

**FENDALTON/WAIMAIRI COMMUNITY BOARD**  
**WORKS, TRAFFIC AND ENVIRONMENT COMMITTEE**  
**AGENDA**

**TUESDAY 27 OCTOBER 2009**

**AT 8.00AM**

**IN THE BOARDROOM**  
**FENDALTON SERVICE CENTRE**  
**CORNER JEFFREYS AND CLYDE ROADS**

**Committee:** Cheryl Colley (Chairperson), Sally Buck, Faimeh Burke, Val Carter, Jamie Gough, Mike Wall and Andrew Yoon.

**Community Board Adviser**  
Peter Dow  
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- PART A - MATTERS REQUIRING A COUNCIL DECISION**
- PART B - REPORTS FOR INFORMATION**
- PART C - DELEGATED DECISIONS**

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- PARTS     6.     POUND ROAD – ROAD STOPPING AND LAND SWAP**  
**A & C**

**1. APOLOGIES**

Sally Buck, Val Carter and Jamie Gough.

**2. DEPUTATIONS BY APPOINTMENT**

**2.1 THELMA MONSON – TREE REMOVAL REQUEST**

Thelma Monson will be in attendance to discuss the request for removal of a street tree outside 23A Kedleston Drive.

**3. BRIEFINGS**

**3.1 SHANE MOOHAN – CITY ARBORIST**

Shane Moohan will be in attendance to brief the Committee on the issue of leaf litter falling from Council trees onto private property. This briefing was requested by the Board at its meeting on 15 September 2009.

#### 4. 23A KEDLESTON DRIVE - PROPOSED TREE REMOVAL

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8608
<b>Officer responsible:</b>	Manager Transport and Greenspace
<b>Authors:</b>	Lorraine Correia, Consultation Leader - Greenspace Laurie Gordon, Street Tree Arborist

#### PURPOSE OF REPORT

1. The purpose of this report is to consider a resident's request for the removal of one honey locust tree (*Gleditsia triacanthos*) located outside 23A Kedleston Drive, Hyde Park.

#### EXECUTIVE SUMMARY

2. A request has been made to the Fendalton/Waimairi Community Board, from the daughter of the owner of 23A Kedleston Drive, to consider the removal of the honey locust tree on road reserve which is directly outside her home. A copy of the letter is attached (**attachment 1**).
3. The concerns are that during the autumn months the tree drops huge amounts of large pods that fall in her property which kill her lawn when left and also cause blockages to spouting and drains. A picture of the tree and the pods is included (**attachment 2**). The pods cannot be collected by a lawn mower as this blocks up the machine.
4. An arboricultural assessment was carried out to evaluate the health, condition and hazard rating of all the trees on Kedleston Drive. The assessment of the tree in front of No. 23A is that it is a good specimen tree approximately 19 years old, is 10 metres in height, with no current health and safety issues. Roots from the tree are causing minor damage to the footpath.
5. The full tree assessment carried out on Kedleston Drive identified 41 other trees that require removal as they are in poor/declining health or with structural concerns. A memorandum summarising this assessment together with results of the tree survey is attached (**attachment 3**). These trees are expected to be removed and replaced during 2010, with the suggested replacement species being trident maple (*Acer buergerianum*).
6. The root systems of honey locust trees on the street have been raising the kerb and channel and causing cracks in footpaths. This has been an ongoing issue that has been addressed by the Council carrying out footpath repairs on an "as required" basis.
7. Honey locust trees are prone to branches breaking in windy conditions, resulting in relatively high maintenance requirements. The honey locust trees on Kedleston Drive received full maintenance prunes in May 2005, May 2007 and May 2008. Individual trees have also received maintenance in response to customer service requests. The species is no longer planted as a street tree due to it being prone to limb failure, large seed pods and thorns.
8. Given the condition of the tree at 23A Kedleston Drive staff recommend that this tree be retained.

#### FINANCIAL IMPLICATIONS

9. The cost to remove the honey locust tree at 23A Kedleston Drive and replace it with a PB95 grade tree is estimated at \$1,750.
10. The STEM evaluation points total 84. The valuation for the tree using STEM is \$14,400.

*STEM (A Standard Tree Evaluation Method) is the New Zealand national arboricultural industry standard for evaluating and valuing amenity tree by assessing their condition and contribution to amenity along with other distinguishable attributes such as stature, historic or scientific significance.*

#### 4. Cont'd

##### **Do the Recommendations of this Report Align with LTCCP budgets?**

11. Removing and replacing the tree at 23A Kedleston Drive without obtaining reimbursement from the applicant is inconsistent with the current LTCCP as funding has not been allocated in the Transport and Greenspace Unit tree maintenance budget for the removal of structurally sound and healthy trees that are not causing health and safety or infrastructure problems that cannot be mitigated.
12. Obtaining reimbursement from the applicant to remove and replace structurally sound and healthy trees is consistent with the current LTCCP.
13. Funding is available in the current LTCCP to remove and replace the trees in Kedleston Drive with condition ratings of 4 and 5.

