

11. 10. 2007

**REPORT BY THE CHAIRPERSON OF THE
BURWOOD/PEGASUS COMMUNITY BOARD
3 OCTOBER 2007**



PART A – MATTERS REQUIRING A COUNCIL DECISION

1. FUTURE USE (REVITALISATION) – FORMER LANDFILL, OWLES TERRACE

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager City Environment DDI 941-8656 |
| Officer responsible: | Property Consultancy Manager |
| Author: | Barry Woodland, Property Consultancy |

PURPOSE OF REPORT

1. The purpose of this report is to submit the Board's recommendation to the Council to initiate the regeneration of the Owles Terrace site by resolving to approve:
 - the retention of the Owles Terrace site in Council ownership (**Attachment 1**)
 - a resolution that will prevent residential development on that part of the site not delineated as Area C
 - the adoption of a concept plan (and reserve development programme) which envisages the development of part of the site as the water-based 'Withells Island Riverside Park' (**Attachment 2**)
 - the retention of Areas A and B (and the wider LI portion of the site) in freehold fee simple ownership, and their inclusion as an integral part of the wider water-based recreation park concept
 - the investigative work necessary to establish the viability and options for residential development on Area C
 - a delegation to enter into leases with other sporting groups on the area identified as Stage 1 of the Concept Plan which includes Area A (but excluding the area of the recreational reserve upon which the Power Boat building sits - known as 60 Owles Terrace)
 - a resolution to grant a new ground lease to Surf Life Saving Canterbury over the recreation reserve (60 Owles Terrace) subject to them securing the necessary statutory consents and the negotiation of terms in accordance with standard Council policy.
2. These recommendations provide the Council with a tangible opportunity to revitalise a tired community amenity and to create immediate and much needed future use certainty for key stakeholders: user groups, local residents and the wider community.

EXECUTIVE SUMMARY

3. Owles Terrace is the site of a former landfill. Since amalgamation in 1989, and re-zoning of the site to L1 in 1998, the site has remained largely under-utilised. Repeated attempts to sell and/or develop the site have been unsuccessful, largely the result of its status as a former landfill. The uncertainty regarding potential site contamination and future use options has resulted in the site becoming a vacant, and effectively derelict, dumping ground. This report attempts to recommend a path forward.

1 Cont'd

4. The most recent report to the Board resulted in the adoption of the following resolution by Council:
 - 1 *The tender process for Owles Terrace be concluded with all tenders declined.*
 - 2 *The **shaded areas** in the attached plan (Attachment 2) be developed as a riverside park in conjunction with the existing reserve but to remain in Fee Simple, with a reserve development programme to be reported back to the Community Board.*
 - 3 ***The areas marked A and B** be retained by the Council for further development of other options including sale or lease with reporting back through the Environmental Diversity Portfolio Group and Chairperson of the Board.*
5. Resolution 1 has been attended to. This report deals concurrently with parts two and three of the resolution.
6. A further independent soils report from MWH New Zealand Ltd (MWH) has confirmed, with specific regard to Area B, that the main concern relates to landfill gas in terms of its physical existence in Area B and its potential migration from the main refuse layer into Area B. Additional recommended mitigation measures including 'trenching' around Area B at an estimated cost of \$200,000, would not, categorically, guarantee that contamination of Area B would not occur now or in the future. We have been advised that these conclusions apply equally to Area A.
7. Based on this updated report, legal advice from Buddle Finlay concluded that that it is 'difficult to assess with accuracy the potential causes of action against the Council and the exact risk of liability'...and that....'the existence of an indemnity does not obviate its legal or moral responsibilities to ensure that the land is safe for subsequent residents and users'. In short, whether the Council decides to sell, develop or lease the site, its liability for any future contamination event remains in perpetuity.
8. The subsequent review of options for Areas A and B concludes that the 'extraordinary' and potentially unexpected costs associated with developing a former landfill site (and the required measures to mitigate any current and future contamination event) seriously undermine the financial feasibility of doing so. Repeated and unsuccessful attempts to secure alternative owners/developers in the open market supports this view. There has also been no interest in developing the site from Units within the Council.
9. The factors relating to this site, and any other former landfill or contaminated site, will always be open to interpretation. In this regard the potential for further long term inertia regarding the use of the Owles Terrace site will remain. What is not in dispute is the fact that whether the Council sells or develops the site the liability for any future contamination incident(s) lies fairly and squarely with the Council, in perpetuity.
10. In summary, the legal, and financial justification for selling or developing the site are tenuous at best. With a view to ending the long term inertia associated with the Owles Terrace site, this report recommends that Areas A and B are integrated into a staged concept plan for the site which envisages its development and revitalisation as a water-based riverside park – Withells Island Riverside Park. Furthermore, it is recommended that the area referred to as 'Area C' (**which has been excluded from all previous site and options investigations**) be investigated to ensure that all development options across the entire site have been fully evaluated, Initially this will involve (1) an independent soils report and (2) an assessment of the process (cost and timeframe) required to rezone the land from its existing Reserve to L1 status.

