

9. MAKING THE CITY PLAN OPERATIVE IN PART

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

1. The purpose of this report is to recommend that the Council approve those parts of the City Plan which have been completed and resolve to make the City Plan operative in part.

EXECUTIVE SUMMARY

2. The City Plan was first notified in 1995. Decisions on submissions were made in 1999. Approximately 400 references to the Environment Court were lodged. The great majority of these have been resolved, either by negotiated settlements or by decisions of the Court. Approximately 90 variations have been introduced. The great majority of these have also been resolved. Most of the City Plan is now beyond challenge and is legally deemed to be operative already. The final step in the Resource Management Act process for preparing the district plan is for the Council to approve the completed plan and make it operative.
3. There are a number of submissions, references and variations still not completed. It is possible for the plan to be approved and made operative in part. Those parts of the plan not being made operative will be clearly identified in the plan
4. In accordance with previous resolutions of the Council, it is intended to provide a version of the City Plan on the Internet.

FINANCIAL AND LEGAL CONSIDERATIONS

3. Finally approving the City Plan and making it operative are required steps under the Resource Management Act. There are four main legal consequences that follow from this:
 - The former Transitional District Plans cease to apply to any issue dealt with by the operative City Plan.
 - People are entitled to apply for changes to the City Plan and have their applications considered under a formal process. A report on this was considered by the Council on 15 September 2005.
 - Modifications to the City Plan are possible, but are carried out by the plan change process as opposed to the plan variation process. The processes are similar but not identical. A plan change does not have immediate effect but must be considered alongside the original provisions being changed, until the process is complete. Variations have immediate effect and replace the provision being varied from the date of public notification, although they may be further modified during the submissions and hearings process.
 - The 10 year review period starts to run.

The main financial considerations will be:

- The simplification in processing of resource consents and enforcement matters due to the lapsing of the Transitional Plans. This will result in minor cost savings for both the Council and applicants.
- The Council will also be able to dispense with giving advice about what provisions of the City Plan are complete and deemed to be operative.
- The new electronic production and publication systems will simplify the process of updating copies of the City Plan within the Council and in the community.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Approve, pursuant to Clause 17(2) of the First Schedule of the Resource Management Act 1991, the City Of Christchurch City Plan, with the exception of those provisions set out in the attached Schedule.
- (b) Authorise the Team Leader, City Plan to set and publicly notify the date on which the City Plan is to become operative, following the completion and distribution of the electronic and hard copy versions and the setting up of necessary administrative systems.

BACKGROUND ON MAKING THE CITY PLAN OPERATIVE IN PART

4. The City Plan was prepared between 1991 and 1995 and involved a great deal of research, tapping into past experiences, interviews with key members of the community, submissions made by a wide range of people, businesses and organisations, legal advice, and lengthy consideration by various committees of Councillors.
5. Much of the work in preparing the new Plan was done by the planning staff of the then Environmental Policy and Planning and the Environmental Services Units, assisted by many other Units of the Council, including City Streets, Parks, Waste Management, Water Services and Leisure.
6. The City Plan has been prepared by the Christchurch City Council to fulfil its obligations under the Resource Management Act 1991, and is prepared in three volumes:
 - Volume 1: The Statement of Issues
 - Volume 2: The Statement of Objectives, Policies and Methods
 - Volume 3: The Statement of Rules and Planning Maps
7. The City Plan was before the Council on 22 March 1995 and approved as the proposed District Plan for the City of Christchurch for the purpose of public notification in terms of Clause 5, First Schedule of the Resource Management Act 1991. It was publicly notified on 24 June 1995.
8. All citizens, community groups and businesses were invited to consider the City Plan as proposed, and to make submissions where this may be appropriate.
9. Over 2,500 people and organisations made 3,900 submissions covering over 12,000 topics. A further 1,500 people lodged submissions in support or opposition to the earlier submissions.
10. Hearings on the submissions took place over two years from October 1996 and involved over 630 days of hearings. Decisions on the submissions were made by the Council on 22 March 1999 and publicly notified on 8 May 1999. These decisions were subject to referral to the Environment Court within 15 working days.
11. Two hundred and seventy-three references to the Environment Court were lodged involving 409 topics. The City Plan as republished in September 1999, incorporates all amendments resulting from decisions on submissions made to the proposed City Plan notified on 24 June 1995.
12. Between 1999 and 2005 most of these references were either heard, withdrawn or settled by consent. Variation numbers 1 to 93 inclusive were publicly notified by the Council. Most of these have been completed, some remain to be heard by the Council or Environment Court. Ninety-three variations to the City Plan had been publicly notified by August 2005. Most of these have now been completed.
13. The City Plan was republished in May 1999, incorporating all amendments resulting from decisions on submissions made to the proposed City Plan. Numerous updates have been issued since, incorporating decisions of the Environment Court and subsequent Variation numbers 1 to 93 inclusive.
14. The City Plan has been available in electronic form, on the Council's intranet and for sale to the public on compact disc. The electronic version was a high quality product but achieved only limited sales. Electronic publishing has been complex and labour intensive and has required the maintenance of two separate versions of the Plan in different software. It was not practicable to publish on the internet in the form adopted. In recent years it has become usual for Councils to publish their plans on the internet. The opportunity has now been taken to update production techniques, move to a single version and publish the plan on the Council's website. This will be a high quality product, able to be readily browsed or searched. This electronic version is intended to be the authoritative version. It will be kept constantly up to date and in the opinion of the Ministry for the Environment will be the most advanced electronic version of an RMA plan currently available in New Zealand.

