



# **CHRISTCHURCH CITY COUNCIL AGENDA**

**THURSDAY 11 OCTOBER 2007**

**AT 9.30AM**

**IN THE COUNCIL CHAMBER, CIVIC OFFICES**

**Council:** The Mayor, Garry Moore (Chairperson).  
Councillors Helen Broughton, Sally Buck, Barry Corbett, David Cox, Anna Crighton, Carole Evans,  
Pat Harrow, Bob Parker, Bob Shearing, Gail Sheriff, Sue Wells and Norm Withers.

<b>ITEM NO</b>	<b>DESCRIPTION</b>
1.	<b>APOLOGIES</b>
2.	<b>CONFIRMATION OF MINUTES - COUNCIL MEETING OF 4.10.2007</b>
3.	<b>DEPUTATIONS BY APPOINTMENT</b>
4.	<b>PRESENTATION OF PETITIONS</b>
5.	<b>PRESENTATION OF CERTIFICATES TO RETIRING COUNCILLORS</b>
6.	<b>2006/07 SURPLUS</b>
7.	<b>ADOPTION OF 2007 ANNUAL REPORT</b>
8.	<b>CHRISTCHURCH TO LITTLE RIVER RAIL TRAIL - LITTLE RIVER TOWNSHIP SECTION</b>
9.	<b>MISUSE OF DRUGS (CLASSIFICATION OF BZP) AMENDMENT BILL</b>
10.	<b>REVIEW OF CLEANFILL LICENSING BYLAW 2003</b>
11.	<b>REPORT OF THE BURWOOD/PEGASUS COMMUNITY BOARD: MEETING OF 19 SEPTEMBER 2007</b>
12.	<b>REPORT BY THE CHAIRPERSON OF THE BURWOOD/PEGASUS COMMUNITY BOARD</b>
13.	<b>REPORT BY THE CHAIRPERSON OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD</b>
14.	<b>REPORT NO 1 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD</b>
15.	<b>REPORT NO 2 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD</b>
16.	<b>REPORT NO 3 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD</b>
17.	<b>REPORT BY THE CHAIRPERSON OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD</b>
18.	<b>REPORT BY THE CHAIRPERSONS OF THE SHIRLEY/PAPANUI AND BURWOOD/PEGASUS COMMUNITY BOARDS</b>
19.	<b>NOTICES OF MOTION</b>
20.	<b>QUESTIONS</b>
21.	<b>RESOLUTION TO EXCLUDE THE PUBLIC</b>

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**11. 10. 2007**

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- 1. APOLOGIES**
- 2. CONFIRMATION OF MINUTES - COUNCIL MEETING OF 4.10.2007**  
Separately circulated.
- 3. DEPUTATIONS BY APPOINTMENT**
- 4. PRESENTATION OF PETITIONS**
- 5. PRESENTATION OF CERTIFICATES TO RETIRING COUNCILLORS**



## 6. 2006/07 SURPLUS

<b>General Manager responsible:</b>	General Manager Corporate Services, DDI 941-8540
<b>Officer responsible:</b>	Roy Baker
<b>Author:</b>	Roy Baker

### PURPOSE OF REPORT

1. The purpose of this report is for the Council to consider how it treats the better than budgeted cash portion of the 2006/07 surplus.

### EXECUTIVE SUMMARY

2. Councillors will be aware from the various seminars held as part of the 2006/16 LTCCP, that the Council needs to operate from a fiscal perspective in terms of Sections 100 and 101 of the LGA 2002. These sections require the Council to in effect produce a "balanced budget". The seminars also highlighted the fact that for legal (and accounting convention purposes), we are required to use the word "surplus" but from a local government perspective a surplus is not a "profit", as is the case for traditional corporates.
3. Councillors will also be aware that the surplus is not what is left over after taking off costs from revenue. The surplus is in fact a calculated figure and reflects the fact that we receive within our operating revenue, monies from organisations such as LTNZ and indeed from developers (DCs) which are in fact monies for capital expenditure. There are also activities that the Council operates that are deemed as not being rates funded, eg housing and dogs. These activities, particularly housing, are budgeted to make a cash surplus – to enable the fund to grow for future capital needs, and these cash surpluses are also included in the overall surplus. Attached as Appendix 1 is a copy of the financial overview of the LTCCP which clearly sets out the major components of our operating surplus calculation.
4. Because the surplus is a calculated figure, in effect the balancing "item" is what is required from rates.
5. The audited result for 2006/07 sees us with a better than budgeted surplus of \$8.7m.
6. It is important to realise that our surplus does not necessarily represent cash. It is also important to recognise that our better than budgeted surplus results from a number of factors, some of which are of the same nature as described above in paragraph 3. This means that while we have a better than budgeted surplus, not all of it is technically available, and adjustments are required to determine the available cash surplus.
7. The table below shows how the surplus has arisen. The table shows the amount of "cash" which is the important figure as unless it is a cash amount it will not reduce rates in future years or be available for capital expenditure.

