

25. 6. 2009

**REGULATORY AND PLANNING COMMITTEE
4 JUNE 2009**

**A meeting of the Regulatory and Planning Committee
was held on Thursday 4 June 2009 at 9am**

PRESENT: Councillor Sue Wells (Chairperson).
Councillors Helen Broughton, Sally Buck, Ngaire Button,
Yani Johanson, Bob Shearing, Mike Wall and Chrissie Williams.

IN ATTENDANCE: Deputy Mayor Norm Withers.

APOLOGIES: An apology for absence was received and accepted from
Councillor Claudia Reid.

Councillor Helen Broughton arrived at 9.15am and departed at
11.03am.

Councillor Bob Shearing departed at 11.48am.

The Committee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

**1. PROPOSED PLAN CHANGE 45 – PRIVATE PLAN CHANGE APPLICATION FOR THE
REZONING OF LAND BETWEEN LOWER STYX ROAD AND SPENCERVILLE ROAD,
NORTH-EAST CHRISTCHURCH OPEN SPACE 3D (CHRISTCHURCH GOLF RESORT) AND
CONSERVATION 3**

General Manager responsible:	General Manager Strategy and Planning, DDI: 941-8281
Officer responsible:	Principal Adviser - Planning
Author:	Paul Whyte

PURPOSE OF REPORT

1. This report describes an application to the Council for a change to the City Plan by rezoning approximately 132 hectares of land between Lower Styx Road and Spencerville Road from Rural 3 to Open space 3D (Christchurch Golf Resort), and approximately 41 hectares of land adjoining Lower Styx Road from Rural 3 to Conservation 3. This report also discusses the process which must be followed under the Resource Management Act 1991 (RMA).

EXECUTIVE SUMMARY

2. The application is to rezone approximately 132 hectares of land between Lower Styx Road and Spencerville Road from Rural 3 to Open space 3D (Christchurch Golf Resort), and approximately 41 hectares of land adjoining Lower Styx Road from Rural 3 to Conservation 3.
3. The purpose of this report is not to consider the application on its merits. Rather, it is to recommend which of several options under the RMA is to be used in processing the application.
4. The Council has the option of
 - (a) Accepting the application as a private application and publicly notifying it for submission and hearing at the cost of the applicant; or
 - (b) Adopting the change as the Council's own change and accepting the responsibility and costs of processing it; or
 - (c) Rejecting the application.

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5. The Council is obliged to consider this request under the due process set out in the RMA.
6. The following information is **separately circulated**:
 - Attachment 1 - Amendment to Planning Map 11A for Christchurch Golf
 - Attachment 2 - Amendment to Planning Map 11B for Christchurch Golf
 - Attachment 3 - Outline Development Plan
 - Attachment 4 - Part A: Overview of Proposal and Existing Environment
 - Attachment 5 - Part B: Section 32 Evaluation
 - Attachment 6 - Part C: Assessment of Environmental Affects
 - Attachment 7 - Part D: Amendments to the City Plan.

FINANCIAL IMPLICATIONS

7. The financial considerations will differ depending on how the Council chooses to handle this application. Should it reject the application it is possible that the applicant would challenge this decision in the Environment Court, which would be a costly process for the Council regardless of the outcome. Costs cannot be predicted accurately but could be in the vicinity of \$20,000 for this preliminary step.
8. Should the Council accept and notify the change at the expense of the applicant there will be a no direct costs to the Council as the Council's costs would be recovered. However, there would be an impost on staff time.
9. Should the Council adopt the change as its own then the Council will need to absorb all the costs, likely to run to at least \$15,000.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

10. Yes.

LEGAL CONSIDERATIONS

11. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed, set out in the RMA.
12. The process, mentioned above, is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

13. Page 145, City Development - ongoing programme of improvements to enhance the planning documents of the City, to ensure an attractive built environment and minimise adverse effects on the environment.

ALIGNMENT WITH STRATEGIES

14. No. The proposed private Plan Change conflicts with proposed residential urban growth areas in the UDS. However, the applicant has made a submission to Proposed Change 1 to the Regional Policy Statement requesting that the area be recognised as within the Urban Limits. The recommendation of the officer is to accept the submission in part.

