

## 5. FUTURE DIRECTION OF THE CITY PLAN PROCESS

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Corporate Plan Output: City Plan	

The purpose of this report is to revisit the position with current and projected City Plan workload, and to seek the Resource Management Committee's guidance on the future direction of the City Plan process. In particular, it is now timely to consider whether greater effort should be directed towards a more proactive programme of variations to the Proposed City Plan.

This issue now assumes greater importance given the Council's new policy emphasis on urban sustainability, and the restructuring process undertaken within the Council to better achieve environmental outcomes.

This report has four parts:

1. The current situation with existing and projected city plan workload.
2. The changing environment within which resource management has to take place.
3. Potential resource management issues arising that require a more proactive approach to variations.
4. Criteria for assessing the need and timing of a programme of further variations.

### CURRENT SITUATION

The City Plan Section is currently committed to the primary task of dealing with references to the City Plan. There have been 371 references to Council decisions on the Plan, of which approximately 70 have so far been resolved by consent, or withdrawn. The process of resolving references by consent is continuing, while the first hearings of references that require hearing before the Environment Court have started.

It is important to note that not only is there a significant workload with preparing for reference hearings, but even negotiation processes to resolve references by consent can be quite time-consuming. This has been illustrated for example by the negotiations with Housing New Zealand over their reference. In 1998, the Council decided to confine any City Plan amendments to 14 "urgent" variations, in order to resolve references and hasten the time when the Plan becomes operative.

However, circumstances have dictated that some additional variations be initiated, and examples include those associated with airport noise issues and overhead lines. While a number of variations deal with relatively minor matters, some existing and on-going work with variations involves a considerable amount of staff and consultancy time and associated expense. This applies in particular to the following:

- Airport Noise - Variation 52
- Ferrymead Special Purpose Zone - Variation 37
- Overhead Lines - Variation 51
- Proposed Outdoor Advertising Variation
- Proposed Special Purpose (Awatea) Variation
- Proposed Minimum Floor Levels Variation
- Proposed Financial Contributions Variation

Against this background, there is on-going criticism from both within and outside the Council of certain aspects of the City Plan. While there is increasing recognition a district plan is not a panacea for solving all problems, there are nevertheless some arguably valid concerns that the City Plan could be modified to better achieve some of the environmental outcomes expressed through its objectives and policies. Some of this arises through the wisdom of hindsight, but a primary reason is simply the passage of time and changing circumstances.

Work on the City Plan began as long ago as 1991, so some of the thinking underlying the Plan is already nearly a decade old. This graphically illustrates the extremely protracted processes associated with producing a district plan for a large urban authority under the RMA. Given that the Auckland City Plan is in three parts, the Christchurch City Plan is probably the largest single plan preparation exercise ever attempted in New Zealand. The Council's Plan also pioneered "effects-based" planning, at a time when the conceptual nature of such plans was untried, and guiding case law non-existent. It is clear that it could be another three to four years before references on the Plan to the Environment Court are resolved. This raises the question of whether the Council can effectively "shut up shop" for that prolonged period.

Accordingly, having regard to community aspirations and the Council's own increased emphasis on environmental sustainability, the question must be asked as to whether a more proactive process of keeping the City Plan "in up to date" needs to be initiated. A district plan is still an important management tool and it is important to ensure that the plan does not become marginalised. There will be increasing pressure put on City Plan to perform in this respect. Having regard to this, it is now useful to identify some of the major issues that need to be addressed. In doing this, I am very conscious of workload implications, and potential effects on processing current references. Firstly, however, it is necessary to consider the implications of the changing environment for resource management as it affects plan (including variation) preparation.

### **THE CHANGING ENVIRONMENT FOR PLAN PREPARATION**

I believe it is clear that since the passage of the Resource Management Act in 1991, and since the time of Plan notification in 1995, the "technical environment" for plan preparation (including variations) has evolved significantly.

There are three main factors underlying this trend:

1. Greater Technical Complexity
2. Greater Emphasis by the Environment Court on Analysis and Quality of Evidence
3. Increasing Influence of Section 32 Analysis

#### **Greater Technical Complexity**

It is apparent that a number of issues addressed through a typical district plan involve more complex technical issues than was the case in the past. One clear example of this under the RMA, is the significance of economics and its implications for regulatory initiatives. In addition, recent variations and proposed variations have illustrated the multidisciplinary nature of resource management. Regulation of land uses near the airport requires evidence dealing with the complex mathematical modelling of airport noise environments. Similarly, the proposed variation on minimum floor levels raises significant evidential issues concerning climate change and its effects on sea level rise.

