

HUTT CITY COUNCIL

FILE

DEMOCRATIC SERVICES

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c) **Withdrawal of Proposed Plan Change 2 - Notification Procedures and Assessment Criteria (RM16-4-2C)**

Report No. C2006/2/3 by the Team Leader Environmental Policy -
circulated Blue pages C3-1 to C3-6.

RESOLVED:

Minute No. C060231

"That Council approves the withdrawal of Proposed Plan Change 2 - Notification Procedures and Assessment Criteria."

HUTT CITY COUNCIL

RM16-4-2C
5 April 2006

The Mayor and Councillors
HUTT CITY COUNCIL

WITHDRAWAL OF PROPOSED PLAN CHANGE 2 - NOTIFICATION
PROCEDURES AND ASSESSMENT CRITERIA

Report No. C2006/2/3

RECOMMENDATION:

That the Council approves the withdrawal of Proposed Plan Change 2 - Notification Procedures and Assessment Criteria.

1. PURPOSE OF REPORT

1.1 The purpose of the report is to seek approval to withdraw proposed plan change 2.

2. SIGNIFICANCE OF DECISION

2.1 The decision sought does not reach any of the thresholds set out in Part 1 of the Decision-making Checklist. The level of compliance required with the Local Government Act 2002 decision-making requirements is therefore lower and consequently it was not necessary to complete Part 2 of the Checklist.

3. BACKGROUND

3.1 Prior to the Resource Management Amendment Act 2003, two provisions allowed the processing of resource consent applications without notification at all. However, the 2003 amendment made a number of changes to the notification sections of the Act. This resulted in rules relating to the notification procedures in Chapter 17 of the District Plan being inadequate. Proposed Plan Change 2 (see Appendix 1) sought to correct the deficiency in the notification rules and was publicly notified in March 2004.

3.2 Plan Change 2 contains two parts, the first is in relation to the notification procedures of resource consents, and the second is in

relation to assessment matters for discretionary activities in resource consent applications. The 2003 Amendment Act introduced the requirement to serve notice of application for controlled and restricted discretionary activities unless a rule in a plan provided otherwise and introduced new sections for the assessment of resource consent applications.

4. COMMENT

Transitional Provision

4.1 The Resource Management Amendment Act 2005 introduced a transitional provision for the service of notice requirement introduced in the 2003 amendment, which means that it does not apply until the District Plan is reviewed. The transitional provision is as follows:

"133 Transitional provision for service of notice

(1) Subsection (2) applies –

(a) to plans or proposed plans existing on 1 August 2003; and

(b) until those plans are reviewed.

(2) Despite section 94(1) of the principal Act, a consent authority is not required to serve notice of an application for a resource consent for a controlled or restricted discretionary activity if a rule in a plan or proposed plan expressly provides –

(a) that such an application does not need to be notified; or

(b) that notice of such an application does not need to be served".

4.2 Rules 17.2.1 and 17.2.2 (see Appendix 2) in the District Plan expressly provide that controlled and restricted discretionary activities do not need to be publicly notified. The transitional provision in the 2005 Amendment Act means that the changes to the notification chapter do not need to be made until the District Plan is reviewed.

4.3 Under the Resource Management Act 1991 a review of the District Plan is not required until 10 years after it becomes operative. The City of Lower Hutt District Plan became partially operative in 2003 and fully operative in 2004.

Assessment Criteria

4.4 The change to the assessment criteria can be dealt with as each part of the District Plan is being reviewed. For instance, any part of the plan that includes residential provisions can be changed as part of the review of the residential provisions. This approach has the advantage that pages will not have to be reprinted to simply replace one word; it is likely that other changes would be made to the section being reviewed at the same time.

5. CONSULTATION

- 5.1 Six submissions and four further submissions have been received on the proposed plan change. Of the six submissions, four clearly opposed the plan change, and one supported it. The other wanted the notification procedures to be streamlined, made efficient and simpler. The relief sought by the submissions also included that the notification procedures should be widened.
- 5.2 One further submission was made in support of wider notification, one in opposition to wider notification, and one supporting a suggested wording change. The other further submission opposed a submission that wanted the District Plan to remain unchanged, however, this was on the basis that a plan change was required following 2003 Amendment.
- 5.3 If the withdrawal of the plan change is approved, the submitters and further submitters will be notified of the withdrawal.

6. POLICY CONSIDERATIONS

- 6.1 There is no change to the way that resource consent applications are notified or assessed. Plan Change 2 was introduced to maintain the original intention of the notification rules. With the introduction of the transitional provision this is no longer required.

7. FINANCIAL CONSIDERATIONS

- 7.1 The withdrawal of the plan change can be carried out within existing budgets.

8. LEGAL CONSIDERATIONS

- 8.1 Under clause 8D of the first schedule of the Resource Management Act 1991, the withdrawal of a plan change is required to be publicly notified. A public notice will be placed in the Hutt News in accordance with this requirement if the withdrawal of the plan change is approved.

9. PUBLICITY CONSIDERATIONS

- 9.1 The publicity considerations are discussed above.

10. OTHER CONSIDERATIONS

- 10.1 There are no other considerations.

11. APPENDICES

Appendix 1: Plan Change 2 Notification Procedures and Assessment Criteria

Appendix 2: Notification Procedures Rules of the City of Lower Hutt District Plan

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APPENDIX 1: PLAN CHANGE 2

**Proposed District Plan Change 2 -
Notification Procedures
and Assessment Criteria**

This proposed District Plan Change results from legislative amendments and provides in Chapter 17 - Resource Consent and Notification Procedures, provisions relating to the serving of notice for applications; and amends throughout the District Plan references to sections of the Resource Management Act 1991 relating to assessment criteria for Discretionary Activities

Detailed below are changes to the City of Lower Hutt District Plan relating to Chapter 17 - Resource Consent and Notification Procedures, and Assessment Matters for Discretionary Activities in All Activity Areas.

Changes to Chapter 17 - Resource Consent and Notification Procedures

1. Chapter 17, "17.2 Notification Procedures"

Add the following words ", serving of notice" after the words "adjacent owners".

2. Chapter 17, "17. 2.1 Controlled Activities"

Add the following "(c) Notice of application will not be served on any person".

3. Chapter 17, 17.2.2 (a) Restricted Discretionary Activities"

Add the following words ", notice of application will not be served on any person" after the words "need not be required".

**Changes to All Activity Areas and General Rules-
Assessment Matters for Discretionary Activities**

Delete word "105" and replace with "104B".

APPENDIX 2: NOTIFICATION PROCEDURES RULES

17.2 Notification Procedures

In all activity areas, the requirements for gaining the consent of adjacent owners and for public notification of an application for a resource consent are -

17.2.1 Controlled Activities

- (a) The consent of any persons will not be required.
- (b) Applications shall not be publicly notified.

17.2.2 Restricted Discretionary Activities

- (a) Except with respect to the activities specified in 14A(ii) 2.2(a) and (b) and 14B 2.3(b) and (c), the consent of any persons need not be required and applications need not be publicly notified.
- (b) With respect to the activities specified in 14A(ii) 2.2(a) and (b) and 14B 2.3(b) and (c) the provisions of the Act shall apply to the matters of public notification and non-notification.

17.2.3 Discretionary and Non-Complying Activities

The provisions of sections 93 and 94 of the Act or any subsequent amendments shall apply to matters of public notification and non-notification.