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Corporate Plan Output: City Planning and Development	

The purpose of this report is to seek the Council's approval to the calling and acceptance of tenders for stall sites within the redeveloped Cathedral Square.

### BACKGROUND

During the 1980s the former Christchurch City Council was concerned about the decline in central city activities and in particular the unsavoury reputation of Cathedral Square in that it was getting little use during the day and positively avoided at night. There was a reluctance for citizens to come into the centre of town either for shopping or recreation. Adverse reports about the Square had made headlines throughout New Zealand and even overseas deterring both locals and tourists. In 1985 the Council appointed a Committee of Enquiry to look into the Square chaired by the former Bishop of Christchurch Alan Pyatt. The Committee reported to the Council in September 1985 and amongst other recommendations it was perceived there was a strong and widely based demand for entertainment, activities, stalls, barrows, cafes, and market days on a regular basis.

As a consequence of the report the Council established an Inner City Working Party to address the recommendations and as a result two markets were created in addition to the stalls that were in existence at the time. The Heart of the City Market was established operating on Thursdays and Fridays being a series of stalls specialising in small crafts, often locally made. In addition the International Food Fair (owner/operator stalls offering a range of Asian and Mediterranean type fast foods) was also established.

Entertainment was also organised on a weekly basis – mainly lunchtime on Fridays. All costs relating to the upkeep of the stalls and the entertainment were met from stall rentals.

### CURRENT POSITION

#### 1. Heart of the City Market

As indicated above the market was established in 1988 and operates on Thursdays and Fridays. Up to 40 stalls are provided for which rental of \$45 including GST per stall is charged per day. As a consequence of the Square's redevelopment it has been necessary to relocate the market on a temporary basis to the Worcester Street Bridge where it is operating successfully. The market is managed satisfactorily by the present licensee who arranges individual stall holders and acts as a spokesperson for their needs.

## 2. **Permanent Stalls**

At the present time there are eight permanent stall holders within the Square, these being the Baked Potato, Fish & Chips, the Fruit Barrow, Ice Cream, Lebanese Kebab, Chinese, Greek and Thailand foods, a coffee cart, as well as photography concessions.

Most of the stalls have been in operation since the early 1980s and provide the sole means of income for the current operators. The majority of the stall holders operate on a daily basis, Monday to Friday, with two of the stalls also trading during the weekends and nights. The stalls provide a basic range of food at a relatively cheap cost and complement events held in the Square. Rentals are charged by the Council that are comparable to similar retail rentals, although these have not been reviewed for sometime given the uncertainty of their continued existence as a consequence of the Square's redevelopment. The initial licences granted to the operators were for terms of three years, the majority of which expired in 1996 but have been allowed to run on, on a monthly basis pending the Council's decision over the redevelopment of the Square and their continued existence.

### **SQUARE REDEVELOPMENT**

As a consequence of the Square's redevelopment it was necessary to consider the continued operation of both the market and stalls within the Square and this matter was considered by the Environment Committee and reported to the Council at its meeting on 10 December 1998. It was reported to the Council that people attracting activities are needed in the Square and until these are established in the surrounding buildings something is needed to reinforce the status of the Square as an attractive, busy and exciting gathering space which caters for the local pedestrians and tourists. Events are an important part of this.

In June 1997 the Council resolved to continue running events and concerts in the Square and the Friday lunchtime concerts would continue. However it was considered important that a food presence be maintained in the Square to reinforce the idea that you can get lunch and entertainment in the Square, i.e. that it is an interesting and whole destination in itself. The Square needs to appear vibrant and busy and the key ingredients in achieving that are density of people and diversity of activities. Street stalls add to the festive, busy atmosphere and draw people into the Square. It was therefore recommended that street stalls and the market remain as part of the redeveloped Square and this was adopted by the Council at its meeting in December.

It was, however, considered that the current arrangement of stalls did not meet the objectives of the design report with regard to attractiveness and a high quality image. Many of the present stalls are of a functional utilitarian design. The caravan type stalls are large solid objects forming a visual and physical barrier in the Square and it is not believed they will complement the new high quality space being constructed. In terms of the market it was considered that it had become too spread out and the design of a number of the individual stalls was unattractive. It was however considered that street stalls and a market could be designed to be in keeping with a high quality public space. It was also important that any street stalls and market did not inhibit the spilling out of activities from the adjoining buildings. In terms of the street stalls their design, location and number could be controlled, as could the size, location, design and frequency of the market.

As a consequence of the Council's decision which was to provide for the establishment of up to eight stall sites within the Square a number of meetings have subsequently been held with the stall holders and market representatives. The general concept of small scale self-contained street stalls has generally been accepted with most of the current stall holders indicating a willingness to either modify their existing stalls or to provide new stalls to comply with the Council's requirements.