#### **Greater Emphasis by the Environment Court on Analysis and Quality of Evidence**

This is largely related to the matters described above. However, with changing membership of the Environment Court, there appears to be a trend towards greater demands on all parties and particularly Councils, to provide detailed technical evidence and a high standard of analysis (including of competing options) in order to justify plan provisions. An example of this is the approach of Judge Jackson's Court in respect to matters such as economic analysis and landscape evidence.

#### **Increasing Influence of Section 32 Analysis**

The quality of Section 32 analysis is assuming greater significance, particularly where regulatory intervention may have significant effects on the operation of the market, such as in retail and housing provision for example. This follows a period of considerable uncertainty during the earlier years of the RMA, perhaps reflecting the fact that Section 32 is poorly worded, although its intentions are reasonably clear. Section 32 does not preclude regulatory intervention as is commonly claimed by some; what it does require is quality analysis, and a demonstration that various options have been seriously considered, and that the benefits of intervention outweigh its costs.

A further issue which has dogged plan preparation has been the increasingly politicised environment within which resource management takes place. This debate has a large extent centred on the respective roles of the developer, the council, affected individuals, and the wider community.

In the political climate under the previous government, it appeared that resource management was seen as a process concerning the developer, the Council as regulator, and directly affected individuals. The idea of "community" was given short shrift.

Under the current government, it now appears that resource management is accepted as a process concerning the developer, the Council as regulator, and in some cases the wider community, including directly affected individuals.

It is the concept of "community" which creates an ideological divide, because there are some particularly in the discipline of economics, who question the legitimacy of "community". Under this ideological approach, the effect of loss of sunlight on an adjoining neighbour is seen as a potentially valid ground for regulatory intervention. However, the protection of a heritage building or a landscape because it is valued by the wider community is not seen as an adverse effect on an individual, but rather promoting the public good, which can only be achieved if compensation is paid. In the United States, planning restrictions in the interests of the wider community are commonly regarded as requiring compensation to the affected landowner, whereas in European democracies this is usually not the case.

The present government's commitment to a "communitarian approach" has been recently underlined by its decision to provide some funding for community groups involved in resource management processes.

All of this means that the performance of councils, in terms of the quality of their analysis and subsequent regulatory initiatives, will not only be subject to scrutiny by well-resourced developers, but also potentially by better-resourced community and environmental groups. In this kind of environment, intuitive and experienced-based "seat of the pants" planning may still have some place, but on its own will simply not be good enough. This will reinforce the need for more intensive effort to go into preparing variations to the Plan, which in turn will inevitably impact on resourcing levels.

## **ISSUES ARISING**

### **Urban design - Central City and Suburban Commercial Zones**

There have been concerns expressed that the predominantly "traditional" bulk and location standards for commercial development in both the central city and suburban centres are not doing enough to deliver acceptable environmental outcomes. These have been illustrated by such issues as the "Rebel Sports" building and the "blank walls" outcomes apparent in recent suburban centre redevelopments such as at Eastgate.

It may be possible to address (at least in part) some of these issues through negotiating a reference by the Carter Group relating to "character groups" and the application of these rules over wider parts of the city.

However, the whole issue of urban design raises the very delicate balance between the need to ensure acceptable environmental outcomes in design terms on one hand, and the need for legal and investment certainty on the other. This necessitates careful and measured consideration of the range of alternatives available for regulatory control of design matters.

### **Urban design – High Density Residential Zones**

This raises issues similar to those described above, where concerns have been expressed for some time about the adequacy of design outcomes under the predominantly traditional bulk and location standards that apply in the Living 3 and Living 4 Zones. These zones are quite extensive within the city, and allow for considerably higher density of development than the traditional low density residential housing that is being replaced.

Associated with this issue is the investigation of possible expansion of higher density "nodes" around some existing suburban centres, as agreed by consent order between the City and Regional Councils.

Again, this issue raises the need for balance between design control, community involvement, and investment certainty in these zones. In investigating changes to the Plan in this area, it will be very important to ensure that community "buy in" through consultation is achieved. It is also vital that residential investment in the inner city is not discouraged by complex design controls and associated protracted procedures, as this could ultimately detract from its viability.

