

27. 5. 2004

REPORT OF THE COUNCIL HEARINGS PANEL

**A meeting of the Council Hearings Panel
was held on Tuesday 20 April 2004 at 9am, adjourned at 12.45pm,
reconvened on Wednesday 21 April 2004 at 11am, adjourned at 5.55pm
and reconvened on Friday 23 April 2004 at 9am**

- PRESENT:** Councillor Sue Wells (Chairperson),
Councillors David Cox and Gail Sheriff.
- IN ATTENDANCE:** Commissioner David McMahon (in respect to Variation 82,
Proposed City Plan and Plan Change 42, Transitional City Plan)
- APOLOGIES:** Nil.

The Panel reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. WORCESTER STREET (THROUGH LATIMER SQUARE) - PROPOSED ROAD STOPPING - HEARING AND CONSIDERATION OF OBJECTIONS TENTH SCHEDULE LOCAL GOVERNMENT ACT 1974

The purpose of this report is to inform the Council of the recommendation of the Council Hearings Panel in respect to the proposed stopping of Worcester Street through Latimer Square.

BACKGROUND

At its meeting on 12 December 2002 the Council decided, inter alia:

- "1. That the report on the results of the consultation process and the decision of the subcommittee be received.*
- 2. That a road stopping procedure for the part of Worcester Street going through the park in Latimer Square be commenced ..."*

At its subsequent meeting on 28 August 2003 the Council also decided:

- "1. That pursuant to Section 342(1)(a) of the Local Government Act 1974, and in the manner provided in the Tenth Schedule of this Act, the Christchurch City Council hereby resolves to publicly notify the proposal to stop the road as shown on the plan (attached) and described in the schedule.*
- 2. That pursuant to Section 345(1)(b) of the Local Government Act 1974 the Council affirm its intention to commence the process under the provisions of Section 14 of the Reserves Act 1977 (subject to the road being successfully stopped), to declare the land (Section 1 SO 323707) to be recreation reserve.*
- 3. (a) That the road stopping issue be heard by a panel of three Councillors.*
(b) That the City Plan Variation issue be heard by a Commissioner.
(c) That both hearings be conducted concurrently."

(Note: Councillors David Cox and Sue Wells retired from consideration of this item and took no part in the discussion or voting thereon and Councillor Gail Sheriff was not in attendance for this meeting.)

Subsequent to this public notification of the decision to stop this section at Worcester Street was given in The Press and Star newspapers on 5 and 6 September 2003 and 17 September 2003 with a date of 22 October 2003 for receipt of objections to the proposal.

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It should be noted that in addition to this a concurrent process was also initiated and publicly notified, to include the proposed road stopping by way of Plan Change 42, to the Proposed City Plan and Variation 82, to the Transitional City Plan. Final submissions on these proposals did not close until 30 January 2004.

The Council at its meeting on 12 December 2001 delegated to the Council's Hearings Panel the authority to *"hear and recommend to the Council, whether the Council should allow or otherwise any objections received to road stopping procedures pursuant to the Tenth Schedule of the Local Government Act 1974"*.

The Tenth Schedule of the Local Government Act 1974, clause 5, requires that if objections are received the Council shall, after the expiration of the period within which an objection must be lodged, unless it decides to allow the objections, send the objections together with the plans aforesaid, and a full description of the proposed alterations to the Environment Court.

SUBMISSIONS RECEIVED

A total of 38 objections were received to the notifications of the proposed road closure in terms of the Local Government Act 1974 by the close off date of 22 October 2003. Two submissions in support were also received from the Civic Trust and R and M Robinson. However, given that the Local Government Act 1974 allows only for the hearing of objections these two submissions could not be considered by the panel.

Details of the objections/submissions received are as follows:

Variation 82 and Plan Change 42 (46)

Local Government Act 1974 Tenth Schedule (40)

In accordance with the Council resolution of 28 August 2003 Councillor Sue Wells (Chairperson of the Regulatory and Consents Committee) appointed a panel consisting of Councillors Sue Wells, David Cox and Gail Sheriff (who had not attended or voted at the meeting of 28 August 2003) to hear and consider the objections received in terms of the Local Government Act 1974. Mr David McMahon, of the Resource Management Group, was also appointed as Commissioner to hear the submissions in respect to Variation 82 and Plan Change 42 and his recommendation will be made subsequent to the consideration of this report, to a later Council meeting.