CONSULTATION FULFILMENT

15. The applicant carried out some public consultation with Council officers, New Zealand Transport Agency, Iwi, Resident Associations, and directly affected neighbours in 2004. The applicant is "updating" this consultation and, for example, held an open day on 23 May 2009 at the Spencerville Hall with invitations sent to adjoining neighbours, local resident associations and Ouruhia School.

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STAFF RECOMMENDATION

That the Regulatory and Planning Committee **recommends** to the Council that it agree to:

- (a) Accept the plan change pursuant to Clause 25 of the First Schedule to the Resource Management Act 1991 and publicly notify it accordingly.
- (b) Make the cost of processing the plan change to be at the applicant's expense, in accordance with Council policy.

COMMITTEE RECOMMENDATION

The Regulatory and Planning Committee **recommends** to the Council that it:

- (a) Accept the plan change pursuant to Clause 25 of the First Schedule to the Resource Management Act 1991 and publicly notify it accordingly with the following changes as agreed to by the applicant.
 - Amend the Overview of Proposal and Existing Environment paragraph 4.1 to clarify that the proposed golf course would be open to the public.
 - Amend the titles of the Overview of Proposal, Section 32 Evaluation, Assessment of Environmental Effects, and the Amendments to the City Plan to include "Conservation Zone (Part River Styx Corridor)".
 - Add a footnote to the Section 32 Evaluation and the Assessment of Environmental Effects to state "prepared on behalf of Christchurch Golf Resort Limited".
 - Delete "introduce any new policies" from section 1 of the Section 32 Evaluation.
- (b) Agree that the cost of processing the plan change be at the applicant's expense, in accordance with Council policy.

COMMITTEE DISCUSSION

The Committee was mindful that the Council's role at this stage of a private plan change process is not to attempt to make a decision on an application. That is a merits-based question which flows from a public participatory process. In accepting a private plan change application for notification the Council is not endorsing it or expressing a view on its likely ultimate success or failure.

The Committee was careful that its discussion on whether to accept the proposed plan change for notification did not address its potential merits. During its discussion the Committee sought clarification on several points of ambiguity in the applicant's reports (see recommendation above). The Committee was cognisant that the reports associated with the proposed Plan change be as clear as possible; but also that it was not its brief to suggest major changes to the applicant's reports. It was careful to seek the agreement of the applicant on every proposed change.

BACKGROUND AND DISCUSSION

The application

16. This application seeks to rezone the subject site from Rural 3 to Open Space (3D Christchurch Golf Resort). In addition, approximately 41 hectares adjoining the Styx River will be rezoned from Rural 3 to Conservation 3 to form a "river corridor". It is proposed that the corridor will be enhanced by plantings and habitat restoration and become part of the wider Styx River vision. It is also proposed that approximately 25 hectares of the 41 hectares land will be transferred by the applicant to the Christchurch City Council. (Council owns the other 16 hectares.) This transfer and the value of the enhancement work is being discussed with the applicant.

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RMA Timeframes

17. The application was formally received on 16 February 2009. Further information was requested on traffic, stormwater engineering, landscaping, and the rules format in March 2009. A response to the information request was received on 8 April 2009. Under the RMA the Council is due to make a decision whether to adopt, accept, or reject the application by 2 July 2008. (The 30 working day period specified in Clause 25 of the RMA has been extended to 60 working days pursuant to Section 37 of the RMA.)