##### **LEGAL CONSIDERATIONS**

14. The Greenspace Manager has the following delegation with respect to trees:
  - (a) "In consultation with any other units affected and the relevant Community Board, authorise the planting or removal of tree from any reserve or other property under the Manager's control".
15. While the Transport and Greenspace Manager has the delegation to remove the honey locust tree, current practice is that in most cases requests to remove healthy and structurally sound trees that do not present infrastructure problems are placed before the appropriate Community Board for a decision.
16. Under the delegations to Community Boards, the Board has the authority to "plant, maintain and remove trees on reserves, parks and roads" under the control of the Council within the policy set by the Council.
17. Protected street trees can only be removed by a successful application under the Resource Management Act. The tree in question is not listed as protected under the provision of the Christchurch City Plan.
18. The following City Plan Policies may be of some benefit when considering the options –

##### **Volume 2 : Section 4 City Identity**

##### **4.2.1 Policy: Tree Cover**

##### **To promote amenity values in the urban area by maintaining and enhancing the tree cover present in the City.**

Tree cover and vegetation make an important contribution to amenity values in the City. Through the redevelopment of sites, existing vegetation is often lost and not replaced. The City Plan protects those trees identified as "heritage" or "notable" and the subdivision process protects other trees which are considered to be "significant". The highest degree of protection applies to heritage trees.

Because Christchurch is largely built on a flat plain, trees and shrubs play an important role in creating relief, contributing to visual amenity and attracting native birds.

The amount of private open space available for new planting and to retain existing trees is influenced by rules concerning building density and setback from boundaries. The rules do not require new planting for residential development but landscaping is required in business zones.

#### 4. Cont'd

##### 4.2.2 Policy: Garden City

**To recognise and promote the “Garden City” identity, heritage and character of Christchurch.**

A key aspect of achieving this policy will be maintaining and extending environments and vegetation types which compliment this image. A broad range of matters influence and contribute to this image, including the following:

- tree-lined streets and avenues
- parks and developed areas of open space

##### 14.3.2 Policy: “Garden City” image identity

**To acknowledge and promote the “Garden City” identity of the City by protecting, maintaining and extending planting which compliments this image**

#### Volume 3: Part 8 Special Purpose Zone

##### 14.3.5 Street Trees

Nearly half the length of streets within the city contains street trees, but the presence of very high quality street trees which add considerable presence to streets and neighbourhoods is confined to a relatively small proportion of the road network. These streets add particular character and amenity of the city, either in the form of avenues which form points into the city, or an important part of the local character of particular streets.

19. An application to prune or remove the tree may be made to the District Court under The Property Law Amendment Act 1975.
20. The District Court can order the pruning or removal of a tree under the Property Law Amendment Act 1975.
21. Any work carried out in relation to the Honey Locust tree are to be completed by a Council approved contractor.

**Have you considered the legal implications of the issue under consideration?**

22. Yes, as per above.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

23. LTCCP 2009-19

##### Streets and Transport

- (a) Governance – By enabling the community to participate in decision making through consultation on plans and projects.
  - (b) City Development – By providing a well-designed, efficient transport system and attractive street landscapes.
24. Funding is available in the Transport and Greenspace Unit Street Tree Capital Renewals budget for the removal and replacement of trees which are no longer appropriate species or no longer appropriate in their current position. Due to current city wide commitments funding to replace the healthy trees (condition ratings 3 and 2) in Kedleston Drive should become available in 2019.

#### 4. Cont'd

25. Retention of the tree is consistent with the Activity Management Plan provided the tree is structurally sound and healthy and does not pose infrastructure problems that cannot be mitigated.
26. Removal and replacement of the tree is consistent with the Activity Management Plan.
27. Removing and not replacing the tree is not consistent with the Activity Management Plan.

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP ?**

28. Yes, as per above.

#### **ALIGNMENT WITH STRATEGIES**

29. Removing and replacing the tree would be consistent with the following strategies:
  - (a) Biodiversity Strategy.
  - (b) Christchurch Urban Design Vision.
  - (c) Garden City Image as per the City Plan.
30. There is currently no policy for the pruning or removing of trees in public places. A draft Tree Policy is being worked on.

**Do the recommendations align with the Council's strategies?**

31. Yes, as per above.

#### **CONSULTATION FULFILMENT**

32. In August 2009 a letter and a feedback form were delivered to 62 properties along Kedleston Drive, providing an opportunity for the community to indicate their preference along with any additional comments or feedback.
33. The consultation received 34 responses (a 55% response rate) and community feedback was generally in favour of the removal of the tree with a suitable replacement: (please refer to the full schedule of community feedback and project team responses circulated separately to Board members)
  - (a) Twenty-nine submitters (85%) responded "I support the removal of the Honey Locust tree and its replacement with one suitable sized tree".
  - (b) Five submitters (15%) responded "Mixed views/some concerns".
  - (c) One submitter (3%) responded "I do not support the removal of the Honey Locust tree".
34. We have also received a mixed request from residents wanting the following replacement trees:
  - (a) Six submitters preferred a similar sized tree to the honey locust.
  - (b) Two submitters preferred to have the tree replaced with a smaller evergreen species.
35. Many of the submitters also indicated that they would like the trees outside their properties or those on the whole street removed and replaced with suitable trees.