EVIDENCE PRESENTED/CONSIDERED BY THE PANEL

The panel was provided with the following evidence/reports by staff (copies are tabled) in order to assist it in its consideration of the objections received:

- Planning Officer report - Chris Freeman, Senior Parks and Waterways Planner, Christchurch City Council
- Urban Design and Heritage and Amenity Planning report - Neil Carrie, Senior Planner, Urban Design and Heritage, Christchurch City Council
- Planning Officer report Plan Change 42 Variation 82 - Ms Hermione Blair, Planner, City Plan Team, Christchurch City Council
- Planning Officer report Proposed Road to be Stopped Tenth Schedule Local Government Act 1974 - Ms Hermione Blair, Planner, City Plan Team, Christchurch City Council
- Social and Economic Implications for the Worcester Street/Stanmore Road Shopping Centre - Mark Tansley, Marketplace New Zealand Ltd
- Project Manager's report - Mr John De Zwart, Christchurch City Council
- Legal submissions proposed road to be stopped - Aidan Prebble, Solicitor, Christchurch City Council
- Traffic Impact Assessment Report - Stopping Worcester Street Through Latimer Square - John Falconer, Transport Planner - Network, Transport and City Streets Unit, Christchurch City Council

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- Background material:
 - (a) Case studies New Zealand Road Closures - Mr Aidan Prebble, Solicitor, Christchurch City Council
 - (b) Linwood Avenue/Worcester Street intersection - Mike Calvert, Transport Planner - Policy, Transport and City Streets Unit, Christchurch City Council
 - (c) Latimer Neighbourhood Improvement Plan

In addition the panel received copies of all the objections made to the proposed road stopping in terms of the Tenth Schedule of the Local Government Act 1974.

The opportunity was afforded to all staff who had provided reports to speak to the panel and to answer questions. In addition a number of the submitters provided further written material at the oral submissions and provided additional specialist speakers on topics related to statistical methodology and heritage issues.

ISSUES AND CONCERNS RAISED BY OBJECTORS

As recorded in the report of Ms Hermione Blair and stated in the oral submissions made to the panel the main issues/concerns raised by the objectors relating to the stopping of Worcester Street were:

- Perceived adverse traffic effects resulting from the closure.
- Loss of access from the eastern suburbs to the CBD and return.
- Loss of parking for tour buses, shuttle buses and cars.
- Possible detrimental economic effects on businesses due to decreased traffic flows in Worcester Street, especially in respect to the Stanmore Road shopping area.
- Perceived inadequacies in the consultation process and the need for further consultation.
- Heritage impacts on Latimer Square and Worcester Street
- No benefit would accrue from the closure in terms of the amenity and recreation values of Latimer Square and the Square could be improved/redeveloped as is with the two segments and the road open.
- Expenditure of funds on the redevelopment of Latimer Square was not justified.
- Effects on trees.
- Might lead to an increase in anti-social behaviour.
- A slow traffic road would be preferable to total road closure.

Detailed comments on the issues raised by the objectors were contained in the report by Ms Blair and were considered by the panel. The opportunity was also taken by the panel to ask questions of relevant staff on the issues raised by the oral submitters.

CONSIDERATION/HEARING OF OBJECTIONS

A total of 13 submitters presented to the panel over the three day hearing period, of these nine related to objections made in terms of the Tenth Schedule of the Local Government Act 1974.

The panel considered both the written objections previously received together with the oral submissions made to it, and the additional written material provided, at the meeting. It took account of the staff and specialist advisers' reports relating especially to:

- Implications of the road stopping to the traffic network system
- Heritage values
- Recreational/amenity values
- Social and economic implications
- City Plan provisions - both to Transitional District Plan and Proposed City Plan

In considering its decision it took note of the advice of the Council Solicitor, Mr Aidan Prebble, of the criteria which would be used by the Environment Court in considering any such objections forwarded to it as set out in clause 6 of the Tenth Schedule of the Local Government Act 1974 ie:

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- The District Plan
- The Council's explanation under clause 1 of the schedule relating to:
 - the purpose to which the stopped road would be put,
 - the reasons for stopping it,
 - the objections made.

In addition it considered:

- The need for the road to remain open
- The balance between public and private benefit from the road remaining open or being stopped
- What would be the consequences of the road being stopped

It noted the advice of Ms Blair that the road stopping would be in accordance with the Transitional Plan amenity objectives and that it did not conflict with the Plan's transportation objectives. In respect to the Proposed City Plan the stopping would contribute to the achievement of the related objectives and policies in that Plan. It would allow Latimer Square to be enhanced for recreation and amenity purposes while reinforcing the roading hierarchy within the city and there were no compelling reasons from the provisions within the Proposed Plan to leave Worcester Street open through Latimer Square.