FINANCIAL IMPLICATIONS

11. Currently an annual budget of \$50,000 per annum is allocated to the site for the period through to 2010/11. The value of this investment is questionable given that its application, due to the ongoing uncertainty surrounding the site, has, and continues to be, effectively limited to financing works required to maintain a bare minimum standard of repair/conditioning for the under-utilised site facilities and vacant land.

1 Cont'd

12. City Environment – Transport & Greenspace Unit, in conjunction with the Capital Programme Unit, has estimated the following staged costs for implementation of the Concept Plan activities (outlined below – refer paragraph 39) which, by definition, are designed to actively develop the immediate and future revitalisation of the site:
 - Stage 1: \$ 120,000 (Year 1)
 - Stage 2: \$ 230,000 (Years 2 – 4)
 - Stage 3: (Scope dependent on demand for new amenities)..
13. Based on the current budget allocation of \$50,000 per annum (the current year's allocation has been committed) these staged costs (Stage 1 and 2) envisage a budget of around \$350,000 over the next four years; a shortfall in the order of \$200,000 or \$50,000 per annum. This will necessitate the seeking of additional funding through the annual plan/LTCCP process, a substitution of funds or a reduction in the amount of work undertaken.
14. Once these initial revitalisation and conditioning works have been completed it is anticipated that costs will largely be restricted to annual maintenance costs for the green/reserve area and sealed/building areas
15. Essentially there are no financial implications for the Council in relation to any of the anticipated new lease agreements.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

16. No specific provisions for this property, other than mentioned above.

LEGAL CONSIDERATIONS

17. **Contaminated Sites & Council Liability:** Given the history of the site as a former landfill, previous reports to the Council, and the conclusions contained in a more recent soils investigation report from MWH New Zealand Ltd, we requested an updated legal opinion regarding the Council's liability should it decide to sell and/or develop all, or part, of the site (refer Buddle Finlay legal opinion dated 25 June 2007 – copy available on request).
18. On the assumption that the Council makes full disclosure of the presence of contaminants to any prospective developer/purchaser and that it implements (or ensures the developer/purchaser implements) the appropriate 'risk management strategies', the report concludes that, broadly, the risk of liability is low.
19. However, and by way of qualification, it should be noted that the inherent (and substantial) costs associated with these 'risk management strategies' seriously undermine the feasibility of developing the site for residential or other use purposes. Furthermore, the report also concedes that it is *'difficult to assess with accuracy the potential causes of action against the Council and the exact risk of liability'...*and that....*'the existence of an indemnity does not obviate its legal or moral responsibilities to ensure that the land is safe for subsequent residents and users'.*
20. In short, the risk liability associated with the site stays with the Council in perpetuity. This fact, together with the ongoing issues affecting many other former Council landfill/contaminated sites, raises the question of whether the Council should continue to contemplate developing these sites or whether it is more commercially prudent and responsible to actively manage them as vibrant recreational park/reserve areas.
21. **Lease negotiation:** legal issues relating to the potential lease arrangements referred to in this report are as follows:

Surf Life Saving Canterbury: the proposed 'lease area' (refer Concept Plan and paragraph 37) traverses recreation reserve (the current ground lease area occupied by the Power Boat Club), open space reserve and L1 zoned land. Any lease agreement with SLSC will be subject to them securing all the necessary statutory consents for the proposed 'lease area'. We understand that a notified consent will be required which, by implication, will require SLSC to address the requirements of the Reserves Act 1977 and Local Government Act (for public notification) and any land use issues relating to the lease over the L1 area. The Board has delegated authority from the Council (8 November 2001) to grant a ground lease over the recreation reserve (Part RS 41729) for a period of up to 33 years in accordance with the Reserves Act 1977.

1 Cont'd

Leases on L1 Zoned Land (Areas A & B): where the land is held in freehold fee simple ownership the Council are free to negotiate suitable lease terms and conditions with potential tenants (with the Waka Ama Group for example).

22. This report requests that the Council approve delegated authority for the Corporate Support Unit Manager to negotiate appropriate new lease terms and conditions with suitable tenants as required.

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

23. Yes. Refer to paragraphs 17-22 (above).

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

24. This project is not currently in the LTCCP.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

25. No. Refer paragraph 24.

CONSULTATION FULFILMENT

26. No consultation is required apart from that outlined in the previous resolution of the Council (refer Executive Summary above), namely:
- (a) 'report back to the Community Board' with a riverside development programme for the 'shaded area' (refer paragraphs 39 – 'Concept Plan' and paragraphs 12 - 13 – 'Financial Implications', and;
 - (b) 'report back through the Environmental Diversity Portfolio Group (EDPG) and Chairperson of the Board' regarding options for Areas A and B (for EDPG comment refer paragraph 27).

ENVIRONMENTAL DIVERSITY PORTFOLIO GROUP COMMENT

27. At a meeting of the Environmental Diversity Portfolio Group on 21 September 2007, the 'Staff Recommendation' outlined below was endorsed, with the exception of item (h) which has been included for further discussion with the Burwood/Pegasus Community Board at its extraordinary meeting on 3 October 2007.

STAFF RECOMMENDATION

It is recommended that the Council resolve to approve:

- (a) The retention of the Owles Terrace site in Council ownership;
- (b) A resolution that will prevent residential development on the site (excluding Area C);
- (c) The adoption of the staged concept plan for the site (excluding Area C) – the 'Withells Island Riverside Park';
- (d) The immediate implementation of Stage 1 of the concept plan, and approval of the additional budget of \$200,000 required for the implementation of the staged concept plan (over the next four years to 2011);

1 Cont'd

- (e) The retention of Areas A and B (and the wider L1 portion of the site) in freehold fee simple ownership, and their inclusion as an integral part of the proposed riverside park;
- (f) The investigative work necessary to establish the viability of, and options for, residential development on 'Area C'. This includes (1) an independent soils report to establish the composition, and status, of Area C, and (2) the process (including timeframe and cost) for rezoning Area C to permit residential development;
- (g) A delegation to the Corporate Support Unit Manager to enter into leases with other sporting groups on the area identified as Stage One of the Concept Plan which includes Area A (but excluding the area of the Recreation Reserve upon which the Power Boat Club building sits known as 60 Owles Terrace);
- (h) A resolution to grant a new ground lease to Surf Life Saving Canterbury over the recreation reserve described as Part Rural Section 41729 (60 Owles Terrace) subject to them securing the necessary statutory consents, including public notification (as required), the negotiation of terms in accordance with standard Council policy, and the tenants being responsible for all costs associated with the preparation and issue of the lease.

BOARD CONSIDERATION

A deputation on the matter was made at the commencement of the meeting by Chrissie Williams and the Board took her submission into account as part of its considerations of the above report.