#### 4. Cont'd

36. The submissions that indicated that they had *mixed views* generally supported the removal and replacement of the tree but had the following comments/concerns:
- Only this one tree should be removed and replaced.
  - Prefer to see the tree replaced with a similar sized tree.
  - Ensure street cleaning is done more frequently than existing schedule.
37. One submitter advised us that on average and over a period of seven weeks a single honey locust tree can fill approximately three small organic wheelie bins.
38. Once the consultation period had closed, each submitter received an interim reply letter, which acknowledged that their submission had been received and that their suggestions would be considered.
39. All respondents have been sent a final letter advising them of the results of the consultation, a copy of the comments received from this consultation process together with staff comments and information that the Board report would be presented to the Fendalton/Waimairi Works, Traffic and Environment Committee for their approval. Details of the meeting (date, time and venue) were provided to enable residents to make a deputation to the Board prior to a decision being made.

#### Arboricultural Assessment

40. The tree at 23A Kedleston Drive is in a healthy condition and shows no signs of immediate failure which would warrant its removal for tree health and safety concerns. However, honey locust trees are prone to branches breaking in windy conditions, resulting in relatively high maintenance requirements.
41. The tree is one of the largest in the street and produces relatively large quantities of seed pods when compared to the other honey locust trees in Kedleston Drive. Seed pods from the tree were observed on the street and on the property including the roof guttering of the house.
42. Staff carried out an inspection for damage to the footpath and kerb and channel. At present there is minor cracking in the footpath, and the footpath is likely to require repairing within the next few years. The footpath was repaired approximately four years ago following damage caused by roots from the tree.
43. The Council records show that the honey locust trees in Kedleston Drive were planted in 1980.
44. A survey of all the trees in Kedleston Drive was undertaken in August 2009 (see attached Memorandum). This shows that out of 71 trees 41 have a condition rating of either 4 (poor) or 5 (very poor). The trees rated 4 and 5 will be replaced in 2010.

#### Options

45. Decline the request to remove the honey locust tree outside number 23A Kedleston Drive and that the tree continues to be maintained to internationally recognised and accepted arboricultural practices, standards and procedures.
46. Remove and replace the honey locust tree. Costs of \$1,750 (+GST) are to be borne by the applicant. All work is to be carried out by an approved Council tree contractor.

#### Preferred Option

47. Decline the request to remove the honey locust tree outside number 23A Kedleston Drive and that the tree continue to be maintained to internationally recognised and accepted arboricultural practices, standards and procedures.

**4. Cont'd**

**STAFF RECOMMENDATION**

It is recommended that the Fendalton/Waimairi Works, Traffic and Environment Committee recommends that the Community Board:

- (a) Decline the request to remove the Honey Locust tree outside number 23A Kedleston Drive; and
- (b) Agree that the tree continues to be maintained to internationally recognised and accepted arboricultural practices, standards and procedures.



## 5. PASADENA RESERVE - TREE REMOVAL REQUEST

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8608
<b>Officer responsible:</b>	Manager Transport and Greenspace
<b>Authors:</b>	Lorraine Correia, Consultation Leader, Greenspace Tony Armstrong, Park Tree Arborist

### PURPOSE OF REPORT

1. The purpose of this report is to consider a resident's request for the removal of one Turkey oak tree (*Quercus Cerris*) from Pasadena Reserve, Harewood and for the Fendalton/Waimari Works, Traffic and Environment Committee to make recommendations to the Board.

### EXECUTIVE SUMMARY

2. A request has been made to the Council from the resident at 15 Pasadena Place to consider the removal of the Turkey oak tree on Pasadena Reserve beside her property.
3. The concerns are that during the autumn months the tree drops acorns and leaves in her spouting and driveway, a photograph of the tree is shown in **Attachment 1**.
4. An arboricultural assessment was carried out to evaluate the health, condition, value and hazard rating of all the trees on Pasadena Reserve. The assessment of this tree beside No. 15 Pasadena Place is that it is a semi-mature good specimen tree approximately 25 years old, is ten metres plus in height, with a canopy of approximately six to eight metres and with no apparent health and safety issues.
5. Given the tree's condition, age and Council's direction to staff regarding the removal of healthy trees, staff recommend that this tree be retained.
6. The issues raised regarding the trees, i.e. seasonal leaf and fruit debris, could be addressed by grounds maintenance. Options include installation of more effective gutter guard, boundary fencing and the collection and disposal of leaf and debris from both park and property. However, Council does not maintain private property and the service level for leaf collection in parks is limited to the periodic clearance of park infrastructure such as footpaths and playgrounds.

### FINANCIAL IMPLICATIONS

7. The cost to remove the Turkey oak tree and replace it with a PB95 grade tree is estimated at \$1,450 (including watering and maintenance for one year following planting).
8. The collective STEM evaluation points total 114. The collective valuation for the tree using STEM is \$13,000.