In relation to the public benefits to be achieved by stopping the road it took account of the evidence provided by Mr Carrie and Mr Freeman in respect to the amenity, recreational and heritage values of the proposal, ie:

- That a "slow street" would only have limited benefit.
- Closure of the road would increase the whole of the square's passive recreation value.
- Closure would allow for the provision of facilities that had been identified as being deficient in the square in the public consultation.
- More options will be available for the redevelopment of the square with the road stopped than with it open.
- Removal of the road through the square would heighten the perception of Latimer Square as a quiet place with special amenity and historic identity.
- The existing road through the square has limited immediate impact on the existing heritage values and the road stopping would not compromise the heritage significance of Latimer Square/Worcester Street.
- The heritage values of the square would still be identifiable regardless of whether the road was retained or stopped, but design options would be increased by the road being stopped.

In regard to the consequences of the road being stopped and the possible disadvantages to people affected by the closure, it considered the comments made by objectors in respect to possible economic disadvantages to the Stanmore Road shopping centre, negative impacts on the traffic system and the possibility that anti-social behaviour might increase.

It noted the advice of Mr Mark Tansley, Marketplace New Zealand Ltd, in respect to the socio-economic implications on the Worcester Street/Stanmore Road shopping centre and that any possible negative impacts were "*unlikely to be more than minor*". In addition it took account of the advice of Mr John Falconer in his report that only approximately 3% of the traffic at the intersection of Stanmore Road and Worcester Street originated west of Latimer Square.

In respect to the comments made regarding safety and a possible increase in anti-social behaviour it considered the comments of Mr Carrie and Ms Blair that the road at present provided only a limited degree of safety by "casual supervision" from passing traffic and that subsequent detailed design, taking into account the principles of crime prevention through environmental design, could mitigate such issues.

In regard to the extent and scope of possible negative impacts on the traffic system arising from the road stopping it considered the report of Mr John Falconer, Transport and City Streets Unit, Christchurch City Council, in respect to:

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- Traffic generation
- Traffic distribution and assignment
- The impact of diverted traffic on public transport
- The impact of diverted transport on cyclists and pedestrians
- Impacts on access
- Impacts on parking
- Impacts on safety
- Impacts on business

On two occasions it also toured Worcester Street from Cathedral Square to Linwood Avenue, stopping at locations on the way, to observe at first-hand traffic flows at both peak and off-peak periods.

As concluded in the traffic assessment report of Mr Falconer it considered that the overall impact on the transport system resulting from the road stopping would be no more than minor. Two viable alternatives to Worcester Street existed in Hereford and Gloucester Street which would be capable of accommodating the increased traffic flows resulting from traffic diverting from Worcester Street. While there would be a slight increase in the delay at some intersections this would be within acceptable limits and all intersections would still operate within capacity. Impacts on pedestrians and cyclists would be minor (and could be positive) and the impacts on public transport and existing bus routes would also be minor.

In respect to the comments made by some objectors regarding the adequacy of the consultation process and flaws in this it noted the comments made by Mr Prebble in respect to legal precedence, especially in the case *Blundell v New Plymouth District Council*, in respect to the previous decision by the Christchurch City Council possibly not reflecting majority views and also his comments on the relationship of the process to the Local Government Act 2002. It did not consider the objections made in this regard were valid and should be allowed.

Overall the panel considered that the disadvantages that could accrue from the road stopping would be minimal and that the benefits that would result far outweighed these. It did not therefore consider, having regard to the criteria set out in clause 6 of the Tenth Schedule of the Local Government Act 1974, that any of the objections received to the road stopping (as per the schedule attached) should be allowed by the Council. It also noted that in respect to the detailed design of the redevelopment of Latimer Square a further public process of consultation would be undertaken to allow for community and stakeholder input and that this would also be the subject of a resource consent.

Accordingly, the recommendation of the panel to the Council meeting of 27 May 2004 is as detailed below.

- Recommendation:**
1. That all the objections received by the Council (as per the schedule attached), in terms of the Tenth Schedule of the Local Government Act 1974, from the public notification of the proposal to stop that portion of Worcester Street (through Latimer Square), as shown on the plan attached, not be allowed and the objections be referred to the Environment Court as provided for in clause 5 of the Tenth Schedule of the Act.
 2. That in addition the General Manager Regulation and Democracy Services, together with the panel and commissioner, be asked to review the processes used in this instance in respect to the concurrent notification/hearing in terms of the Tenth Schedule of the Local Government Act 1974 and the variation and plan change to the Transitional and Proposed City Plan.

The meeting concluded at 5.20pm

CONSIDERED THIS 27TH DAY OF MAY 2004

MAYOR