BOARD RECOMMENDATION

It is recommend that the Council resolve to approve:

1.
 - (a) A resolution that will prevent residential development on the site (excluding Area C)
 - (b) The adoption of the staged concept plan for the site (excluding Area C) – the 'Withells Island Riverside Park'
 - (c) The immediate implementation of Stage 1 of the concept plan, and approval of the additional budget of \$200,000 required for the implementation of the staged concept plan (over the next four years to 2011)
 - (d) The retention of Areas A and B (and the wider L1 portion of the site) in freehold fee simple ownership, and their inclusion as an integral part of the proposed riverside park
 - (e) The investigative work necessary to establish the viability of, and options for, residential development on 'Area C'. This includes (1) an independent soils report to establish the composition, and status, of Area C, and (2) the process (including timeframe and cost) for rezoning Area C to permit residential development
2. That delegated authority be granted to the Corporate Support Unit Manager to enter into leases with other sporting groups on the area identified as Stage One of the Concept Plan which includes Area A (but excluding the area of the Recreation Reserve upon which the Power Boat Club building sits known as 60 Owles Terrace)
3. That Council staff meet with the New Brighton Returned Services' Association (Inc) and Surf Life Saving Canterbury to discuss options for a lease over the recreation reserve described as Part Rural Section 41729 (60 Owles Terrace) subject to them securing the necessary statutory consents, including public notification (as required), the negotiation of terms in accordance with standard Council policy, and the tenants being responsible for all costs associated with the preparation and issue of the lease. Further, that a report on the lease discussions be made to the Board at the earliest possible opportunity.

1 Cont'd

BACKGROUND (THE ISSUES)

28. **Site Description**

Owles Terrace is the site of a former landfill (refer Attachment 1 – Aerial Site Plan). Since the reorganisation and amalgamation of local authorities in 1989, the site has been largely under-utilised. The administrative offices, storage buildings and sealed areas of the former Council yard are situated at the northern end of the site. Part of the site was re-zoned L-1 in 1998, within which is located the areas referred to in this report as Areas 'A' and 'B'. The remainder of the site, which is vacant and largely inaccessible to the public, is zoned O2 (Recreation and Open Space). Adjacent to, but legally separated from, the north-west corner of the Owles Terrace site, is the recreation reserve which currently incorporates the existing Power Boat Club building and ground leased area. The area to the south of the site (Area C) has been excluded from all previous site and options investigations and, as such, remains a largely unknown quantity in terms of soils composition and so on.

29. **Landfill Issues**

The site is blighted by virtue of its former use as a landfill, its unsightly nature and ongoing uncertainty over its future use. During the period to September 2006 the site was the subject of several reports to Council, and a number of independent soil reports by MWH New Zealand Ltd (MWH), with a view to establishing options for the future use of the site, either as a whole or in part. 'Requests for Proposal' tenders from potential purchasers were invited in 2003 and 2006 which yielded an indifferent, and ultimately unsuccessful, outcome. This was due, primarily, to the uncertainty surrounding the contaminated nature of the site and the substantial, and additional, development costs associated with mitigating the inherent contamination risks and liabilities. Subsequently, these mitigation costs have, potentially, increased appreciably as a result of a more recent soils report by MWH (refer report dated March 2007 – copy available on request).

30. **Council Report Status**

The most recent Options Report to the Board on 6 September 2006, which was subsequently referred to the 21 September meeting of the Council, resulted in the adoption of the following resolution:

- 1 *The tender process for Owles Terrace be concluded with all tenders declined.*
2. *The **shaded areas** in the attached plan (Attachment 2) be developed as a riverside park in conjunction with the existing reserve but to remain in Fee Simple, with a reserve development programme to be reported back to the Community Board*
- 3 ***The areas marked A and B** be retained by the Council for further development of other options including sale or lease with reporting back through the Environmental Diversity Portfolio Group and Chairperson of the Board"*

31. Resolution 1 has been attended to. This report deals concurrently with parts two and three of the resolution. The conclusions arising from further consideration of future use options for Areas A and B (Resolution 2) outlined below, have directly influenced the nature and extent of the proposed concept plan and 'reserve development programme' (Resolution 2).