*STEM (A Standard Tree Evaluation Method) is the New Zealand national arboricultural industry standard for evaluating and valuing amenity tree by assessing their condition and contribution to amenity along with other distinguishable attributes such as stature, historic or scientific significance.*

### Do the Recommendations of this Report Align with LTCCP budgets?

9. Removing and replacing the tree without obtaining reimbursement from the applicant is inconsistent with the current LTCCP as funding has not been allocated in the Transport and Greenspace Unit tree maintenance budget for the removal of structurally sound and healthy tree that are not causing health and safety problems.
10. Obtaining reimbursement from the applicant to remove and replace structurally sound and healthy tree is consistent with the current LTCCP.

5. Cont'd

**LEGAL CONSIDERATIONS**

11. The Greenspace Manager has the following delegation with respect to tree:
  - (a) "In consultation with any other units affected and the relevant Community Board, authorise the planting or removal of trees from any reserve or other property under the Manager's control".
12. While the Transport and Greenspace Manager has the delegation to remove the Turkey oak tree current practice is that in most cases requests to remove healthy and structurally sound trees that are not causing other health and safety or infrastructure damage concerns are placed before the appropriate Community Board for a decision.
13. Under the delegations to Community Boards, the Board has the authority "to plant, maintain and remove trees on reserves, parks and roads under the control of the Council within the policy set by the Council".
14. Protected trees can only be removed by a successful application under the Resource Management Act. The Turkey oak tree in question is not listed as protected under the provision of the Christchurch City Plan.
15. The following City Plan Policies may be of some benefit when considering the options:

**Volume 2: Section 4 City Identity**

**4.2.1 Policy: Tree Cover**

**To promote amenity values in the urban area by maintaining and enhancing the tree cover present in the City.**

Tree cover and vegetation make an important contribution to amenity values in the City. Through the redevelopment of sites, existing vegetation is often lost and not replaced. The City Plan protects those tree identified as "heritage" or "notable" and the subdivision process protects other tree which are considered to be "significant". The highest degree of protection applies to heritage tree.

Because Christchurch is largely built on a flat plain, trees and shrubs play an important role in creating relief, contributing to visual amenity and attracting native birds.

The amount of private open space available for new planting and to retain existing trees is influenced by rules concerning building density and setback from boundaries. The rules do not require new planting for residential development but landscaping is required in business zones.

**4.2.2 Policy: Garden City**

**To recognise and promote the "Garden City" identity, heritage and character of Christchurch.**

A key aspect of achieving this policy will be maintaining and extending environments and vegetation types which compliment this image. A broad range of matters influence and contribute to this image, including the following:

- (a) tree-lined streets and avenues
- (b) parks and developed areas of open space

5. Cont'd

**14.3.2 Policy: "Garden City" image identity**

**To acknowledge and promote the "Garden City" identity of the City by protecting, maintaining and extending planting which compliments this image**

16. An application to prune or remove the tree may be made to the District Court under The Property Law Amendment Act 1975.
17. The District Court can order the pruning or removal of a tree under the Property Law Amendment Act 1975.
18. Any work carried out in relation to the Turkey oak tree is to be completed by a Council approved contractor.

**Have you considered the legal implications of the issue under consideration?**

19. Yes, as per above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

20. LTCCP 2009-19

**Parks, Open Spaces and Waterways:** page 117

- (a) Governance – By enabling the community to participate in decision making through consultation on plans and projects.
  - (b) City Development – By providing a well-designed, efficient transport system and attractive street landscapes.
21. Funding is available in the Transport and Greenspace Unit Park Tree Capital Renewals budget for the removal and replacement of trees which are no longer appropriate species or no longer appropriate in their current position. However, the current LTCCP programme (2010-13) is fully allocated and it is not anticipated that funding will become available for further projects until 2013-16 period.
22. Retention of the tree is consistent with the Activity Management Plan provided the tree is structurally sound and healthy.
23. Removal and replacement of the tree is consistent with the Activity Management Plan.
24. Removing and not replacing the tree is not consistent with the Activity Management Plan.

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

25. Yes, as per above.

**ALIGNMENT WITH STRATEGIES**

26. Removing and replacing the tree would be consistent with the following strategies:
  - (a) Biodiversity Strategy.
  - (b) Christchurch Urban Design Vision.
  - (c) Garden City Image as per the City Plan.

**5. Cont'd**

27. There is currently no policy for the pruning or removing of trees in public places. A draft Tree Policy is being worked on.