### **Comprehensive Development of large greenfield sites**

The City Plan decisions have resulted in the rezoning of extensive areas of greenfield land on a scale not seen for nearly 40 years. This provides an essential breathing space to facilitate market acceptance of other housing styles. Concerns have been expressed in respect to a lack of co-ordinated development of greenfield sites, and the ineffectiveness of Plan provisions containing "Outline Development Plans". It may be recalled that a number of submissions seeking substantial areas of peripheral growth (e.g. Styx Mill – "Northfield" and St John of God/Mt Magdala – "Aidanfield") were promoted at the City Plan hearings on the specific basis of a new approach to subdivisional design, and a departure from the typical subdivisional patterns of the 1960s.

This issue concerns standards for subdivisional design, bulk and location standards, surface drainage, roading standards and layout, and the adequacy of development plans as a means of ensuring co-ordination between adjoining landowners.

One option may be to explore (with a major developer) the development of a significant greenfield using innovative design principles. Auckland experience has demonstrated that once a new style of residential development is established "on the ground" and has been shown to be marketable and successful, a greater degree of developer acceptance follows. Such an approach could be more effective than imposing city-wide regulation to achieve changed subdivisional design by coercion. Possibilities include a trade-off between permitting higher density development and more generous bulk and location standards, in return for more creative roading solutions and a degree of design control over buildings.

Other potentially significant Variation material includes the future of the Hendersons Road ponding area and tree protection provisions.

#### **REFINEMENT OF CITY PLAN PROVISIONS**

Since 1995, planning administration staff have raised a number of practical examples of problems that have arisen with the operation of the City Plan, primarily of a detailed nature and outside the scope of submissions. These have been recorded in a register by City Plan and planning policy staff, with a view to undertaking future action by variation or plan change. We are essentially dealing with a large number of often related "small issues", which cumulatively are nevertheless significant. The appropriate approach would be to group possible amendments by subject area (e.g. living, business) and incorporate them in a general variation to dealing with these matters in a comprehensive manner.

There may also be an opportunity as part of this process to refine and better focus some of the policy provisions of the City Plan, so that they provide greater support for the administration staff in assessing resource consents.

#### **SUGGESTED APPROACH TO BE TAKEN**

The Council is increasingly adopting a more cautious and measured approach to the preparation and notification of variations, with greater lead times than in the past. This reflects a need for careful preparatory work, early consideration in principle by the Resource Management Committee, consultation with affected parties, thorough Section 32 analysis and final consideration by the Resource Management Committee before notification.

While involving more intensive work and longer lead times, these efforts pay dividends later by way of avoiding unnecessary opposition and submissions that might otherwise arise. This kind of approach was difficult when staff were dealing with the entire City Plan review, because of the sheer scale of the exercise involved.

Accordingly, this report does not suggest in any way that any topics identified earlier for investigation should result in the early notification of variations. It does, however, mean an early commitment to investigation and preparatory work on topics that are likely to lead eventually to a draft variation. The ultimate timing of notification of these variations would need to be linked to the resolution of references.

It will be noted that no detailed proposals have been set out for the content of variations at this stage as this would be premature. It is also possible that following investigation that the Council may decide to adopt a "do little" or "do nothing" option. The important thing, however, is that the Council can show it is continuing to research and address important issues, as indeed it is required to do as a follow-up to its monitoring duties under S35 of the Act.

The primary factors which would affect these decisions, and the timing of them, are as follows:

- resources available
  - city plan staff
  - internal consultancy
  - external consultancy
- likely lead times/consultation
- likely resistance/potential for references
- Section 32 justification
- related issues (e.g. policy strengthening)
- work already undertaken (e.g. by EPPU)
- relationship to existing references and related complication/timing issues
- outcome of the Resource Management Act Amendment Bill

## CONCLUSION

In my opinion it is increasingly unlikely that the Council can set aside important issues which are arising through feedback on the City Plan, and also having regard to recent Council initiatives. In saying this, it is acknowledged that this will not make the process of processing references any easier. It will be necessary to pursue topics for potential variations with a view to undertaking initial research and development, having regard to progress with resolving references. Clearly, however, this will have implications in budgetary terms, also recognising that recent restructuring and likely internal charging regimes will give the impression that the cost of City Plan work is in fact even greater than in the past, even without an additional programme of work. It will also lead to the need for more resources to be identified in the year 2002/03.

**Recommendation:** That the Committee approve in principle additional work being undertaken by City Plan in coming months, with a view to further defining those particular aspects of the Plan upon which further work could be undertaken. This will have the initial aim of preparing options papers and, subject to the outcome of these potential draft variations, the timing of which will need to be determined later.

### Chairman's

**Recommendation:** That the Committee endorse the officer's recommendation.