

11. ADOPTION OF CHAPTER 39 – MONITORING AND REVIEW PROCEDURES OF THE PROPOSED BANKS PENINSULA DISTRICT PLAN

General Manager responsible:	Programme Manager, District Planning
Officer responsible:	Programme Manager, District Planning
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PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's adoption of proposed amendments to Monitoring and Review Procedures of the Proposed Banks Peninsula District Plan. This Chapter of the District Plan was notified in 1997 as Chapter 39 and is now numbered Chapter 40.

EXECUTIVE SUMMARY

2. The Council is seeking to make the Proposed Banks Peninsula District Plan operative as soon as possible and before the District Plan Review of both the Christchurch City and Banks Peninsula Plan commences. Dealing with these outstanding submissions is the penultimate step in making the Plan operative, leaving only Variation 8 (Financial Contributions) to be approved by the Council. Officers expect to report on that variation at the September Council meeting.
3. The Proposed Banks Peninsula District Plan was notified in 1997. The submissions relating to Chapter 39 – Monitoring and Review Procedures, have not yet been heard. This situation has arisen in part because of the need to finalise other parts of the Proposed Banks Peninsula District Plan, in particular Variation 2 - Rural Zones, before the monitoring and review provisions could be dealt with.
4. Submitters have been re-contacted but none of the submitters has requested a hearing in support of their submission. Consequently this report includes both the Section 42A recommendations which would otherwise have been made to a hearing, and a recommendation that the Council adopt the Monitoring Chapter of the Banks Peninsula Plan with amendments.
5. It is worth noting that Chapter 39 is in a table format, so that submissions to this chapter relate to specific cells within this table. **Attachment A** to this report shows the original notified table to the left, with the specific cells highlighted in green where the submitter seeks amendments, and the officers recommendation in the far right column. Amendments recommended to be accepted by officers are shown in red.
6. None of the amendments requested by submitters and recommended to be accepted or rejected here are considered significant. The majority refer to adding or amending the column "*Information Source*". For example, the addition of 'Canterbury District Health Board' as an information source for gathering information relating to changes in contaminated sites and the 'Canterbury District Health Board and 'Canterbury Regional Council' as information sources for gathering information on the 'State of the urban environment'.
7. Some amendments seeking greater consultation are unnecessary as Council's internal processes already include consultation with those organisations. Where amendments sought are more significant, e.g. relating to other chapters of the Plan, it is recommended that these concerns should be readdressed in the forthcoming District Plan Review.

FINANCIAL IMPLICATIONS

8. There is no budget implications arising from the recommendation.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. Yes. The 2011/12 budget for the District Planning work programme, adopted by the Council and provided for in the LTCCP, includes funding for district planning administration.

11 Contd

LEGAL CONSIDERATIONS

10. All consultation and notification procedures have been followed. The approval of Chapter 39 of the Proposed Banks Peninsula District Plan, including amendments, is provided for in Schedule 1 of the Resource Management Act 1991. Legal advice obtained has confirmed this process has been correctly been followed.

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

11. Yes. This process completes Council's legal obligation for the requirements of what is contained within a District Plan, under Section 75 of the Resource Management 1991.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. The matter accords with the LTCCP and relevant Activity Management Plans.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

13. Yes. The proposal is part of the district planning levels of service in the LTCCP.

ALIGNMENT WITH STRATEGIES

14. Not applicable.

Do the recommendations align with the Council's strategies?

15. Not applicable.

CONSULTATION FULFILMENT

16. The approval of Chapter 39 of the Proposed Banks Peninsula District Plan, including amendments, is provided for in Schedule 1 of the Resource Management Act 1991, which also outlines appropriate consultation requirements with affected parties. All consultation and notification procedures have been fulfilled.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Accept, accept in part or reject the submissions to Chapter 39 of the notified Proposed Banks Peninsula District Plan as shown in **Attachment A**.
- (b) Adopt Chapter 39 as modified by the amendments shown in red in **Attachment A**, and the Section 32 assessment in paragraphs 25-27 of this report.

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BACKGROUND

17. The Proposed Banks Peninsula District Plan was notified in 1997. The submissions relating to Chapter 39 – Monitoring and Review Procedures, have not yet been heard. This situation has arisen in part because of the need to finalise other parts of the Proposed Banks Peninsula District Plan, in particular Variation 2 - Rural Zones, before the monitoring and review provisions could be dealt with.
18. Submitters have been re-contacted but none of the submitters have requested a hearing in support of their submission. Consequently this report includes both the Section 42A recommendations which would otherwise have been made to a hearing, and a recommendation that the Council adopt the Monitoring Chapter of the Banks Peninsula Plan with amendments.
19. The original submissions to Chapter 39 were re-examined, as was the summary of submissions. The submission requests were re-evaluated (**Attachment A**), then this summary and evaluation circulated to the original submitters, to ascertain if they still wished to be heard in support of their original submission.
20. Of the original 12 submitters contacted by mail on 4 February 2011, six contacted the Council to advise they did not wish to be heard, with no response received from the other six original submitters. A second attempt was made to contact the submitters by mail on 19 May 2011 advising them that as no submitters wished to be heard, it was proposed that no hearing would be held, in accordance with Clause 8C of Schedule 1 of the Resource Management Act 1991. No submitters contacted Council as a result of the second letter.
21. Consequently no hearing has been held, and as the matters raised in the submissions are considered minor, this report includes both the section 42A recommendations, which would otherwise be made to a hearing, and a recommendation to adopt the Monitoring and Review Chapter of the Banks Peninsula Plan with amendments.
22. Many circumstances have changed since these submissions were made to the Banks Peninsula District Plan. For example one of the main submissions on the monitoring provisions of the Plan was made by Federated Farmers of New Zealand, essentially reflecting their overall submission which sought a complete review of the Plan. A complete review of the rural provisions of the Banks Plan, Variation 2 was notified in 2002 and in 2007 the former Banks Peninsula District Council completed a landscape study of the rural zone. There were appeals to the Environment Court and significant modifications to the Plan. Variation 2 was given effect in the Plan in 2007. This means that some of the concerns reflected in the submissions have been superseded by subsequent events
23. Some other submitters sought that consultation with them be made more explicit. With regard to monitoring, it is not always necessary to specify every organisation which Council consults with as a source of information, although the key sources are listed.
24. Where there are outstanding concerns relating to how the monitoring and review provisions relate to other chapters of the Plan, it is recommended that these be held over for the forthcoming District Plan review.

ASSESSMENT OF OPTIONS

25. Section 32 of the RMA requires that in making a decision to adopt particular Plan provisions (in this case amended on minor matters as a result of submissions) the local authority must make a further evaluation of :
 - (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

11 Contd

26. In this case no objectives or policies are being changed. The amendments are to the other methods of achieving the Plan's objectives, i.e. to the monitoring provisions which will enable the Council to determine whether or not the objectives are being achieved. The issue that is required to be determined is therefore whether the objectives and policies of the Plan are more appropriately achieved by retaining the Banks Peninsula District Plan provisions i.e. leaving the Chapter 39 Monitoring provisions unchanged, or by amending the provisions in the way recommended.
27. It can be relatively easily concluded that amending the provisions in the way recommended is more efficient, in terms of benefits outweighing costs, than leaving the provisions unchanged. In this case the costs of information gathering are not necessarily great, particularly where this information is being collected anyway as part of Council's normal responsibilities or is contributed by outside organisations. It can also be concluded that amending the provisions in the manner recommended is more effective than not amending them. Better environmental outcomes will result from monitoring using more up-to-date or relevant sources of information.