Description of proposal and site

18. The subject site is located in the north-east of Christchurch, generally bounded by the Lower Styx Road and the Styx River, and by Turners Road, Teapes Road and Spencerville Road. The site comprises approximately 157 hectares. The site is generally currently in pasture and was previously used as a dairy farm. The site is predominantly flat, comprised in two terraces. The lower terrace adjoins the Styx River and is part of the Lower Styx Ponding Area.
19. The development on the proposed Open Space 3D (Christchurch Golf Resort) site will comprise:
 - Golf Course and associated wetland and riparian plantings
 - Golf Clubhouse
 - Golf Academy for up to a maximum of 160 students
 - Academy Facilities
 - Driving range
 - Sports complex
 - Resort apartments (a maximum of 380 bedrooms)
 - Retail activities serving the resort community (food and beverage outlets and 500m² other retail)
 - Residential Housing (a maximum of 150 sections)
20. The proposal essentially comprises a mixed use education, recreation and residential complex. It is anticipated most of the students attending the golf academy, which will include golf training, English language tuition and sports management training, will be from South Korea, although it will be open to other students. Resort apartments are primarily intended for out of town visitors while the residential sections will be available to any party. The development is able to be connected to the Council's reticulated sewer system which has capacity to accept the flows (and other planned developments in the area). Stormwater will primarily be disposed of to ground and water sourced from a bore. It is anticipated the ponding area on the lower terrace will not be compromised as no buildings are proposed (the area forms the golf course) and any earthworks and wetland areas will be "neutral" in their effect.
21. A key part of the proposal is habitat restoration through the development of wetlands on the golf course area, and intensive riparian management. As indicated above, it is proposed part of the river corridor will be transferred to the Council and the corridor enhanced by works funded by the applicant. It is proposed the works will include the clearing of willow trees, planting of indigenous species, construction of paths and walking tracks, and a maintenance programme. The generation of traffic from the development will place pressure on the capacity of the Marshlands Road/Lower Styx Road intersection. The upgrading of the intersection with traffic signals has been the subject of submissions to the LTCCP. A rule is proposed in the plan change which only allows part development of the site commensurate with the capacity of the intersection. Full development is only allowed when the intersection has been upgraded.
22. The proposal and the zoning is not dissimilar to the Clearwater development and the specific zoning, the Open space 3D (Clearwater) Zone, which applies to that development. Many of the rules and their content are of a similar format. There are a number of rules proposed in the Plan Change that will control development, including the submission of concept plans/ environmental management plans to the Council for their approval.

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Description of Issues

23. The Plan Change raises the following issues:

- Urban development beyond the existing urban boundary.
- Potential conflicts with the UDS and Change 1 to the Regional Policy Statement, although as indicated the officer's report appears to accept that some urban development is appropriate on the site.
- Potential effects of stormwater disposal.
- Potential effects on the Styx River in terms of amenity and flooding.
- Potential traffic effects, particularly as it relates to the upgrading of the Marshlands Road/ Lower Styx Road intersection.

Processing of Private Plan Changes

24. The processing of private plan changes is set out in Clauses 21 -29 of the 1st Schedule to the RMA. In summary this provides:

- Clause 21 - Any person may make an application for a change to an operative district plan. The City Plan is operative.
- Clause 22 - Request to be in writing, with reasons, Assessment of Environmental Effects and assessment under section 32 of the RMA.
- Clause 23 - Further information may be required. Council has done this in this case.
- Clause 24 – The Council may modify the proposal but only with the consent of the applicant.
- Clause 25 – The Council must consider the request, and make a decision to either:
 - (i) “Accept” it and proceed to public notification, or
 - (ii) “Adopt” it as if it were its own proposal, and publicly notify it, or
 - (iii) Reject it; or
 - (iv) Treat it as if it were a resource consent.
- Clause 26 - Where Council accepts the change it must publicly notify it within 4 months.
- Clause 27 - The applicant may appeal the decision under clause 26.
- Clause 28 - Applications may be withdrawn.
- Clause 29 - Unless rejected, the application is put through the standard process of public notification, submission, hearing, decision, and appeal (if any).

THE OPTIONS

25. The Council's options are:

1. Accept the application, proceed to publicly notify and decide the application at the expense of the applicant.
2. Adopt the change as its own and assume the responsibility for putting it through the process outlined in the RMA including all costs.
3. Reject the application.
4. Treat the plan change as a resource consent.

1. Accept the Plan Change

26. Under this scenario the private plan change is notified in the form prepared by the applicant. The Council processes the plan change proposal in much the same way as a resource consent application. The applicant bears all of the costs. Accepting the plan change proposal means:

- (i) The applicant decides what is notified, and if changes to the proposal are considered necessary it is likely the Council will need to make a submission in opposition to the plan change.

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- (ii) Implies the Council is taking a neutral position in the proposal. The Council should perceive that the Council neither supports or opposes the proposal
- (iii) Implies the applicants will bear the cost of the complete plan change process (including costs associated with the resolution of appeals).

