

9. UPDATE WITH CITY PLAN REFERENCES AND VARIATIONS - OCTOBER 2001

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The purpose of this report is to advise the Committee of progress with City Plan references and variations since the last update report in July.

REFERENCES

As at 31 October 2001, 138 references (approximately 35.5% of the total) had been heard, withdrawn, or resolved by consent. In July the figures were 122 and 31% respectively. A number of these were Council-approved draft consent orders which were still with the Environment Court for final resolution.

The percentage of references being resolved has been offset by a number of additional references lodged relating to the Council's decisions on the rezoning of Montgomery Spur, Airport Noise Variation No 52, and on designations. Several references are also expected following the Council's decisions on the McVicar submission in the lower Worsley's/Cashmere area. It can also be observed that we are now encountering a higher proportion of "tough nut" references that are more difficult to settle, while in other cases we are frustrated by a lack of, or glacially slow, responses by referrers' representatives to possible settlement proposals.

Attached to this report is a summary of the remaining references to be resolved by hearing or consent. These can be expanded upon verbally at the meeting.

It has been indicated to the Council's legal services staff that the Court is likely to issue its decisions on 13 urban growth references (heard in the earlier part of this year) later in November. There is a potential for these decisions to provide rather profound case law on such matters as the weight to be given to policies in a Proposed Plan, whether it is possible for the Council to regulate the supply of land, and the importance of versatile soils.

The Environment Court hearings on Taylor's Mistake have attracted intense effort on the part of the parties involved (over 50 witnesses) and hearings will be completed in November. We will then have to await the decisions of Judge Smith and his Court. These references, although not of strategic significance, illustrate the costs associated with defending fiercely contested issues and I will report back on this matter in a subsequent update.

Judge Jackson's Court has set down most of the urban growth references relating to the Port Hills for hearing. General evidence relating to planning and landscape matters is to be exchanged in December, with site-specific hearings (starting with Moncks Spur) beginning in March and probably concluding about July. A few references are likely to be resolved by consent order, and others are subject to compromise agreements between the Council and the referrer. Examples of the latter include the references on rezoning south of Glovers Road in Halswell (the Deaker reference) and the reference relating to the Van Asch property south of Cashmere Road, where the Regional Council is unwilling to be a party to a consent order. The references relating to Montgomery Spur are expected to be a major hearing. In addition, references are likely from the Council's decision on the McVicar submission, and are also likely to result in a major hearing.

The Environment Court has requested an exchange of evidence in November on a reference relating to a small commercial block in Sumner (Seabreeze Investments, RMA 375/99) and a hearing date is expected to be set soon.

Pre-hearing conferences have been set down in respect to references on the South New Brighton hazard zone, the utilities references, and the references on esplanade reserves and waterway setbacks.

VARIATIONS

Variation 53

There have been no references against the Council's decision on Variation 53, which relates to the zoning of a number of parks, and amendment of rules relating to Open Space zones.

Variation 54

Following the Council's decision on Variation 54, concerning a zone boundary adjustment on Scarborough, one reference has been received from the affected landowner.

Variation 51

The Commissioner's recommendation on Variation 51 (Overhead Lines) is awaited at the time of writing.

Variation 55

The Council has received 15 submissions on Variation 55 which strengthens the Proposed Plan's policies on outdoor advertising, and makes some minor detailed rule changes. These are to be advertised for further submissions, and a hearing held early in the new year. Upon Council decisions being issued, any references from these will be dealt with along with those already received on the Council's original decisions relating to outdoor advertising.

Draft Variation 48

In August the Council decided not to proceed in the meantime with Proposed Variation 48 concerning new provisions relating to minimum floor levels and sea level rise. The Council's letter to the Minister for the Environment concerning the weaknesses of the national policy framework for sea level rise has been acknowledged, but no response has been received yet. However, separate to this, the Ministry for the Environment has indicated that they intend to undertake a review of the national policy framework for sea level rise and other issues related to energy efficiency, which are undoubtedly connected to the Kyoto Protocol.

In light of these factors, it is likely that when the draft variation again comes before the Committee early in the new year, it will be recommended that only part of it dealing with river floodplain issues proceed in the meantime. The sea level rise component of the draft variation should be deferred and dealt with separately following clarification of the national policy framework on the issue.

Ferrymead Special Purpose Zone

The Council will now have to produce a replacement for the Variation 37, which proposed to set in place a final zoning framework for the Ferrymead area, which is currently subject to an interim Special Purpose zoning. Although the Council is now in the process of purchasing the Port company's land, there are still a number of unresolved matters that need to be addressed for a replacement variation. The intention is to prepare a draft variation to go to the Committee early in the new year.

"Minor Variations"

Staff are making slow but steady progress on identifying "minor" amendments to the Proposed Plan, which could be incorporated in a variation and which should not attract a significant number of submissions. These consist primarily of deficiencies identified through the administration of the Proposed Plan over the last five years. A variation to address these matters would help improve the administration of the Plan, and eliminate anomalies.

Awatea Special Purpose Zone

The Council is obligated to pursue a final zoning pattern for this area which, as with Ferrymead, has an interim Special Purpose zoning. In order to enable a final zoning pattern to be established, it will be necessary to undertake the work to provide for the relocation (by way of a variation) of the Carrs Road Kart Track to Ruapuna. In doing this, it is acknowledged that the Council will have to demonstrate that Ruapuna is a suitable site, including undertaking consultation. In any event, relocation proposals will require the Council to be convinced that this is an appropriate site. Realistically, relocation to Ruapuna is likely to lead to some community opposition, although this is likely wherever the kart track goes, or even if it remains where it is.

Subject to this, any variation to extend the Ruapuna Open Space zone to accommodate the Kart Track would (assuming submissions) need to be heard before a Commissioner, and, if upheld, would be open to reference before the Environment Court. This will be a prolonged process with an uncertain outcome.

Major New Road Designations

For many years now, there have been no major new road designations initiated by either Transit New Zealand or the City Council within the city boundary. Rather, there has been activity concerning existing "rolled over" designations.

This situation may well change in the future, as a result of potential designations by Transit New Zealand and the Christchurch City Council. Such designations may arise from the Blenheim Road deviation, the proposed roading options for access to the northern part of the city, and alterations and extensions to the Southern Arterial designation in the Wigram area. Should such designations be received, they are likely to be highly controversial and require significant assessment. It is essential to maintain a functional separation between promotion of any roading designations by the Council (e.g. through City Streets) and the assessment of those designations under the RMA by City Plan staff. Significant resources will almost certainly need to be those applied as part of this assessment process.

Recommendation

from the Chair: That the information be received.