Discussions have also taken place between the stall holders and Stuart Ross Architects over the design standards for the new stalls and general agreement has been reached. The principal objective is to ensure that the stalls are self-contained although it is acknowledged that for some a power outlet will still be required but that they would be of a uniform design. The suggested design standards are attached to this report.

## **TENDERS**

As a consequence of an Ombudsman inquiry in 1994 into a complaint that the Council had made an improperly discriminatory decision on the balloting of stall sites, the Council reviewed its procedures and adopted the following policy concerning the tendering of stall sites.

1. That the allocation of all Council administered sites be decided by the weighted attributes tender.
2. That once stall holders had been selected for a site those licences to occupy be for a maximum three year period with no right of renewal and subject to the tenant paying rentals and adhering to all conditions set down for the site.
3. That site licences be transferable subject to an approval of the new operator for the balance of the three year term.
4. That all licences be subject to six months notice of termination of licence clause.
5. That the Council preserve the right of flexibility to grant additional licences at its discretion.
6. That the evaluation procedures once established be designed so as to encourage new entrants into the tender process.

In compliance with this policy tenders at various locations around Christchurch, including parks and foreshores, as well as the Cashel Street Mall, have been called and let with the sites in Cathedral Square being deferred pending the adoption of the Square redevelopment plan. Now that a decision has been taken by the Council to provide up to eight sites within the Square it is possible to proceed with the tendering of the sites. In the interim period the existing operators have been advised that they may continue to trade until mid-June when it is expected that site allocations would have been made following the calling of tenders at which time the existing licences will be terminated. It is recommended that the following tender criteria apply:

1. All stalls are to comply with the design criteria attached to this report.
2. Preference is to be given to experienced, professional operators whose proposed business is not in direct competition with other existing business uses in the locality of the site.
3. Preference is to be given to tenders for proposed business uses which offer within the range of tenders received the widest diversity of service to the public.
4. All tenders are to submit a description and current photograph or artists impression of the stall and its equipment and the address where the stall may be inspected if required. In the case of a stall to be constructed a full set of plans is to be provided.
5. Tenderers are to provide a list of the range of merchandise to be stocked and a current price list.
6. There will be requirement to specify the proposed days of operation, hours of operation and identify seasonal variations if any.
7. Details of the tenderers previous experience in relation to the operation of the proposed stall to be submitted.
8. The tenderers to confirm whether they are an owner/operator and/or the extent to which staff will be employed.
9. There will be a requirement to provide a health and safety management plan.
10. The tenderer will be required to provide a balance sheet or other evidence of their solvency.
11. Details of the licences and permits held by the tenderer and necessary for the lawful operation of the stall from the site are to be provided.
12. Details of any requirements the tenderer may have for the supply to electricity to the site are to be provided.
13. In the case of the tenderer which is a company the names of all Directors and shareholders of the company are to be provided.
14. The use of disposal containers to be minimised and be a consideration in allocating sites.

#### **LICENCE TERMS**

Although the existing Council policy is to limit the licence period to three years, given the capital cost of the provision of new stalls to comply with

the Council's requirements it is recommended that the term be extended to six years in order to allow the successful applicants the opportunity recover the capital outlay. The main terms to be embodied within the licence will be as follows:

1. The licence will be granted without any rights or options for renewal. In the event of holding over by the licensee with the consent of the Council, such holding over shall be on a day to day basis and may be terminated by the Council at any time upon giving not less than 14 days notice in writing.
2. The licensee to pay all charges for utilities supplied to the premises during the term of the agreement.
3. The licensee is to use the premises for the conduct of the business use from a mobile stall and for no other purpose.
4. The licensee will only occupy the premises for the purposes of the business use on the days of operation and during the hours of operation specified.
5. The Council may at any time upon giving not less than seven days notice in writing suspend the operation of the licence without compensation during the days or hours specified in the notice if the Council in its discretion considers that the conduct of the business may be incompatible with a special event or function to be held in or about the premises at the times and/or on the day or days specified in the notice.
6. The licensee will at all times at his/her expense conduct the business use in an efficient manner at all times so as to provide a high quality, efficient and friendly service to members of the public.
  - (i) Maintain the stall in a neat, clean, tidy and attractive condition.
  - (ii) Ensure that the stall is adequately staffed by staff trained in the conduct of the business use.
  - (iii) Ensure that staff are suitably and neatly dressed.
  - (iv) Encourage staff to be courteous and helpful to customers.
  - (v) Ensure that the stall is adequately stocked with a suitable range of merchandise offered for sale at fair market value.
  - (vi) Provide receptacles in the immediate vicinity of the premises in which the customers may deposit rubbish and remove any rubbish so deposited from the premises regularly on a daily basis. This rubbish to be removed from the Square and not put in Council rubbish bins.
  - (vii) The licensee is to carry public liability insurance in the sum of not less than \$500,000 in an insurance company approved by the Council.
  - (viii) The Council reserves to itself the right in its discretion to grant further additional stall licences to other operators in or about the locality of the premises notwithstanding that such licences may be in competition directly or indirectly with the business use.