32. **Resolution 3: Future Use Options (Areas A and B)**

In re-considering the options for Areas A and B in detail, particular attention has been focused around updating the site specific information regarding the following:

1. Site Contamination
2. Legal Considerations
3. Development Constraints
4. Council Liability
5. User Group Commitment

The overall impact of these factors, as outlined below, has had a significant bearing on the evaluation of future use options for the wider Owles Terrace site (refer 'Summary' below).

1 Cont'd

33. **Site Contamination:**

The soils report by MWH dated January 2006 established an 'inferred outline of the refuse layer' on the site which, in turn, identified Areas A and B as being areas which were adjacent to, but not on the refuse layer, and, therefore, possibly capable of development. At our request to fully examine all options, a further, and more detailed, report by MWH (dated March 2007), was commissioned. This report analysed the specific contamination issues affecting Area B with a view to placing the analysis of options into clearer context. (Note: MWH has indicated that the report findings (outlined below) apply equally to Areas A and B).

The 2007 report concluded that although Soil and Groundwater contamination was considered to be within the guideline values for residential development the main concern related to landfill gas both in terms of its physical existence in Area B and also its potential migration from the main refuse layer into Area B.

- *Some evidence of landfill gas was encountered in monitoring wells installed within the refuse layer. Migration of this gas into Area B is possible.*
- *The cost of guaranteeing that any landfill gas is captured before entering Area B is estimated to be in excess of \$200,000 and may not, in practice, be practical. ('trenching' option)*
- *Compared to the capture of landfill gas, it is likely to be more economic to incorporate gas protection measures and management plans in Area B. However, this will reduce the perceived value of the land for residential purposes".*

MWH has confirmed that the reason for concluding that the 'trenching' option may be 'impractical' arises from the likely inability to physically 'key in' the trench due to the nature of the underlying soils, and the flushing effect of the tides caused by the proximity of the site to the ocean and river.

These conclusions have significant legal and development feasibility implications which are outlined further below.

By way of site specific evidence, we understand a number of contamination/slumping incidents (requiring remediation and further mitigation) have been encountered in relation to the Council owned Sandylands housing development in Admirals Way at the south end of the Owles Terrace site.

34. **Legal Implications**

From a legal perspective an overriding consideration is the fact that liability for any contamination arising now or in the future, whether the Council retains the land or sells it off to a third party for development, reverts to the Council in perpetuity (refer 'Legal Considerations' above, paragraphs 17-22).

Retention of the land as a reserve would enable the Council to control these risks more effectively. Disposal will place the Council as being liable for any costs (financial, social, environmental or other) associated with any future contamination event.

In addition to the site specific incidents referred to above, we understand there are other examples of ongoing incidents on similar Council owned former landfill sites around the city. These incidents will continue to demand the ongoing financial commitment of the Council to mitigate and remediate these incidents which, in turn, will continue to erode any financial margins which were initially contemplated from development or sale of such sites. These factors, the inevitable negative press comment, and the Council's ongoing legal liability are compelling reasons in favour of retaining these sites as reserve areas. Examples of this are the sites at Jeffreys Road, the former Westminster Street yard and Ferrymead Park, where this approach has been adopted successfully with, apparently, significant community benefit.

1 Cont'd

35 Development Constraints and Options

As mentioned previously, two previous attempts to sell the wider Owles Terrace site proved unsuccessful largely due to the inherent risk and costs associated with mitigating potential contamination issues on the site. Development options for the site, and specifically, Areas A and B, have been re-visited with due consideration being afforded to:

- The (impractical) option to fully remediate the site (remove all contaminated material)– estimated cost \$10 Million.
- The additional requirement arising from the 2007 MWH report which necessitates 'trenching' around Area B to prevent gas migration from the refuse layer; minimum cost \$200,000. It is important to stress that MWH consider there is no guarantee that this solution will work.
- Where building is contemplated, the additional minimum costs associated with gas protection measures and management plans designed to reduce the risks associated with potential contamination events
- The ongoing effect on land and building values of the sites landfill stigma and contamination uncertainty.