<b>Operational Surplus 2006/07</b>	<b>(\$m)</b>	<b>38.9</b>
Less plan		<u>-30.2</u>
Available surplus		8.7
<b>Remove Non Cash variances</b>		<b>13.4</b>
Vested Asset revenue under plan	10.6	
Landfill Liability reduction	-0.8	
Depreciation expense over plan	3.4	
Endeavour I-Cap investment write down	<u>0.2</u>	
<b>Remove Cash not available</b>		<b>-9.1</b>
Housing & Dogs result under plan	-0.3	
Special Fund interest revenue over plan	-1.5	
Capital revenues over plan	-2.6	
Special Fund (CEF) expenditure under plan	-1.4	
Funding for late 05/06 opex carry forwards	0.4	
6/07 opex carry forwards to be funded	<u>-3.7</u>	
<b>Available Cash Surplus</b>		<b>13.0</b>



**6 Cont'd**

**FINANCIAL IMPLICATIONS**

8. There are basically two reserve accounts that the better than budgeted cash surplus could be applied to. These are the income equalisation reserve and the debt repayment reserve.
9. Monies applied to the debt repayment reserve will see these monies being used immediately in the 2007/08 financial year by reducing the amount that we are required to borrow to fund our capital programme. This will have a permanent benefit for all ratepayers as the amount of interest that we pay will be reduced.
10. The second reserve account is the income equalisation reserve. This reserve has traditionally been the area where surpluses have tended to go and indeed the Council has used as a smoothing impact for its rates. The problem with the income equalisation reserve and its application is that it only provides temporary rate relief, ie because it is only a one-off impact in the year in which it is applied, it reduces the rates for that year only.
11. The impact of using the income equalisation reserve is that in the subsequent year the reduction immediately reverses. For example reducing rates in year 1 by say \$6m from income equalisation reserve funds will see rates 3% lower than they otherwise would be. However, this means that without injecting another \$6m into the subsequent year, the subsequent year's rates will automatically start 3% higher.
12. To have an ongoing permanent benefit for all ratepayers it is recommended that any cash surplus be transferred to the debt repayment reserve.

**STAFF RECOMMENDATION**

It is recommended that the Council approve the transfer of \$13.0m to the debt repayment reserve.



## 7. ADOPTION OF 2007 ANNUAL REPORT

<b>General Manager responsible:</b>	Acting General Manager Corporate Services DDI 941-8540
<b>Officer responsible:</b>	Corporate Finance Manager
<b>Author:</b>	Diane Brandish

### PURPOSE OF REPORT

1. The purpose of this report is to present the 2007 Annual Report containing the audited financial statements of the Christchurch City Council for the year ended 30 June 2007, for adoption by the Council.

### EXECUTIVE SUMMARY

2. The Annual Report (separately circulated) is intended to provide financial and non-financial information regarding the Council's operations for the year ended 30 June 2007, as required by Schedule 10 of the Local Government Act 2002.
3. These are the first accounts presented under the New Zealand Equivalents to International Financial Reporting Standards, (NZ IFRS). The Council adopted NZ IFRS as at 1 July 2006. The main differences between NZ IFRS and the previous reporting standard, NZ GAAP are:
  - (a) deferred taxation; under NZ IFRS deferred tax balances are calculated on a balance sheet approach which recognises where there is difference between the carrying value of an asset or liability and its tax base;
  - (b) reclassification of cash and cash equivalents; under NZ IFRS cash and cash equivalents include short term investments with a maturity of less than 90 days, (previously less than one year);
  - (c) derivatives are recognised on the balance sheet;
  - (d) impairment testing, all assets including investments are now annually tested for impairment and where necessary their value adjusted.

