

3. LEGAL OPINION ON PRIVATE PLAN CHANGE 22 FROM SIMPSON AND GRIERSON BARRISTERS AND SOLICITORS

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Strategy Support Manager
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PURPOSE OF REPORT

1. This report contains a legal opinion from Simpson Grierson Barristers and Solicitors regarding the Council's consideration of private Plan Change 22, relating to the Styx Centre.

FINANCIAL IMPLICATIONS

2. Not applicable.

LEGAL CONSIDERATIONS

3. The legal aspects are contained within the attachment.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

4. Not applicable.

ALIGNMENT WITH STRATEGIES

5. Not applicable.

CONSULTATION FULFILMENT

6. Not applicable.

STAFF RECOMMENDATION

It is recommended that the above information be received by the Committee.

BACKGROUND (THE ISSUES)

7. At its meeting of 5 June 2008 the Regulatory and Planning Committee recommended the acceptance of the requested Plan Change No 22 by Calco Investments Limited to rezone 9.21 ha of land at the corner of Radcliffe Road and Main North Road, Styx, from Rural B to Business 2.
8. The recommendation was subject to a Council submission being prepared on the private plan change and such submission being considered by the Committee prior to its lodging.
9. On 7 August 2008, the Committee was supplied with the required Submission Document addressing issues related to:
 - Commercial Distribution
 - Stormwater
 - Waterway Environs, including Styx River
 - Change 1 to the RPS
 - Transport
 - Objectives and Policies
10. As a result of communication from the applicants consultants (Haines Planning Consultants Limited) and accompanying legal advice from the consultants' solicitors (Keith Breman Barrister) as to the ability of the Council to hear and decide on the application, if it had delegated the authority to its officers to lodge a submission. The Committee was supplied with advice on the apparent conflict of interest by the Council's General Manager Regulation and Democracy Services.
11. The various documents received were provided to the Committee at its August meeting.
12. After due consideration of the matter the Committee recommended "*That a decision on Plan Change 22 be deferred until the matters identified by the Committee during the course of the report's consideration have been further investigated and clarified.*"
13. This has resulted in further legal advice being obtained from Simpson Grierson, Barristers and Solicitors, attached.