**Do the recommendations align with the Council's strategies?**

28. Yes, as per above.

**CONSULTATION FULFILMENT**

29. In August 2009 a letter and a feedback form were delivered to 48 properties along Pasadena Place, St. Ives Street and Cam Place, providing an opportunity for the community to indicate their preference along with any additional comments or feedback.
30. The consultation received 23 responses (a 48% response rate) and community feedback was generally in favour of the removal of the Turkey oak tree with a suitable replacement. (Please refer to the full schedule of community feedback and project team responses circulated separately to Board members.)
- (a) fourteen submitters (61%) responded "I support the removal of the Turkey oak tree and its replacement with one suitable sized tree".
  - (b) seven submitters (30%) responded "I do not support the removal of the Turkey oak tree".
  - (c) five submitters (22%) responded "Mixed views/some concerns"
31. The four immediate neighbours of Pasadena Reserve made either a written submission or had verbal discussions with staff indicating that they would prefer to see all the Turkey oak trees removed to alleviate issues of debris and shading.
32. Once the consultation period had closed, each submitter received an interim reply letter, which acknowledged that their submission had been received and that their suggestions would be considered.
33. All respondents have been sent a final letter advising them of the results of the consultation, a copy of the comments received from this consultation process together with staff comments and information that the Board report would be presented to the Fendalton/Waimairi Works, Traffic and Environment Committee for their approval. Details of the meeting (date, time and venue) were provided to enable residents to make a deputation to the Board prior to a decision being made.

**ARBORICULTURAL ASSESSMENT**

34. Pasadena Reserve is a small (0.0672ha) reserve that links Pasadena Place with Cam Place and St. Ives Street. There are currently the following trees and shrubs planted in this reserve:
- (a) six Turkey Oak trees
  - (b) seven Pittosporums also semi-mature
- This equates to 89 trees per hectare which is a higher-than-average rate for local parks in Christchurch.
35. The Turkey Oak trees are an exotic deciduous tree which is moderately fast-growing and can reach a height of 30 feet or more with a canopy extending from 25 feet and more. Turkey Oak bear acorns which are relatively small (approximately three-quarter inch wide and one inch long).
36. The tree in question (to the south of 15 Pasadena Place) is in a healthy condition and shows no signs of immediate failure which would warrant its removal for tree health and safety concerns.

## 5. Cont'd

37. The full tree assessment carried out on all (six) Oak trees in Pasadena Reserve has identified that they are generally good specimens, with no apparent health and safety issues. One of the trees had a minor trunk and canopy defect whilst one other had a canopy defect. All trees had minor deadwood and required pruning to raise their canopies and these issues can be addressed by surgery and pruning maintenance.
38. The trees in Pasadena Reserve have historically been pruned on a reactive basis to lift and reduce back canopies from infrastructure including footpaths, lighting and property boundaries. The trees in the park have not received a full maintenance prune to date. This would include further canopy lifting and reduction back from the property boundary of number 15 Pasadena Place as well as canopy work on trees to the north of No. 16 St. Ives Street and No. 2 Cam Place which may alleviate some of the adverse shading issues.
39. Whilst the original request (from 15 Pasadena Place) referred only to leaf and debris effects, shading affects the houses at No. 16 St. Ives Street and No. 2 Cam Place. These two trees are to the north-east of the properties. Typically shading issues arise when trees are to the north of a particular property as the sun rises in the east, moves to the north and sets to the west. Turkey Oaks are a deciduous tree. A benefit of deciduous trees is that they cool through the summer months and let light and warmth through in the winter months when they have lost their leaves. There is a period throughout autumn, which is normally a cooler time of year, where they still have most of their leaves and can cause some nuisance through shading.

## OPTIONS

40. Decline the request to remove the Turkey Oak tree outside No. 15 Pasadena Place and that the tree continues to be maintained to internationally recognised and accepted arboricultural practices, standards and procedures.
41. Remove and replace the Turkey oak tree outside No. 15 Pasadena Place. Costs of \$1,450 are to be borne by the applicant. All work is to be carried out by an approved Council tree contractor.
42. Remove and replace the Turkey Oak tree outside No. 15 Pasadena Place. Place on the capital works park tree replacement tree for the period 2013-16. Continue to maintain the tree to internationally recognised and accepted arboricultural practices, standards and procedures in the interim.

## STAFF RECOMMENDATION

It is recommended that the Fendalton/Waimairi Works, Traffic and Environment Committee recommends that the Board:

- (a) Decline the request to remove the Turkey Oak tree in Pasadena Reserve outside No. 15 Pasadena Place; and
- (b) Agree that the tree be maintained to internationally recognised and accepted arboricultural practices, standards and procedures.

**6. POUND ROAD – ROAD STOPPING AND LAND SWAP**

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941- 8608
<b>Officer responsible:</b>	Asset and Network Planning Manager
<b>Authors:</b>	Weng-Kei Chen, Asset Engineer (Policy) Bill Morgan, Property Consultant

**PURPOSE OF REPORT**

1. The purpose of this report is to seek the Works, Traffic and Environment Committee's recommendation for:

(a) The Board's resolution:

- (i) Pursuant to sections 319(h), 342(1)(a) and the Tenth Schedule of the Local Government Act 1974, to commence road stopping procedures in respect of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971;
- (ii) Subject to such road stopping procedures being successfully completed, pursuant to Clause 32(3) of Schedule 7 of the Local Government Act 2002 to sub-delegate to the Corporate Support Manager the power under section 345 of the Local Government Act 1974 to dispose of those parcels of land created by such road stopping to Christchurch International Airport Limited ("CIAL") and Environment Canterbury ("ECan") to such parties and on such terms and conditions as he/she shall consider appropriate (including any requirement under section 345(2) and (2A) that they be amalgamated with such land parcels as he/she shall consider appropriate).

