been transposed and need to be corrected as they currently do not correctly identify the locations. In addition the locational references for RC6 are incorrect and consequently the minimum ground level is also incorrect.
5. Clause 16(2) of the Resource Management Act 1991 allows the Council to make an amendment, without further formality, to its plan to alter any information where such an alteration is of minor effect. The clause also allows the Council to correct minor errors.

6. Table 3 should correctly be as set out below.

<u>Column A</u> <u>Area to which</u> <u>minimum ground</u> <u>levels apply (as</u> <u>shown on plan in</u> <u>Appendix 3b)</u>	<u>Column B</u> <u>Grid reference (NZMS Grid)</u>		<u>Column C Minimum</u> <u>finished ground</u> <u>level (metres above</u> <u>mean sea level)</u>
	<u>Northing</u>	<u>Easting</u>	
<u>RC5 – A</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751420 N</u> <u>5751719 N</u>	<u>2477660 E</u> <u>2477909 E</u>	<u>12.05</u> <u>11.9</u>
<u>RC5 – B</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751568 N</u> <u>5751870 N</u>	<u>2478180 E</u> <u>2478449 E</u>	<u>11.07</u> <u>10.46</u>
<u>RC5 – C</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751034 N</u> <u>5751611 N</u>	<u>2478238 E</u> <u>2478525 E</u>	<u>12.85</u> <u>10.40</u>
<u>RC6</u>	<u>5751014 N</u>	<u>2477695 E</u>	<u>13.8</u>

7. A number of variations, plan changes and other proceedings have reached the stage where they are beyond challenge. The Council can now formally approve the changes to the City Plan introduced by these matters. They are detailed below.

- **Variation 86 Retail Distribution**

This variation was notified in August 2004 and introduced and amended objectives, policies and rules in the Plan associated with retail distribution. In particular, it sought to restrict retail development in the Business 4 zone so that existing commercial centres are not undermined by ad hoc retail development beyond those centres. It also introduced a new Business (Retail Park) zone for large format retail development. Commissioner Alistair Aburn conducted a hearing over 11 days in March 2006 and in November 2006 the Council adopted the Commissioner's recommendation as its decision. Some 11 appeals against the decision were received. There were several hearings before the Environment Court and an appeal to the High Court. Six separate decisions were issued by the Environment Court.

**Appendix 1** is the Variation as amended by the Council decision on the variation and by the decisions of the Environment Court on appeal.

- **Variation 93: Clearwater and the Isaac Conservation Park**

As discussed above, Variation 93 provided for the expansion of the Clearwater Resort by increasing the maximum number of residential units and hotel rooms. It created a Conservation Park on land owned by the Isaac Wildlife Trust and allowed a greater part of this land to be used for quarrying than is permitted under the existing Rural Quarry zone but otherwise limited its use to conservation and recreational activities. Notification of the variation attracted 43 submissions which were heard by Commissioner David Collins. His recommendation that the variation be adopted subject to some amendments was adopted by the Council in August 2007. One appeal against the decision was received. The Environment Court's decision to allow this appeal was itself appealed to the High Court by Environment Canterbury. The High Court allowed Environment Canterbury's appeal and quashed the Environment Court's decision.

**Appendix 2** is the Variation as amended by the Council's decision.

- **Plan Change 27: Rezoning of Central New Brighton**

Plan Change 27 sought to alter the zoning within parts of central New Brighton to allow for an increase in residential density through changes to permitted building heights, while minimising the potential for adverse environmental effects. New rules relating to design and appearance of buildings and wind effects were proposed. Public notification of the plan change in July 2007 attracted 206 submissions. These were heard over four days in May and September 2008 by Commissioner David McMahon. His recommendation that the plan change be confirmed subject to some amendments was adopted by the Council in May 2009. No appeals against the decision were received.

