

8. MAKING OPERATIVE VARIATION 48 – MANAGEMENT OF THE FLOOD HAZARD IN CHRISTCHURCH

General Manager responsible:	General Manager Strategy and Planning, DDI 941 8281
Officer responsible:	Programme Manager District Planning
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PURPOSE OF REPORT

1. This report seeks a recommendation from the Committee that the Council make Variation 48 to the District Plan operative. The likely operative date is 20 September 2010.

EXECUTIVE SUMMARY

2. Variation 48 – Management of the Flood Hazard in Christchurch has had a long history. The Variation aims to better manage the potential effects of flooding. The essential elements of the Variation are:
 - (a) to identify areas on the Planning Maps which are at greater risk of flooding than the rest of the City;
 - (b) to protect the hydraulic function of ponding areas, and life and property within and beyond them, by strictly controlling filling and excavation, via non-complying activity resource consents for anything other than building platforms at permitted rural densities; and
 - (c) to mitigate the effects of flooding by requiring restricted discretionary activity resource consents with assessment criteria relating to building floor levels, in identified flood management areas (FMAs).
3. **Attachment 1** shows the areas Variation 48 covers. The Variation is the second to last part of the proposed City Plan of 1995 to be made operative. The last part of the City Plan to be made operative will be the plan provisions for the area of western Belfast subject to section 293 proceedings. Variation 48 was publicly notified in December 2003, heard by a Panel in November 2005, a Council decision issued in May 2006, and was subsequently appealed to the Environment Court. Several sessions of formal mediation took place in 2007, with appeals heard in Court in July and August 2008. The Environment Court decision issued in May 2009 required further mediation, which occurred in November 2009. A further decision was finally issued by the Court in July 2010 (**Attachment 2**).
4. The only outstanding appeal on Variation 48 was part of the appeal by the Canterbury Regional Council which was separated off and adjourned by the Court, because the City Council was in the process of preparing a plan change to address the issues raised in that part of the appeal. Plan Change 32 Waimakariri Stopbank Floodplain Land Use Controls was publicly notified by the Council on 10 July this year, and consequently the Canterbury Regional Council has recently withdrawn the remaining part of their Variation 48 appeal.
5. The Council can now take the procedural step of making Variation 48 operative.

FINANCIAL IMPLICATIONS

6. There are no direct financial implications. There are however administrative implications which are discussed in the background sections below.

Do the Recommendations of this Report Align with 2010-2020 LTCCP budgets?

7. Covered by existing budgets.

LEGAL CONSIDERATIONS

8. The recommendation in this report is for the Council to take a procedural step to make operative the changes to the City Plan introduced by the Council's decision and subsequent Court proceedings on Variation 48. Following the resolution of all the appeals the Council must formally approve the changes to the District Plan under Clause 17 of the First Schedule before they become operative on a date that is notified in a public notice of the Council's approval.

Have you considered the legal implications of the issue under consideration?

9. Yes as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. Aligns with District Plan Activity Management Plan.

Do the recommendations of this report support a level of service or project in the 2010-20 LTCCP?

11. Yes.

ALIGNMENT WITH STRATEGIES

12. Yes. Supports the maintenance and review of the District Plan project. Aligns with Council's Surface Water Strategy by addressing flooding issues and with the Council's Climate Smart Strategy by providing a practical first step in responding to sea level rise (SLR) projections (0.5m SLR).

CONSULTATION FULFILMENT

13. Approval of changes to the District Plan under clause 17 of Schedule 1 to the RMA is a procedural step that does not require consultation.

STAFF RECOMMENDATION

It is recommended that the Committee recommend to the Council that it:

- (a) Approve, pursuant to clause 17(2) of the First Schedule of the Resource Management Act 1991, the changes to the District Plan introduced by the Council's decision and subsequent decisions of the Court.
- (b) Authorise the General Manager, Strategy and Planning under Clause 20 of the First Schedule of the Resource Management Act 1991, to determine and publicly notify the date on which Variation 48 should become operative.