(b) The Board's recommendation to the Council that the Council resolves:

- (i) To approve the acquisition by agreement under Section 17 of the Public Works Act 1981 of those parcels of land shown as Sections 1, 3 to 9 inclusive and Section 12 on Survey Office Plan 424971 for road from Christchurch International Airport Limited, Environment Canterbury and the private landowners affected;
- (ii) To set apart those parcels of land owned by the Council and shown as Sections 10 and 11 on Survey Office Plan 424971 as road pursuant to Section 114 of the Public Works Act 1981;
- (iii) To approve the disposal of that parcel of land owned by the Council shown as Section 15 on Survey Office Plan 424971 in exchange for that land depicted as Sections 13 and 14 on Survey Office Plan 424971 owned by Christchurch International Airport Limited, which Sections 13 and 14 are intended to be held by the Council as an addition to the Council's existing adjoining ecological park as scenic reserve subject to the Reserves Act 1977;
- (iv) To grant delegated authority to the Unit Manager Corporate Support to negotiate and conclude such agreements with Christchurch International Airport Limited, the Crown, Environment Canterbury and the affected private landowners to give effect to the above arrangements on such terms and conditions as he/she shall consider appropriate;
- (v) That, should any objection(s) be received under the Tenth Schedule of the Local Government Act 1974 to the proposed road stopping of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971, the Council Secretary be delegated the power to appoint an Independent Commissioner to hear those objections and to report his or her recommendations in respect of those objections to the Council.

## 6. Cont'd

## EXECUTIVE SUMMARY

2. The Board at its 14 September 2009 meeting approved in principle a proposal to proceed with the stopping of parts of Pound Road and Savills Road between Jessons Road and Savills Road. This was prompted by a request from CIAL to realign the location of the existing Pound Road from Savills Road to McLeans Island Road as shown on Survey Office Plan 424971. The deviation is required to facilitate the extension of the east-west airport runway which is scheduled to be completed by 2011.
3. In order to commence the process a number of Board resolutions are required as detailed in paragraph 1(a) above, together with a number of Board recommendations to the Council as detailed in paragraph 1(b) above. The road stopping is necessary to accommodate the runway extension and to protect the flight path.
4. At the date of the writing of this report Survey Office Plan 424971 was not available in final form. However, to assist the Board, a draft of that plan, shown as Plan RPS 141-17 (**Attachment 1**) and Plan RPS 141-16 (**Attachment 2**) and Plan RPS 141-19 (**Attachment 3**), are **attached** to this report. The formal Survey Office Plan will be available to the Board at the date of the Board's meeting to consider this report.
5. To facilitate the construction of the new road to replace the road to be stopped there are a number of land acquisitions and exchanges required to take place. It has been agreed with CIAL that the transaction is to be cost neutral to the Council and that CIAL is to be responsible to obtain all of the required purchase agreements from the various existing landowners on the Council's behalf. The new road alignment traverses land owned by ECan (Section 1), CIAL (Sections 3,4,5 and 6), the Crown (Sections 7 and 8), the Isaac Construction Company Ltd (Section 9), the Council (Sections 10 and 11) and Harewood Gravels Ltd (Section 12). All of the parcels of land (including the road to be stopped) have been valued by Simes Limited on behalf of the Council, the result of which is that there is expected to be a net cost to CIAL of \$12,000 plus GST following the acquisition and exchange of all the various land parcels required.
6. The new road alignment is to be constructed to the Council's specifications at CIAL's cost.
7. Currently Pound Road acts as a bypass from the Main South Road to McLeans Island Road and diverts some industrial and general traffic away from the city. The new link will still provide this connection although it will be slightly longer than the current route. Pound Road is also used regularly by plane spotters and as such it is proposed to follow the procedures of the Tenth Schedule of the Local Government Act 1974 to stop the road to ensure that a public objection process is available. To satisfy any concerns that the plane spotters may have CIAL has indicated that continuing public access to Pound Road, which serves the various aviation businesses from Jessons Road end, will remain open for these activities during business hours.
8. Clearly the runway extensions are critical for the continued operation of the international airport and are to be supported given its importance to the city and region. The proposal represents the best outcome that can be achieved under the circumstances and has a minimum impact on the surrounding properties. It will have some additional benefits to the City by increasing the size of its Ecological Grassland Park through the acquisition of surplus Crown Land and will also create a long road frontage to the reserve which currently has limited access from McLeans Island Road.
9. It is recommended that the proposal should be supported given the strategic importance of the airport to the City and surrounding regions.
10. The transactions proposed by this report are summarized in the Schedules are included as part of this report.

**6. Cont'd**

**FINANCIAL IMPLICATIONS**

11. There will be no financial implications to the Council as the land acquisition, road construction, survey, legal and staff costs are all to be met by CIAL (including the Council's costs if the road stopping application is referred to the Environment Court).

**Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

12. Not applicable.

**LEGAL CONSIDERATIONS**

13. There are a number of property transactions involved within this project, including land acquisition, land exchanges, road stopping and resulting land disposals. The Council's Legal Services Unit has advised on the negotiations with CIAL to date and has prepared the draft contractual documentation proposed to be entered into by the Council, CIAL and the other affected parties to give effect to this proposal. Appropriate delegated authority to staff is required to enable this documentation to be concluded and signed.
14. At this stage, it appears that appropriate agreements are likely to be concluded by agreement under 17 of the Public Works Act 1981 with ECan, the Crown and the private landowners affected by the proposal to construct the new road alignment. As it is therefore unlikely that recourse will be required to the compulsory acquisition provisions of the Public Works Act 1981, the Council is not at this stage being asked to authorise the use of those provisions.
15. Under the Council's Road Stopping Policy the delegation to stop the road lies with the Board.
16. Given that this project is likely to be of public interest it is recommended that the road stopping process provided for in the Tenth Schedule of the Local Government Act 1974 is employed. The relevant sections of that Act are as follows:

Section 319 (h) - General powers of councils in respect of roads:

This Section gives local authorities the general power to stop any road or part thereof in accordance with the Act.

Section 342 (1) (a) - Stopping of roads:

Confers on the Council the ability to declare a road to be formally stopped.

Section 345 - Disposal of land not required for road:

In relation to stopped road that is no longer required by the local authority, this section provides that the Council may sell or lease that part of the stopped road to the owner(s) of any adjoining land.

This Section goes on further to provide that the price or rent for the stopped road is to be fixed by a competent valuer appointed by the Council. If the owner(s) is not prepared to pay the fixed price or rent, the Council may sell the land by public auction or private tender.

Section 345 (2) - Amalgamation of stopped road with adjoining land:

This Section enables the Council to require the amalgamation of stopped road with adjoining land if deemed appropriate.



**6. Cont'd**

Tenth Schedule – Conditions as to Stopping of Roads:

Outlines the procedure to be undertaken in order to stop a road. The following table summarises the various steps:

1.	The Council prepares: (a) a survey plan of the road proposed to be stopped; and (b) an explanation as to why the road is to be stopped and the purpose or purposes to which the stopped road will be put. And lodges the plan at LINZ for approval.
2.	Once LINZ has approved the plan, the plan is made available to the public with a view to receiving objections to the proposal(s). The Council must: (a) at least twice, at intervals of not less than 7 days, give public notice of the proposal(s); (b) serve the same notice on the occupiers of all land adjoining the road; The Plan is open for public objection for a minimum period of 40 days from the date of the first publication of the public notice.
3.	A notice of the proposed stopping is fixed in a conspicuous place at the end of the road proposed to be stopped for the duration of the public notification period.
4.	If no objections are received, the Council may by public notice declare that the road is stopped.
5.	If objections are received, the Council shall, unless it decides to allow the objections, send the objections together with the plans and a full description of the proposed alterations to the Environment Court.

17. The above detailed processes will be initiated as soon as the necessary Board resolutions are available and an appropriate agreement with CIAL and other parties concluded.

**Have you considered the legal implications of the issue under consideration?**

18. Yes, see above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

19. Not applicable.

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

20. Not applicable.

**ALIGNMENT WITH STRATEGIES**

21. Not applicable.

**Do the recommendations align with the Council's strategies?**

22. Not applicable.

**CONSULTATION FULFILMENT**

23. The road stopping procedure under the Local Government Act 1974 provides for a statutory process of public consultation in respect of the proposed road stopping. That process includes:

- (a) the service of notice on each owner of land adjoining the road;

**6. Cont'd**

- (b) notice to the public generally; the ability of adjoining landowners and the public generally to object;
  - (c) the hearing of objections by the Council or an independent commissioner and a formal hearing in the Environment Court in the event that any objection is not allowed.
24. CIAL has delivered a preliminary presentation to the residents of Jessons Road from which there was a positive outcome.

**GENERAL**

25. As previously indicated, in order to provide the new road deviation CIAL will be required to purchase all of the land from the respective parties on the Council's behalf and at its cost. With respect to Section 9 on the plan it will be noted that this passes through an existing quarry owned by The Isaac Construction Company Limited. This will effectively compromise that company's mining operation and it is looking to offset this loss through the acquisition of Section 15 on Survey Office Plan 424971. Section 15 is part of the land contained in Certificate of Title 33K/1024 containing 4.0473 ha and is currently owned by the Council in fee simple. It is not held for any particular purpose and following agreement with CIAL it is proposed to exchange this land with CIAL for Sections 13 and 14 which CIAL is to acquire from the Crown. These sections contain some rare plants and will be amalgamated with the Council's adjoining reserve once the exchange is completed. Following the transfer of Section 15 into CIAL's ownership, CIAL will then be able to complete its transaction with The Isaac Construction Company Limited.
26. Section 10 is also part of the above land held by the Council in Certificate of Title 33K/1024 and is to be set apart as road together with Section 11, which is held by the Council for road diversion purposes.
27. Section 1 is to be acquired for road from Ecan. The property is presently held in trust for the improvement and protection of the Waimakariri River and the sale to the Council will require the Minister of Conservation's consent.
28. None of the above transactions can be completed until the road stopping has been approved and the new road constructed and open to traffic. The road to be stopped is to be amalgamated with the adjoining titles once the final notice has been gazetted.

