

8. REQUEST TO MAKE DEMOLITION OF LISTED GROUP 1 AND 2 HERITAGE BUILDINGS A PROHIBITED ACTIVITY

General Manager responsible:	General Manager Regulation and Democracy Services
Officer responsible:	Environmental Services Manager
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PURPOSE OF REPORT

1. In May 2004 the Council received a submission on the Annual Plan from the Christchurch Heritage Trust (CHT). In that submission the Trust raised several matters concerning the heritage provisions of the proposed City Plan. These matters were more appropriately addressed through the City Plan process than the Annual Plan and therefore the Annual Plan Subcommittee asked that a report be prepared for the then Regulatory and Consents Committee. This report addresses the planning matters raised in the CHT submission and discusses how they might be considered as part of a current wider review of the Plan's heritage provisions.

EXECUTIVE SUMMARY

2. The CHT requested via a submission on the 2004 Annual Plan that the City Plan be amended so that the demolition of all Group 1 and 2 listed heritage buildings be made a prohibited activity. Prohibited activity status is only used in Plans in exceptional circumstances and can have significant implications for owners. Rather than being considered in isolation, the proposed amendment is most appropriately assessed alongside other options via a S.32 RMA process and within the broader context of a comprehensive review of the Plan's heritage listings and provisions that is currently underway.

FINANCIAL AND LEGAL CONSIDERATIONS

3. The undertaking of a review of the Plan's heritage listings and provisions under S.32 carries no financial implications beyond staff time, with additional funding for heritage research already having been allocated via the Annual Plan process. Legal considerations are limited to the need to follow the process set out in S.32 RMA.

STAFF RECOMMENDATIONS

It is recommended that the Council resolves to carry out an analysis of the activity status of the demolition of group 1 and 2 listed heritage buildings as part of the current comprehensive review of the City Plan heritage provisions in terms of section 32 of the Resource Management Act.

BACKGROUND

4. The Christchurch Heritage Trust submission sought *"that the Council consider making the demolition of all Group 1 and 2 buildings prohibited - the City either means to keep these buildings or not through offering protection under the City Plan - the matter should not be debatable... Alternatively the Council should consider having only one list of protected buildings, demolition prohibited, which it can financially assist in the asset management of and have a second category in which it has no regulatory function but has an advocacy role to raise awareness of community heritage by noting that these buildings/places/objects are of considerable social historical value...The Council has already undertaken a preliminary exercise to ascertain the priority buildings and their structural condition with respect on the most significant buildings in the City - it is advisable the work on this report continues and is peer reviewed by key stakeholders and heritage professionals and considered in line with the comments above"*. The submission also requested that further funding should be provided for heritage research and that consideration should be given for using existing funding for the maintenance of character group houses to assist as a financial incentive to encourage the retention of heritage buildings. The funding matters raised in the submission were appropriately considered as part of the Annual Plan process, with funding for heritage research having been increased by \$40,000 pa for the next two years (2004-05 and 2005-06).

5. The Heritage Team, as part of their ongoing work programme, are in the process of undertaking a comprehensive and systematic review of the extent and representativeness of listed buildings in the Plan. In co-operation with the City Plan Team a review of the City Plan's heritage objectives, policies, and rules is also being undertaken. The review of the Plan's heritage provisions is in response to recent amendments to the RMA that elevate heritage to a matter of national importance. The review is also in response to concerns about various aspects of the existing provisions and listings that have been noted by staff, members of the community, and organisations such as the CHT. The alteration of demolition from non-complying to prohibited status, and the combining of the current four groups of listed buildings into two groups are significant amendments that need to be considered in context as part of a coordinated review of the lists, the grading of heritage items, the number of groups, and the status of other types of activities such as alterations or removal. The use of prohibited activity status is generally only included in Plans in exceptional circumstances and can carry significant implications for landowners. The proposed City Plan currently only includes prohibited status in very limited situations relating to residential development in several limited areas subject to either flood ponding, airport noise contours, or where for various planning reasons it is important that there is a cap on the maximum number of residential units. If prohibited activity provisions in the Plan could render land incapable of reasonable use, those provisions are able to be challenged via S.85 RMA by a reference to the Environment Court, with the Court able to direct that the provisions be deleted.
6. The CHT concerns have, however, been noted and the use of prohibited status and the modification of the listing building groups are options that should appropriately be considered as part of the S.32 process of assessing all options and their associated costs and benefits as an important step in the plan change process. Councillors will be aware that neither Council officers or the Council itself can commit to a variation or plan change making specific changes to the City Plan until it has considered a section 32 analysis. To do so would be an unlawful fetter of the Council's discretion to make a decision once submissions have been received and the section 32 analysis is at hand.
7. The comprehensive review of the Plan's heritage listings and provisions, the consideration of a S.32 study, public consultation, and any subsequent plan change notification and hearing represents a significant body of work and research and is therefore likely to take several years to complete. The existing Plan provisions do, however, appear to be adequate in the meantime in terms of the protection offered to group 1 and 2 buildings. It is important to note that in the 10 years since the Plan was publicly notified in 1995 no resource consents have been granted for the non-complying demolition of any group 1 heritage buildings. At notification the demolition of group 2 buildings was a discretionary activity, however, following the hearing of submissions the status of demolition for group 2 buildings was changed from discretionary to non-complying, with this change effective from May 1999. Since May 1999 no consents have been applied for or granted for the non-complying demolition of any group 2 heritage buildings.

OPTIONS

8. The options available to the Council are as follows:
 - (i) Consider the proposed amendments to demolition status and the listed building groups as part of a comprehensive S.32 analysis of the Plan's heritage provisions and listings. This comprehensive review and research into the extent of listings is currently under way as part of the Heritage Team's normal work programme.
 - (ii) Consider the proposed amendments to demolition status and the listed building groups as a separate, stand alone S.32 analysis.
 - (iii) Do not consider the proposed amendments to demolition status and the listed building groups as either a stand alone S.32 study or as part of a comprehensive heritage S.32 analysis. This option will essentially confirm the status quo without further consideration.

PREFERRED OPTION

9. Option (i) is preferred as it will enable the Trust's concerns to be assessed in an integrated manner within the context of a broader review of the Plan's heritage provisions and listings. The S.32 process at the heart of this review will enable the costs and benefits of various options to be considered and will enable consultation with the community to take place in a systematic manner.