- (ix) The licensee will have the right to assign the licence to another operator approved by the Council.
- (x) There will be usual provisions regarding the payment of rent, termination in the event of default and arbitration in the event of disputes.
- (xi) The Council reserves to itself the right to relocate the stalls for any reason should the need arise.
- (xii) The licensee to be responsible for cleaning and maintaining the area immediately surrounding the stall site on a daily basis and for removing empty cartons and containers on a regular basis throughout the trading day.

#### **GENERAL**

It is believed that with the adoption of the above selection criteria coupled with the terms of the proposed licence and the adoption of the design standards, improved facilities will be provided in keeping with the enhancement of the Square. In this regard it is believed that the tender process should be weighted to give more emphasis to the tenderer's experience and ability to ensure that good professional operators are selected offering a quality product from attractive stalls that will enhance and complement the redeveloped Square. While the tender price is important the principal objective should be to ensure high quality stalls that will enhance the image of the Square. Constant enquiries are received by Council staff regarding the provision of stall sites within the Square and it is evident that the tenders will be keenly contested and that a wide range of products will be submitted. In the circumstances in order that the widest product range can be canvassed it is not recommended that any restrictions be placed within the proposed tender document. A selection panel comprising the Property Manager who holds delegated authority to issue such licences together with the other appropriate personnel from the Council's the Environmental Planning and Policy Unit would be established whose decision in allocating the sites would be final and binding on the respective parties. The selection process is to be in accordance with the tender criteria listed above (conditions 1-13) and in the event of there being two or more equal applicants, the site be awarded to the highest tenderer. This arrangement has worked successfully to date with the leasing of the Cashel Street Mall sites together with various other sites on parks and reserves around Christchurch.

As the existing operators have been advised that it is the Council's intention to proceed with the calling of tenders in May and that allocations would be made by mid-June it is important that a decision be reached now in order that the appropriate documentation may be prepared.

Note: The design criteria and licence terms recommended in the staff report were expanded to include conditions relating to the use of disposable containers, the removal of rubbish from stall sites and the Council's right to require the relocation of stalls should the need arise.

Mr John Hardie, barrister, addressed the Committee on behalf of the operators of the five permanent stalls currently operating in the Square. Mr Hardie questioned

whether the tender process was the best way of proceeding and on behalf of his clients requested that they be given the opportunity to negotiate a new lease rather than participate in the competitive tender process. The exemption from the tender process was sought on the basis of their past performance and to recognise their loyalty and the length of time they have provided this service. Mr Hardie confirmed that the stall holders would be prepared to disclose financial information about their operation to ensure the Council receives a fair return from the rental of the Cathedral Square sites.

Mr Hardie also raised concerns regarding the location of the stall sites and requested that all stalls be located in the same area of Cathedral Square. The final issue of concern to the stall holders related to the design of the stalls. Mr Hardie pointed out that his clients had already spent considerable sums on their stalls and requested that they not be excluded from the tender process on grounds of cost. It was advised that the stall holders were happy to upgrade their present stalls but were concerned that the proposed design standards could require them to completely replace their stalls.

The Environmental Policy and Planning Manager reported to the April meeting of the Environment Committee on the location and design considerations associated with the proposal. The Environment Committee's recommendations were referred to this Committee for inclusion in the tender documents as follows:

1. That the six street stall locations shown in Appendix II be agreed.
2. That the provision of a street stall location in the northeast corner be reviewed once the space allocation issues in that area are resolved.
3. That it is noted that the street stalls may be located during events in the Square to temporary locations.
4. That the design guidelines in Appendix III be approved.
5. That, in the selection of stalls, consideration be given to any potential conflicts between the products being offered by the stalls and activities in buildings fronting the Square.
6. In determining the outcomes of tenders in addition to the tender price, weighting be given to the design appearance of stalls, suitability of the applicants etc.
7. That the above recommendations be referred to the Strategy and Resources Committee for inclusion in the tender documents.

The appendices referred to in the above recommendation are tabled.

- Recommendation:**
1. That, subject to the above terms and conditions tenders be called for six stall sites, as shown on the tabled plan within Cathedral Square.
  2. That the Council note the matters raised by the deputation regarding the stalls and their location as outlined in the above report.

3. That recommendations 2-6 of the Environment Committee be adopted.
4. That a subcommittee comprising the Chairpersons of the City Services Committee and the Environment Committee, assisted by appropriate staff, select and allocate the successful tenders.
5. That the licence period be for a maximum term of three years with a right of renewal for a further three years.