15. Hard copies will also be available, and updates made available for downloading from the Internet, and also through a hard copy subscription service for those who still require this.

PROVISIONS NOT YET ABLE TO BE MADE OPERATIVE

Outstanding references to the Environment Court

16. The following matters have not yet been completed by the Environment Court at time of writing:
- Retail issues in Industrial Business Zones
 - Floodplains issues
 - Airport Issues – limits to urban growth in vicinity, aircraft noise management, engine testing, retailing on the airport site, rezoning of rural site within airport noise contours
 - Urban growth at Belfast, Masham, Aidanfield and Cashmere
 - Living 1A zone issues
 - Zoning of Meadow Mushrooms site and surrounding lands at Awatea
 - Coastal hazard lines at South Brighton
17. It is possible that some of these matters may be resolved prior to the Council meeting, particularly in the airport group, South Brighton and Meadow Mushrooms and if so the Council will be advised at the meeting.

Outstanding Variations

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|--------------|---|---|
| Variation 52 | Restrictions on urban growth near airport | Awaiting final decision of Environment Court. |
| Variation 82 | Latimer Square road closure | Waiting for Environment Court hearing. |
| Variation 84 | Stonehurst Accommodation | Awaiting Environment Court. Settlement by consent probable. |
| Variation 86 | Retail distribution | Awaiting Council hearings November 2005. |
| Variation 89 | Recession Planes | Council decision released, in appeal period. |
| Variation 90 | Rural allotment clustering | Submissions heard, awaiting Commissioners decision. |
| Variation 91 | Financial contributions | Council decision released, in appeal period. |
| Variation 92 | Johns Road rezoning | Council decision released, in appeal period. |
| Variation 93 | Clearwater | Publicly notified, in submission period. |

Miscellaneous Matters

- Living 1A prohibited activity, minimum lot size of 1,500m² facing rural zones. The Council has agreed to initiate a further variation changing prohibited activity status to non-complying to resolve an existing reference. Draft variation is in consultation phase.
- Opawa Road/Port Hills Road. Submissions on the original plan were not resolved. Issues with property owners were resolved by negotiation and road widening is being carried out in reliance on the existing designation in the Transitional District Plan. This requires a new notice of requirement from Transit NZ to conclude the matter.
- State Highway designations. The recent notice of requirement from Transit NZ to designate the routes of all the existing State Highways in Christchurch has been publicly notified. No submissions were received. The Council has to make a recommendation to Transit NZ on this requirement but the matter has been complicated by recent issues relating to noise mitigation that arose in a case in Napier.