**Appendix 3** is the Plan Change as amended by the Council's decision.

- **Plan Change 29: Height and Setback Controls in B4 and BRP Zones**

This Change introduced height limits in the Business 4 and Business RP zones and provided for an increased setback for buildings in those zones. Commissioner David Collins was appointed to consider the matter and conducted a hearing over three days in September 2008. The Council, in February 2009, accepted his recommendation that the height limits proposed be adopted, subject to some amendment, and that the setback provision not be altered. One appeal against the decision was received but this has been withdrawn.

**Appendix 4** is the Plan Change as amended by the Council's decision.

- **Cashmere and Worsley Valleys**

In July 1998 a Council Hearings Panel heard submissions relating to the zoning of land in the vicinity of Cashmere and Worsley Valleys. Before decisions were released on these submissions the Environment Court ruled that the summary of submissions had been defective and directed the summary be corrected and re-notified. In July 2001 a new hearing of the submissions was held over seven days and in September 2001 the Council gave its decision. Various appeals were received and were the subject of several hearings before the Environment Court and the High Court. In February 2009 the Environment Court issued its final decision on the appeals.

**Appendix 5** is the Environment Court's final decision. It includes as **Appendix A** all the amendments to be made to plan provisions.

#### **FINANCIAL IMPLICATIONS**

8. There are no direct financial implications.

#### **Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

9. Covered by existing budgets.

#### **LEGAL CONSIDERATIONS**

10. The Council is empowered by the Resource Management Act 1991 to make amendments to the City Plan to alter any information where such alteration is of minor effect, and to correct minor errors. The Council can do so without further formality. The Council has delegated this function to the Committee.

11. Approving provisions in the City Plan is a formal procedural step required by the Resource Management Act 1991 before those provisions can be made operative.

#### **Have you considered the legal implications of the issue under consideration?**

12. Yes, see above.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

13. Aligns with District Plan Activity Plan.

#### **Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

14. Yes. Supports the maintenance and review of the District Plan project.

#### **ALIGNMENT WITH STRATEGIES**

15. Yes.

#### **Do the recommendations align with the Council's strategies?**

16. Yes.

#### **CONSULTATION FULFILMENT**

17. Making amendments to the City Plan under clause 16(2) of the First Schedule to the Resource Management Act 1991 is a function that the Council can do without further formality. Consultation is not required.

18. Approving changes to the City Plan under clause 17(2) of the First Schedule to the Resource Management Act 1991 is a procedural step that does not require consultation.

## STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee recommend to the Council that it:

1. Without further formality, and pursuant to clause 16(2) of the First Schedule to the Resource Management Act 1991, **amend** the Christchurch City Plan by deleting Table 3 in rule 2.4.5 in Part 6 of the City Plan and substituting the following table:

<b>Column A</b> <b>Area to which</b> <b>minimum ground</b> <b>levels apply (as shown</b> <b>on plan in Appendix</b> <b>3b)</b>	<b>Column B</b> <b>Grid reference (NZMS Grid)</b>		<b>Column C Minimum</b> <b>finished ground</b> <b>level (metres above</b> <b>mean sea level)</b>
	<b>Northing</b>	<b>Easting</b>	
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<b>RC6</b>	<b><u>5751014 N</u></b>	<b><u>2477695 E</u></b>	<b><u>13.8</u></b>

- 2(a) **Approve**, pursuant to clause 17(2) of the First Schedule to the Resource Management Act 1991, the changes to City Plan provisions set out in the documents attached to this report as Appendices 1, 3, 4 and 5.
- 2(b) **Approve**, pursuant to clause 17(2) of the First Schedule to the Resource Management Act 1991, the changes to City Plan provisions set out in Appendix 2 attached to this report, subject to the substitution of Table 3 in rule 4.2.5 in Part 6 in Appendix 2 by the table set out in recommendation (a) above.
- 2(c) **Authorise** the General Manager, Strategy and Planning to determine the date on which the changes to plan provisions become operative.