Unsolicited interest in Area B and the wider site continues to be registered from developers from time to time. This is to be expected given the relative shortage of similarly large sized sections in the City and the perceived opportunities associated with its development for residential purposes. However, the reality for third party developers is that the combined effect of high remediation costs, reduced land and building values, 'extraordinary' costs and ongoing risk, reduces margins and profit levels to an uneconomic level. As examples of this, HNZ (for low cost housing) and a private developer (for residential subdivision purposes - introduced through the Council's Strategic/Economic Support Unit) have recently tested the market but subsequently withdrawn their interest for the reasons outlined above.

A recent open market valuation of Area B by Simes Limited, based on a hypothetical subdivision, indicated a net land value in the order of \$250,000. This is somewhat academic given that the market has been tested unsuccessfully (by tender and unsolicited means) on a number of occasions which supports the conclusion that the spectre of 'extraordinary', unknown costs and risk liability associated with the site represent an insurmountable impediment in terms of development for residential or other purposes by a third party developer.

Based on the Simes valuation the site could realise in the order of \$400,000 to \$500,000 if the Council was to develop the land itself, thereby keeping the profit and risk margin which would otherwise be forfeited to a third party developer. However, in addition to the qualifications referred to in the previous paragraph regarding 'extraordinary' costs, evidence from developments on similar landfill sites around the city only serves to reiterate the very real risk of long term contamination incidents which seriously erode already questionable margins from development of such sites. The fact that the site has remained undeveloped for virtually 10 years since being re-zoned is a significant reflection on the uncertain, and inherently risky, development potential of the site.

These qualifications would apply equally to any other potential options for Area B (or Area A), for use as elderly persons housing, childcare facilities and so on or for sale to Ngai Tahu or any other parties.

The contaminated nature of the site is also at odds with the concept of developing a residential eco-village type development on the site which, typically, contemplates a high level of self-sufficiency in terms of garden produce, water supply and so on, which would not be possible given the potential hazards associated with the site. The alternative option of developing a (presumably non-residential) 'showcase' facility designed to provide people with the opportunity to visit, and view first hand, the principles of the eco-village concept at work, would require a significant number of paying patrons to make the venture feasible. Some extensive market research would be required to test this.

36. Council Liability

With specific regard to the Owles Terrace site, a legal opinion confirms that it is *'difficult to assess with accuracy the potential causes of action against the Council and the exact risk of liability'...and that...the existence of an indemnity does not obviate its legal or moral responsibilities to ensure that the land is safe for subsequent residents and users'*.

1 Cont'd

37. **User Group Commitment**

The basis for developing a vibrant water based riverside park at Owles Terrace already exists. In addition to its natural features and proximity to the river, the site is established as a base for both Surf Life Saving Canterbury (SLSC) and the Waka Ama group of clubs. Following recent consultation, they have expressed a strong desire to develop, and formalise (lease), their representation on the site and, as such, would be a key catalyst for the immediate and longer term development of a riverside park.

To this end, the New Brighton Power Boat Club (NBPBC), whose lease over the Recreation Reserve (60 Owles Terrace) has expired, has, as owners of the clubhouse building situated on the Reserve, confirmed in writing its intention to sell the clubhouse building to SLSC, subject to SLSC securing a new ground lease over the reserve from Council. As potential 'owner' of the clubhouse building, SLSC has, in turn, provided written confirmation of its intention to purchase the clubhouse and their request for Council to grant them a lease over the Recreation Reserve. The recreation reserve is vested in the Council (legal description part RS 41729). A new lease can be granted, pursuant to Section 54(1)(b) of the Reserves Act 1977, for a total period (including renewals) of up to 33 years). The Board's delegated approval to grant this new ground lease, together with delegated authority for the Corporate Support Unit Manager to negotiate suitable lease terms with suitable tenants, forms part of the 'Staff Recommendations' outlined in this report.