REMAINING WORK REQUIRED AFTER COUNCIL APPROVAL

- Complete the preparation of the electronic master City Plan document.
- Establish a system for printing hard copy versions from the master document and print copies for initial distribution.
- Establish systems for updating the master document and making updates available to plan holders.

- Complete preparations to make the City Plan available on the Internet.
- Provide training on the new electronic version to internal users and regular external users.
- Publicly notify that the City Plan is operative.
- Publicise and promote the on-line version of the City plan.

18. These remaining actions are anticipated to require 3-4 weeks. If completed successfully it is anticipated that the City plan can be made operative by the end of November.

OPTIONS

19. The options are:

- (a) Approve and make the Plan operative in part at this time.
- (b) Do nothing now. Wait until all existing matters are complete before approving the Plan and making it operative.
- (c) Do not approve the plan at all or make it operative.

PREFERRED OPTION

20. The preferred option is (a).

ASSESSMENT OF OPTIONS

The Preferred Option

This achieves cost savings for those preparing, reporting on and deciding consent applications and removes the need to give advice on which sections of the plan are deemed to be operative.

| | Benefits (current and future) | Costs (current and future) |
|---|--|--|
| Social | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. |
| Cultural | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. |
| Environmental | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. | No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan. |
| Economic | Simplifies consent processing and the giving of planning advice. | |
| <p>Extent to which community outcomes are achieved: Primary alignment with community outcome “a well-governed City” Also contributes to “A City with a Sustainable Natural Environment”</p> <p>Impact on Council’s capacity and responsibilities: Simplifies processes, record keeping and public advice to a minor extent</p> <p>Effects on Maori: No known effects</p> <p>Consistency with existing Council policies: No known inconsistency</p> <p>Views and preferences of persons affected or likely to have an interest: Persons affected are those with outstanding submissions or references. As all provisions of the plan affected by these processes will not be made operative there is no effect.</p> <p>Other relevant matters: Nil</p> | | |

Option (b)

Do nothing now. Wait until all existing matters are complete before approving the Plan and making it operative

There is no advantage in doing this. Some of the variations have several years before they can be completed. As the City Plan is a "living document", it is probable that further variations would be required. It is unlikely that there will ever be a time when there are no current amendments being considered and consequently there would never be an opportunity to make the plan operative.

| | Benefits (current and future) | Costs (current and future) |
|--|--------------------------------------|--|
| Social | Nil | Nil |
| Cultural | Nil | Nil |
| Environmental | Nil | nil |
| Economic | Nil | Costs owing to existence of Transitional Plans and the need to give advise on what provisions are deemed to be operative. Delays the opportunity for people to make applications for plan changes |
| Extent to which community outcomes are achieved: No alignment with community outcomes | | |
| Impact on Council's capacity and responsibilities: Adds minor complexity to administrative procedures | | |
| Effects on Maori: None known | | |
| Consistency with existing Council policies: No policies relevant | | |
| Views and preferences of persons affected or likely to have an interest: Persons preparing plan change applications likely to be opposed | | |
| Other relevant matters: Christchurch is already one of the later Councils to achieve an operative plan and receives some adverse publicity for this. | | |

Option (c)

Do not approve the plan at all or make it operative.

This is not recommended. The Council is obliged by the RMA to complete the plan, and approve it and make it operative. Likely to lead to Ministerial intervention.

| | Benefits (current and future) | Costs (current and future) |
|--|--------------------------------------|--|
| Social | Nil | Nil |
| Cultural | Nil | Nil |
| Environmental | Nil | Nil |
| Economic | Nil | Costs owing to existence of Transitional Plans and the need to give advise on what provisions are deemed to be operative. Delays the opportunity for people to make applications for plan changes |
| Extent to which community outcomes are achieved: No alignment with community outcomes | | |
| Impact on Council's capacity and responsibilities: Fails to achieve Council's legal obligations under RMA | | |
| Effects on Maori: Nothing particular known | | |
| Consistency with existing Council policies: No relevant policies | | |
| Views and preferences of persons affected or likely to have an interest: Likely to be opposed by many parties | | |
| Other relevant matters: Would prevent private plan changes being applied for. Could lead to Ministerial intervention | | |