

THE CHRISTCHURCH CBD BLUEPRINT: RESOURCE MANAGEMENT ISSUES

Amanda Douglas, Partner
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The blueprint for the Central City has been released, so what does it mean – particularly if you own property in the Central City? How does it affect existing activities in the new zones?

The answer will depend on the new zone at issue and, in some cases, what has been carried out on the site before the blueprint's release. There are some complications with activities that do not fit with the blueprint's intentions. A different toolbox of solutions may be needed in those situations.

Under the blueprint, 'traditional' CBD activities such as offices and commercial activities are encouraged in the Central City Core Zone, but large operations are discouraged in the Mixed Use Zone. The Core is much smaller than the pre-earthquake CBD, and so some areas where traditional CBD activities used to be located are now not zoned for those activities. These areas are now mostly zoned as Mixed Use Zone.

So, what happens if you have an existing activity in the Core or Mixed Use Zones that doesn't meet the new rules in the blueprint?

In some cases, those activities can be continued under existing use rights. However, this is not guaranteed because existing use rights are lost if the activity has not been continuously carried out for 12 months after the blueprint came out.

Problems will arise where buildings and activities cannot be reinstated within 12 months. The practical reality of the CBD closure is that existing use rights may lapse in many cases. If the building, itself, is still standing, existing use rights relating to the building's bulk and location may be still alive but may be at risk simply because the demolition and rebuild process takes time.

In some cases, an extension can be sought if existing use rights would have otherwise lapsed. Existing use right certificates can also be sought however, at the best of times, the concept of existing use rights requires careful advice before they are established. So, existing use rights are not a certainty to allow pre-earthquake activities to continue on sites where the zoning no longer allows those activities.

Another possible tool is the temporary accommodation approval that has been available to authorise relocated businesses in certain areas (subject to conditions) through until April 2016. In theory, this tool could be used for relocated businesses in the Central City, but there are some technical issues arising out of the blueprint changes to zoning in the Central City. The new Central City Business and Central City Mixed Zones are not specifically included in the 2011 public notices formalising these approvals. The Council is looking into this issue but, in the meantime, the Council appears to be taking an open approach to temporary approval applications and, at the time of writing, is still processing these applications in this area. While these have proved useful since February 2011, the life of a temporary accommodation approval, is currently limited to 2016 under current legislation. So, even if granted, this is not a long term option.

Where a proposal is not a permitted activity, the natural reaction is to apply for a resource consent. The blueprint, itself, says that applications for resource consents can be made where proposals do not meet the specific rules introduced by the blueprint. However, in some cases, the prospects of getting a resource consent also may be limited.

This is because the Canterbury Earthquake Recovery Act prevents the City Council from making a decision on a resource consent application that is inconsistent with a Recovery Plan (which includes the Blueprint). Taking the Central City Mixed Use Zone as an example, the Blueprint limits offices to 450m². So, a resource consent for an 800m² office in that zone would be inconsistent with the Recovery Plan, and is unlikely to be granted. Careful advice is needed, and assumptions should not be made that, if a proposed activity is not permitted, a resource consent will definitely be available.

These issues are unlikely to be as prevalent in the Frame, particularly in the East and North Frames where land will be acquired. With the land in these areas being purchased by the government, landowners will not be left with the question of what they can now do with their land. That decision has been taken out of their hands. CERA has moved quickly towards discussions with these landowners.

In the South Frame, there is the intention to 'work with' landowners over the proposed developments with a view to creating a campus style development within the South Frame. But, at the end of the day, if agreement cannot be reached, the government won't be afraid to purchase land. In some cases, it may put covenants on it, and on sell it to achieve the objectives in the blueprint. These issues, and solutions, for continuing activities will apply more so in the South Frame than the North and East Frames.

So, where does that leave landowners in the Central City? After a period of elation and excitement that there is finally a definite path forward, reality will hit when some landowners find that the activities and projects that they planned for their sites will not be as easily carried out. We are entering a new phase in the resource management world, where we may find that some requirements are 'non-negotiable' and that some activities will need to move.

However, there are also many opportunities. In many cases, with good advice and clear guidance, there will be solutions. As Dr Seuss said "sometimes the questions are complicated and the answers are simple". With some astute advice and a positive outlook, many of these seemingly tricky resource management issues can be addressed.