38. **Summary: Resolution 3: Future Use Options (Area A and B)**

The fact that the site has remained vacant and in a state of inertia for many years, despite repeated attempts to sell and/or develop it, suggests that the time has come to utilise and maximise the natural characteristics of the site and surrounding environment to open the site up to the public and facilitate its revitalisation as a water-based riverside park.

Based on this premise, a concept plan and 'reserve development programme' has been developed which recommends future use proposals for both Areas A and B, as an integral part of the wider riverside park concept, and which also addresses the particular requirements of Resolution 2.

39. **Resolution 2: Concept Plan and Reserve Development Programme**

A concept plan for the wider Owles Terrace site has been developed which proposes the staged revitalisation of the site as the water-based 'Withells Island Riverside Park' (refer Attachment 2), including:

Stage 1: (Year 1)

- Integration of Area A with the Council yard/buildings and existing Power Boat Club building/ground lease area.
- Clean up of the former Council yard area: removal of stockpiles, bins, general refuse.
- Upgrade of existing storage, 'administrative' and open storage buildings.
- Relocation of fences to create the general footprint and 'leased' area demarcations envisaged by the concept plan, including the integration of the Power Boat Club building and ground leased recreation reserve.
- Formalise lease agreements with Surf Life Saving Canterbury and the Waka Ama group (and others if required).

Stage 2: (Years 2–4)

- Integration of the wider reserve (including Area B) with the Stage 1 area.
- Remove rubbish, stockpiles, fences: tidy the wider Owles Terrace site.
- Topsoil to required areas; grass down reserve; general conditioning of the site
- Open the Withells Island Riverside Park to the public

Stage 3 (Year 5 onwards)

- Further improvements to park amenities; additional commercial leasing ventures: as demand dictates.

In addition to encouraging the revitalisation of the site, and creating certainty for the main stakeholders (community, users etc), the key benefits of the concept plan include:

1 Cont'd

- The implementation of a strategic, long term, development plan for the site
- Creation of a more manageable, and cost-effective, Council asset (day to day)
- More effective, and productive, use and management of existing built facilities (leasing, maintenance and so on)
- An open (previously inaccessible), park-like setting, available for the use of the local community and general public
- Strong, water-based, community focused 'tenants' in SLSC and the Waka Ama groups
- Potential to create income to offset annual maintenance costs
- Integration of the existing Power Boat Club building and recreation reserve into the wider park setting
- Water-based activities which compliment the proposed pontoon facility to be constructed on the river adjacent to the Power Boat Club building
- Assistance in relieving the mounting pressure on water based activities at Kerrs Reach
- A catalyst for developing the park as a key water-based recreation destination for Christchurch and the wider region
- Potential to attract further complementary amenities and commercial users to the park.

Given the legal and development feasibility issues associated with the Owles Terrace site, its development as a vibrant water-based riverside park, based around strong existing use demand, is ,arguably, a logical solution which represents a high value output for the community and low risk option for the Council.

THE OBJECTIVES

40. The Owles Terrace site has been the subject of a number of reports over the years and a good deal of stakeholder uncertainty given its status as a formal landfill site. The objective of this report is to provide a fresh evaluation of the site options as they apply to Areas A and B and to provide a basis for creating some 'go-forward' regarding the future use of the site. This evaluation has been undertaken in the context of additional detail regarding the significant contamination, legal and other issues associated with the site and with cognisance of the Council's policy regarding development on landfills and the Council's ongoing liability irrespective of whether the site, as a whole or in part, is retained or sold off.

THE OPTIONS

Option 1

41. **Maintain the status quo:**

The majority of the site is currently fenced off from the general public. The former Council buildings and sealed area (forming part of Area A) are in a tired and deteriorating condition adding little in the way of amenity value to the immediate area. Area B and the wider site is unconditioned bare land with many indiscriminately located waste stockpiles. Minimum standard maintenance provision, ongoing management issues associated with ensuring daily user group access to the yard and the continuing uncertainty and lack of a strategic site plan/vision is compounding the 'blighted' nature of, and diminishing user group commitment to, the site as a whole. Maintaining the status quo will only serve to exacerbate this situation and will likely result in the loss of the existing user groups upon whom the development of a vibrant water based riverside park would be based.