27. There may be reasons why the Council may wish to make submissions in opposition to the plan in terms of matters relating to the issues identified in Paragraph 23. However, in general Council officers have been satisfied with the detail of the proposal so far. Greenspace officers support the concept of the river corridor.

2. Adopt the Plan Change

28. Under this scenario the plan change becomes a public plan change. It is notified, heard and decided the same way as a plan change prepared by the Council. The Council bears all of the associated costs. Adopting the plan change proposal would mean:

- (i) The Council can control the proposal that is publicly notified.
- (ii) It can be interpreted that the Council generally supports the proposal.
- (iii) The Council bears the costs of managing and processing the plan change.

29. In regard to this last point, there is the potential that more officer time and Council financial resources are spent in the plan change adoption process than in the accepted process. These would be resources that are diverted from the investigation and plan change matters that the Council has directed are a priority for the City Plan team. While processing privately requested plan changes are a priority for City Plan, a rezoning of the land from Rural 3 to Open Space 3D (Christchurch Golf Resort) and Conservation 3 is not one of the priorities for the team. If the Council is concerned about significant aspects of the proposal, this would not be an appropriate course of action.

3. Reject the Plan Change

30. There are very limited grounds in the Act for rejecting an application. A plan change can be rejected if:

- It is frivolous or vexatious
- The substance of the change has been dealt with by the Council or the Environment Court in the last two years.
- The change is not in accordance with sound resource management practice
- The change would make the District Plan inconsistent with Part V of the Act (other policies or plans, such as Regional Policies or Plans)
- The District Plan has not been operative for more than two years.

31. The privately requested plan change cannot be said to be frivolous or vexatious. The applicant has made a case for the plan change that warrants consideration in the plan change process.

32. While submissions and further submissions on Change 1 to the Regional Policy Statement have closed they have not been heard by the Regional Council – hearings of the submissions are currently underway but the applicant's submission is to be heard later in the year. It is considered that the Change 1 RPS process is not sufficiently advanced for this to be a critical matter in determining whether the requested plan change should be rejected particularly as the regional council officer has recommended the applicant's submission be accepted at least in part. However, consideration should be given to this matter when determining whether the application should be adopted or rejected.

33. The City Plan has been operative for more than two years, therefore, this can not be considered as grounds to reject the application.

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4. **Treat the Plan Change as a Resource Consent**

34. Under this scenario the Plan Change is converted to a resource consent application and is processed by the Council as such. The applicant bears all of the associated costs. In this case the application relates to the amendment of the planning maps and the imposition of a set of site specific rules which the applicant envisages will allow some flexibility in the management and development of the site should it be rezoned. It is considered, given the nature of the application that it is best addressed as a plan change than a resource consent application.

THE PREFERRED OPTION

35. The preferred option is **Option 1**. There is no status quo, i.e do nothing option. The application must be considered and either accepted, adopted, rejected or processed as a resource consent. It is not a matter the Council has identified as a priority it wishes to pursue for itself. The Council has an adopted City Plan programme and this item is not on it. There is no reason known for Council to adopt it as its own priority. There do not appear to be valid reasons for rejecting it. Therefore the application should be accepted and considered on its merits, following public notification and the receipt of submissions.

PART B - REPORTS FOR INFORMATION

2. **PLANNING ADMINISTRATION MONTHLY REPORT (OCTOBER 2008 TO APRIL 2009)**

The Committee received a monthly report to provide information about resource consent applications received and processed by the Planning Administration and Subdivision teams. It contained information from October 2008 to April 2009.

The Committee **decided** to receive this report for information.

3. **DISTRICT PLAN WORK PROGRAMME 2009-2010**

The Committee received a report describing the 2009-2010 District Plan Work Programme (attached). The Committee discussed with staff issues of priority and the need to assess capacity to deliver on the Programme.

The Committee **decided** to:

- (a) Receive the report for information.
- (b) Ask staff to review the programme in light of organisational capacity and strategic fit.
- (c) Recommend that staff hold a seminar for the Committee to discuss the proposed Work Programme.

The meeting concluded at 12.04pm

CONSIDERED THIS 25TH DAY OF JUNE 2009

MAYOR