

7. AMENDMENTS TO BANKS PENINSULA DISTRICT PLAN

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8549
Officer responsible:	City Plan Team Leader
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PURPOSE OF REPORT

1. The purpose of this report is to present the outcomes of negotiation/mediation on appeals to the Proposed Banks Peninsula District Plan, and to recommend the Council approve any agreement reached. A copy of the agreements are attached as Appendix A and B.

EXECUTIVE SUMMARY

2. The Banks Peninsula Proposed District Plan was publicly notified in January 1997. Most of the Plan has been the subject of submissions, further submissions, hearings, decisions and appeals. Appeals on the urban provisions of the Plan are largely resolved with only five appeals outstanding while the rural provisions are subject to 33 appeals.
3. Some of the appeals were set down for mediation between February 2006 and June 2006. These appeals relate to the former Banks Peninsula District Council's decisions on:
 - (i) Rural Provisions of the Proposed District Plan and Variation 2: The Rural Zone.
 - (ii) Variation 5: Design Guidelines for Lyttelton and Akaroa.
4. A total of eight matters were set down for mediation. Agreements have been reached on all of these matters, subject to final approval from the Christchurch City Council. The attached report summarises the background to each individual appeal, sets out the mediated agreement and discusses any relevant issues.
5. Council approval of the amendments is required since the Proposed District Plan Appeals Subcommittee of the former Banks Peninsula District Council, which had delegated authority to approve these agreements, no longer exists and the necessary delegations have not been transferred to the City Plan References Subcommittee which has delegation to approve amendments to the City Plan.
6. There are several options available to Council:
 - (a) Status quo - agreements not approved;
 - (b) Partial approval of agreements;
 - (c) Full approval of agreements.
7. Option (a) is the least preferred option since it is likely to result in the matters being set down for Environment Court hearings with substantial cost to the Council and other parties. In the absence of any significant reasons for doing so, non-approval of the agreements would also send a strong signal to current and future mediation parties to consider whether mediation with the Council is worthwhile and productive.
8. Option (b) will have similar results to option (a) although this will depend on the extent to which partial approval is given/not given. Option (b) would require further mediation on those aspects which the Council does not approve. This possibility is contemplated by the parties but like option (a) it could result in Environment Court proceedings should no alternative agreement be reached or if the Environment Court is reluctant to provide additional delays for mediation.
9. Option (c) is the recommended option because it recognises that the agreements and amendments represent a solution reached by all parties involved; the outcomes of mediation are consistent with the guidance/scope provided by the Proposed District Plan Appeals Subcommittee of the former Banks Peninsula District Council; and this option avoids the matters being set down for Environment Court hearings.

FINANCIAL AND LEGAL CONSIDERATIONS

10. The various options have been considered in terms of the financial impact and while it is difficult to estimate a precise figure, options (a) and (b) are more likely to present the Council with further costs because of the increased likelihood of these matters being set down for an Environment Court hearing.
11. While option (c) could result in some costs for the Council because of the commitments made in the agreed outcomes on matters 2 and 4 in Appendix A, the Council still retains some flexibility and discretion over 'how', 'when', 'at what costs' these commitments are implemented.
12. The process whereby these agreements have been reached has been managed by the Environment Court and is in accordance with the statutory consultation procedures set out in the Resource Management Act 1991.

STAFF RECOMMENDATIONS

It is recommended that the Council approve the agreements set out in the attached appendices, and that they be submitted to the Environment Court as draft consent orders.