

Report written on 15 February 2010
Report considered at Committee on 24 February 2010

Project No: Plan Change 42
File No: 2696-4-42

REPORT TO:

Mayor and Councillors
Council
PALMERSTON NORTH CITY COUNCIL

REPORTED BY:

Matthew Mackay
Policy Planner
City Future

PLAN CHANGE 42: EARTHWORKS OPERATIVE REPORT

Summary

REASON FOR REPORT

To seek approval from Council to make Plan Change 42 operative.

The purpose of the Plan Change is to strengthen the ability of the Palmerston North City District Plan to manage the potential adverse effects of earthworks.

The Objective of the Plan Change states: 'that the District Plan contains an appropriate policy framework to ensure that earthworks are carried out in a sustainable manner and that the potential adverse effects of earthworks are sufficiently avoided, remedied, or mitigated.'

The Hearings Committee made a decision 26 March 2009 in favour of the Plan Change. This decision was subsequently appealed by Transpower New Zealand Limited.

Council Officers sought to resolve Transpower's Appeal, which was officially achieved on 14 February 2010.

All that is now required to make the Plan Change request operative is the final consideration and adoption of the Plan Change by Council.

Does the Committee have delegated authority to decide?	YES ▾
Quote relevant clause(s) in current Delegations Manual	Clause(s) 159.15

RECOMMENDATION(S) TO COUNCIL

1. Resolves to make operative Plan Change 42 to the Palmerston North City District Plan, pursuant to Clause 17 of the First Schedule of the Resource Management Act 1991
2. Effects the approval of Plan Change 42 by affixing the Common Seal of the Palmerston North City Council to Plan Change 42.
3. Publicly notifies the resolution of the Council to make Plan Change 42 operative in accordance with Clause 20 of the First Schedule of the Resource Management Act 1991.
4. Approves that Plan Change 42 becomes operative on 24 March 2010.

IMPACT AND COST OF RECOMMENDATION(S)

By adopting the recommendation, Council will be contributing towards the following City Goal:

- Palmerston North is attractive, clean and green

The cost of preparation and changes to the District Plan is funded through the 10 Year Plan as part of The Resource Management Functions budget in the City Future Unit.

Rationale For Recommendations**SIGNIFICANCE AND 10 YEAR PLAN FUNDING**

Are the decisions significant	NO ▾
Can this decision only be made through a 10 Year Plan	NO ▾
Can this decision only be made through the Special Consultative procedure	NO ▾
Is there funding in the current Annual Plan for these actions	YES ▾

BACKGROUND TO ISSUE BEING ADDRESSED

1. On 8 October 2007, Council adopted the following recommendations:
 - That the Council authorise the Chief Executive to prepare a Proposed Plan Change to the Palmerston North District Plan which seeks to address the potential adverse effects associated with earthworks in Palmerston North City.

- That the Council note that the Proposed Plan Change on earthworks in the District Plan would be reported back to the Committee following targeted consultation.
2. The purpose of the Plan Change is to strengthen the ability of the Palmerston North City District Plan to manage the potential adverse effects of earthworks. The Objective of the Plan Change states: 'that the District Plan contains an appropriate policy framework to ensure that earthworks are carried out in a sustainable manner and that the potential adverse effects of earthworks are sufficiently avoided, remedied, or mitigated.'
 3. On 3 June 2008 the Council resolved to authorise the public notification of Plan Change 42 (Resolution 32-08). This Plan Change was publicly notified for submissions on 19 June 2008. Eleven submissions, and three further submissions, were received during the submission period. The Plan Change was heard by the Hearings Committee on 12 February 2009. The Hearings Committee released a decision 26 March 2009. On 22 May 2009 an appeal to the Environment Court was lodged against the Plan Change by Transpower New Zealand Limited. Powerco became a party to the Appeal under Section 274 of the Resource Management Act 1991.
 4. It was agreed to resolve the appeal, and a preliminary resolution was achieved on 17 November 2009. Material was submitted to the Environment Court on 18 December 2009.
 5. A copy of the Consent Order from the Environment Court is attached as Appendix One.

PREVIOUS COUNCIL DECISIONS

6. This issue was first discussed by the Environment and Planning Well-being Committee meeting on 3 September 2007 (Resolution 47-07):
 - That the Council authorise the Chief Executive to prepare a Proposed Plan Change to the Palmerston North District Plan which seeks to address the potential adverse effects associated with earthworks in Palmerston North City.
 - That the Council note that the Proposed Plan Change on earthworks in the District Plan would be reported back to the Committee following targeted consultation.
7. The recommendations were confirmed by Council on 8 October 2007.
8. A Plan Change was reported back to the Planning and Policy Committee meeting on 3 June 2008, where it was recommended (Resolution 32-08) that the Council:
 - Authorise the Chief Executive to proceed with the plan change process by publicly notifying 'Proposed Plan Change 42: Earthworks' in

accordance with the First Schedule of the Resource Management Act 1991.

DESCRIPTION OF OPTIONS

9. There are no alternatives options available to Council. The approval of the Plan Change request under Clause 17 of the First Schedule of the RMA 1991 is effectively an administrative and final step in the Plan Change process.

DISCUSSION OF OPTIONS - COMMUNITY VIEWS

10. The Plan Change request followed the correct consultation process outlined in the First Schedule of the Act. The Council consulted with relevant statutory agencies and other affected parties when notifying the Plan Change request.
11. Plan Change 42 was notified on 19 June 2008. Eleven submissions were received during the initial submission period. Three additional submission were received as part of the further submission period. A Hearing was held on 12 February 2009.

DISCUSSION OF OPTIONS - COMMUNITY OUTCOMES AND WELL-BEING

Social and Cultural Sustainability and Well-Being

12. Not Applicable

Environmental Sustainability and Well-Being

13. Not Applicable

Economic Sustainability and Well-Being

14. Not Applicable

DISCUSSION OF OPTIONS – FINANCIAL SUSTAINABILITY

15. The cost of updating the District Plan and making the Plan Change operative will be funded through the 10 year plan.

DISCUSSION OF OPTIONS – ANY OTHER ISSUES

16. Not applicable.

CONCLUSION AND RECOMMENDED WAY FORWARD

17. The processing of Plan Change 42 has followed the correct statutory process under the RMA 1991 and is now ready to be made operative by the Council.

18. It is recommended that the Council:

- Resolves to make operative Plan Change 42 to the Palmerston North City District Plan, pursuant to Clause 17 of the First Schedule of the Resource Management Act 1991.
- Effects the approval of Plan Change 42 by affixing the Common Seal of the Palmerston North City Council to Plan Change 42.
- Publicly notifies the resolution of Council to make Plan Change 42 operative in accordance with Clause 20 of the First Schedule of the Resource Management Act 1991.
- Approves that Plan Change 42 becomes operative on 24 March 2010.

NEXT ACTIONS

19. Effect the approval of Plan Change 42 by affixing the Common Seal of the Palmerston North City Council to the Plan Change.

20. Publicly notify the resolution of Council to make Plan Change 42 operative in accordance with Clause 20 of the First Schedule of the RMA 1991.

21. Prepare and post out the District Plan updates for Plan Change 42 prior to the 24 March 2010 operative date.

Matthew Mackay
Policy Planner
City Future

APPENDIX 1. Environment Court Consent Order: Plan Change 42