Option 2

42. Sale of Areas A and/or B for sale and/or subdivision: This option envisages sale of the site to a third party for subsequent development or sub-division. The mitigation, legal and financial issues associated with the contaminated nature of the site seriously undermine this as a feasible, and prudent, option for the Council.

The risk of liability for any contamination issues sits with the Council in perpetuity, irrespective of whether it retains or sells the land. MWH has indicated that the risk of long term contamination incidents being experienced on the site cannot be entirely discounted given the unique flushing effect associated with the site, which, in practice, may also potentially render the recommended remediation measures impractical. Repeated attempts to sell the site in the open market have proved unsuccessful due to the 'extraordinary' costs and risks associated with it.

1 Cont'd

Owles Terrace is similar, in some respects, to a number of other Council owned landfill/contaminated sites in Christchurch where, for many years, Council grappled with the issue of whether to sell/develop prior to deciding to confirm future use as a park; an outcome which, arguably, is the best, and least risky, outcome for these sites.

Option 3

43. **Council as Developer of Area B:** This option envisages the Council retaining Area B in fee simple and assuming the role of developer, with potential to promote low cost housing, elderly persons housing, childcare centre, eco-village, other potential 'community' uses and so on. The factors affecting development are similar to those outlined above in Option 2, although the absence of an external developer (and developers margin) provides the potential of a greater financial return to the Council.

However, the 'extraordinary' and potentially unexpected costs associated with mitigating contamination related issues during and after construction has the potential to seriously erode any anticipated development returns. There is no apparent interest from City Housing in this option and the Transport and Greenspace Unit has indicated that it opposes any development on the site (other than as a reserve) given the uncertainty regarding contamination and its implications on potential returns and future legal and financial liability.

Developing the site and/or leasing facilities to third parties (for elderly persons, childcare or other purposes) carries with it the issue of public perception associated with developing community or other facilities on a known contaminated site.

Option 4

44. **Development of the site as a Water-Based Riverside Park and Review of Area C:** This concept envisages the revitalisation of the site (excluding Area C) as a water-based riverside park. Areas A and B, which would be retained in fee simple ownership (providing future commercial leasing flexibility), would be integrated into the wider plans for the reserve along with the existing Power Boat Club building and associated recreation reserve area. The location of the site, its natural characteristics and the opportunity to build on the established water-based activities represented on site, are compelling factors in favour of this option. In addition to creating some much needed strategic vision and certainty regarding its future use, this option also represents a low risk (legal and financial) but high value (operational, community and strategic) option for the Council. In addition, a review of Area C (which has been excluded from all previous site and options investigations) is recommended to ensure that the development options for the remainder of the site (Area C) have been evaluated. It is envisaged that this will include: (1) an independent soils report to establish the composition, and status, of Area C, and (2) the process (including timeframe and cost) for rezoning Area C to permit residential development.

THE PREFERRED OPTION

Option 4

45. The ongoing uncertainty regarding the use of the site has arisen largely as a result of the extraordinary issues associated with the likely nature, extent and long term implications arising from the former use of the site as a landfill. These factors will always be open to interpretation and, as long as this remains the case, the potential for further long term inertia regarding the use of the site will remain. What is not in dispute is the fact that whether the Council sells or develops the site, the liability for any future contamination incident(s) lies fairly and squarely with the Council, in perpetuity.

Repeated attempts to secure alternative owners/developers and development options for the site (excluding Area C) have proved unsuccessful. The Owles Terrace sites' riverside location, in comparison to the landlocked nature of other contaminated sites which have been subsequently developed, lends itself ideally to its development as a vibrant water-based riverside park. The further work to review the options for Area C will also establish whether a commercial return can be created from developing the balance of the site.

For these reasons there is a strong legal and commercial case for supporting this option.