BACKGROUND (THE ISSUES)

14. Variation 48 has two main parts. The first part sets out rules dealing with the Lower Styx, Hendersons Basin, and Cashmere Worsleys ponding basins and the Cashmere Stream floodplain. This part has had effect from the date of public notification in 2003.
15. The second part of the Variation includes rules affecting much more extensive Flood Management Areas in the Lower Styx, Avon, and Heathcote River catchments, a smaller area in the Lansdowne Valley, and also some low lying coastal Flood Management Areas including Redcliffs and Sumner. Sixteen thousand households were individually notified of the Variation in 2003. This second part of the Variation was held back from having effect under section 20 of the RMA as it stood in 2003, on the basis that the Variation could change significantly through the Council decision and appeal stages and because so many households were affected. In the event, the flood management provisions of the Variation have not in fact changed significantly, since the amendments in the Council decision and the issues raised in the appeals largely concerned the ponding area provisions. The Court essentially confirmed the Council's approach on all major issues.
16. The mediation in 2009 and the consent order this year related to the Court's observation that the rules could make better provision for filling, excavation and building associated with permitted farming and horticultural activities, while not compromising the ponding and flood retention capacities of the flood-prone areas.

WHAT IS THE VARIATION ABOUT?

17. The Variation is directed at better management of the potential effects of flooding, and to assist Council to meet its obligations to avoid or mitigate any adverse effects associated with flooding. It focuses on strictly controlling filling and excavation in the ponding areas, and introduces a requirement for resource consent (usually as a restricted discretionary activity) for all new buildings and additions to buildings (with a few exceptions for small scale buildings) and filling within flood management areas.
18. Assessment criteria for these resource consents include whether or not the floor level of buildings is above the predicted 0.05 per cent AEP (Annual Exceedance Probability) flood level, which is also known as the 1 in 200 year flood level, plus an allowance for freeboard, and, in tidally affected areas, whether or not the floor level of the building is 11.8m above Council datum. The 11.8m above datum level includes an allowance for 0.5m sea level rise. The 1 in 200 year standard for Flood Management Areas (those areas which are at greater risk of flooding than the City generally) gives greater protection from the effects of flooding in those areas, than the 1 in 50 year standard required under the Building Act 2004 for residential and communal non-residential buildings in the rest of the city.

ADMINISTRATIVE IMPLICATIONS

19. The forthcoming requirement for resource consent for nearly all development in Flood Management Areas (FMAs) has administrative implications for the Environmental Policy and Approvals Unit, which will need to process the extra consents, and the City Environment Group which will be tasked with providing technical advice on resource consents. However it is anticipated that the great majority of consents will be relatively straightforward. Consents under flood management area rules will not need the approval of neighbours and will not be publicly notified. (Note that this does not apply to consents under ponding area rules. These are in many cases non-complying activity applications).

20. For the Hendersons Basin and Cashmere Stream floodplain, further hydraulic modelling was undertaken in 2004 and 2005 to calibrate against observed water levels in the Hendersons Basin (earlier work had focused mostly on calibration for volumes and water levels in the Heathcote River). Following this, additional work was commissioned between 2007 and 2009 to verify 200 year flood levels for each of the major river systems, using more accurate LIDAR contour information that had not been available in 2003 when the Flood Management Areas were originally mapped. This remodelling revealed that the existing mapped Flood Management Areas included some areas which will not be flooded in a 1 in 200 year event, and that some areas outside the FMAs could also be flooded in such an event.
21. In order not to slow the process of getting Variation 48 operative by having to start again at the beginning, it was decided that the best way forward was for Council to apply for a global consent on behalf of the landowners whose properties are not likely to be flooded in a 1 in 200 year event, so that they will not be required to obtain resource consents individually. This application is being prepared and will be lodged when Variation 48 becomes operative. Areas at risk of flooding in a 1 in 200 year event and outside of the existing Variation 48 Flood Management Areas will need to be dealt with separately in future plan changes or at the plan review.
22. The information obtained in the recent remodelling exercises will be available to technical staff within Council, and some of it is currently being added to Webmap, Council's internal property database. This information will be able to be accessed by all staff, including those staff giving advice to the public. This will mean that the best available information will be referred to on LIMs (Land Information Memoranda) and used in PIMs (Property Information Memoranda) in respect of floor levels.
23. Internal seminars on the requirements of Variation 48 are being held and a communications plan is being prepared so that those in the development industry can be better informed about what the Variation will require, ahead of it becoming operative.