**STAFF RECOMMENDATION**

It is recommended that the Committee recommend to the Board that:

- (a) The Board resolves:
  - (i) That pursuant to sections 319(h), 342(1)(a) and the Tenth Schedule of the Local Government Act 1974, to commence road stopping procedures in respect of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971);
  - (ii) That subject to such road stopping procedures being successfully completed, pursuant to Clause 32(3) of Schedule 7 of the Local Government Act 2002 to sub-delegate to the Unit Manager Corporate Support the Council's powers under section 345 of the Local Government Act 1974 to dispose of those parcels of land created by such road stopping to Christchurch International Airport Limited and Environment Canterbury to such parties and on such terms and conditions as he shall consider appropriate (including any requirement under section 345(2) and (2A) that they be amalgamated with such land parcels as he shall consider appropriate).

**6. Cont'd**

- (b) The Board recommends to the Council that the Council resolves:
- (i) To approve the acquisition by agreement under Section 17 of the Public Works Act 1981 of those parcels of land shown as Sections 1, 3 to 9 inclusive and Section 12 on Survey Office Plan 424971 for road from Christchurch International Airport Limited, Environment Canterbury and the private landowners affected;
  - (ii) To set apart those parcels of land owned by the Council and shown as Sections 10 and 11 on Survey Office Plan 424971 as road pursuant to Section 114 of the Public Works Act 1981;
  - (iii) To approve the disposal of that parcel of land owned by the Council shown as Section 15 on Survey Office Plan 424971 in exchange for that land owned by Christchurch International Airport Limited to be acquired by the Council shown as Sections 13 and 14 on Survey Office Plan 424971, which Sections 13 and 14 are intended to be held by the Council as an addition to the Council's existing adjoining ecological park as scenic reserve subject to the Reserves Act 1977;
  - (iv) To grant delegated authority to the Unit Manager Corporate Support to negotiate and conclude such agreements with Christchurch International Airport Limited, the Crown, Environment Canterbury and the affected private landowners to give effect to the above arrangements on such terms and conditions as he shall consider appropriate. The cost of land swap, road construction, survey, legal and staff costs (including the Council's costs if the road stopping application is referred to the Environment Court) will be met by CIAL and this is in the agreement;
  - (v) That, should any objection(s) be received under the Tenth Schedule of the Local Government Act 1974 to the proposed road stopping of those parcels of Pound, Savills and Jessons Roads shown as Sections 16 to 23 inclusive on Survey Office Plan 424971, the Council Secretary be delegated the power to appoint an independent Commissioner to hear those objections and to report his or her recommendations in respect of those objections to the Council;
  - (vi) Subject to the land shown as Sections 13 and 14 on Survey Office Plan 424971 being acquired by the Council, that Sections 13 and 14 on Survey Office Plan 424971 be classified pursuant to Section 16(2)(a) of the Reserves Act 1977 as a scenic reserve within the meaning of Section 19(1)(a) of the Reserves Act 1977.

**SCHEDULES**

FIRST SCHEDULE		
ROAD TO BE STOPPED		
Section Number	Area	Plan
16	6230 m <sup>2</sup>	SO 424971
17	4731 m <sup>2</sup>	SO 424971
18	515 m <sup>2</sup>	SO 424971
19	3928 m <sup>2</sup>	SO 424971
20	3858 m <sup>2</sup>	SO 424971
21	20178 m <sup>2</sup>	SO 424971
22	10160 m <sup>2</sup>	SO 424971
23	9482 m <sup>2</sup>	SO 424971

SECOND SCHEDULE		
LAND TO BE LEGALISED AS ROAD		
Section Number	Area	Plan
1	11873 m <sup>2</sup>	SO 424971
3	7657 m <sup>2</sup>	SO 424971
4	1913 m <sup>2</sup>	SO 424971
5	3989 m <sup>2</sup>	SO 424971
6	2759 m <sup>2</sup>	SO 424971
7	8078 m <sup>2</sup>	SO 424971
8	1018 m <sup>2</sup>	SO 424971
9	7371m <sup>2</sup>	SO 424971
10	3902m <sup>2</sup>	SO 424971
11	131m <sup>2</sup>	SO 424971
12	824m <sup>2</sup>	SO 424971

THIRD SCHEDULE		
LAND TO BE DISPOSED OF		
Section Number	Area	Plan
15	21603 m <sup>2</sup>	SO 424971

FOURTH SCHEDULE		
LAND TO BE ACQUIRED		
Section Number	Area	Plan
13	124384m <sup>2</sup>	SO 424971
14	12093 m <sup>2</sup>	SO 424971