### PARENT FINANCIAL RESULT

4. The Council's operating surplus for the year, after vested asset contributions was \$38.9m, \$8.7m ahead of plan. This variance was mainly driven by reduced expenses because, although revenue was up by \$11m, vested asset receipts were down by \$10.6m. Contributions to this variance are outlined in note 27 of the detailed accounts and include:
  - higher than budgeted development contributions of \$4.2m. This needs to be considered in conjunction with the vested asset receipts. This net revenue shortfall is a timing difference. The Council's new development contributions policy was scheduled to come into effect on 1 July 2006 and many developers brought forward their applications in order to avoid the increased fees.
  - higher than budgeted rates of \$1.6m.
  - interest received of \$1.4m. This is mainly due to higher market rates.
  - higher than budgeted LTNZ subsidy of \$1.5m.
5. The main cost savings were:
  - lower than budgeted personnel costs of \$2.2m
  - lower than budgeted professional and contract fees of \$3.2m,
  - lower than budgeted interest expense of \$2.0m due to lower inter-group loans.



**7 Cont'd**

6. As mentioned above the net surplus for the year after vested assets was \$38.9m, \$8.7m over plan. After adjusting for budget variances in capital revenues and for non cash items such as vested assets and depreciation, the cash surplus for the year is \$11.7m.
7. The Balance Sheet reflects the Council's strength, with a growth in equity of over \$464m, \$423m of which results from asset revaluations.
8. Amongst the many capital projects completed for the year are the Blenheim Road deviation, (\$5.7m), upgrade of the parking meters, (\$2.6m) and strategic land purchases of \$8.5m.
9. Projects progressed include the ocean outfall pipeline at South New Brighton (\$30.7m), Gowerton Place housing development (\$2.4m), the Burwood Landfill gas project (\$2.6m), construction of the 5th and 6th digesters, (\$10.4m), the upgrade of pump station 11 (\$3.9m), and the redevelopment of the Jellie Park swimming complex, (\$1.3m).
10. Of the balance, most of the capital spend went on providing the Council's basic services including \$6.1m on carriageway resurfacing, \$3.9m on footpath resurfacing, \$14.3m on kerb and channel, \$6.3m on road networks \$4.9m on renewals and replacements of water reticulation, \$16.5m on parks and \$4.3m on library books.
11. The Council has four financial ratios which form a key part of its financial risk management strategy. All four actual results fell well within policy limits.

**GROUP FINANCIAL RESULT**

12. The group profit for the year was \$107.2m, \$21.2m above last year. The increase was primarily due to increased revenues within the Orion Group, and a \$9m saving in tax, as a result of incorporating the impact of the reduced tax rate on deferred expense, into the 2007 year. In addition, the 2006 result included a \$3.0m loss which related to the discontinued operations in City Care Ltd.
13. Group total assets have increased by \$963m to \$6.6b.

**FINANCIAL AND LEGAL CONSIDERATIONS**

14. Pursuant to s98 of the Local Government Act 2002, the Council must prepare and adopt an annual report in respect of each financial year. The report must be adopted by resolution within four months after the end of the financial year to which it relates.
15. Within one month of the adoption of its annual report, the Council must make publicly available:
  - its annual report; and
  - a summary of the information contained in the annual report.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Resolve to adopt the 2007 Annual Report as presented.
- (b) Authorise the General Manager Corporate Services to make changes as required for publishing the Annual Report.
- (c) Authorise the General Manager Corporate Services to produce and publish the Annual Report and Summary Annual Report within the statutory timeframes.



**8. CHRISTCHURCH TO LITTLE RIVER RAIL TRAIL - LITTLE RIVER TOWNSHIP SECTION**

<b>General Manager responsible:</b>	Mark Christison, Acting General Manager, DDI 941 6231
<b>Officer responsible:</b>	Terry Howes, Manager
<b>Author:</b>	Michael Ferigo Transport Planner

**PURPOSE OF REPORT**

1. The purpose of this report is to inform the Council on the progress made in gathering assessment information on the Rail Trail route options into Little River Township towards it confirming the immediate option and identifying a long term preferred option for public consultation subsequent to establishing capital budget within the 2008/09 – 2019 LTCCP.

**EXECUTIVE SUMMARY**

2. This report is responding to the Council's 19 July 2007 resolutions calling for a further report before November to Council to assist it in confirming the immediate option to implement and identifying a preferred long term option.
3. The Council's preferred 'long term' option for the Rail Trail will then be progressed into the public consultation phase subsequent to gaining capital budget within the 2008/09 – 2019 LTCCP. The Council resolved immediate term option will be implemented directly.
4. This report further investigates the feasibility and technical issues for a range of options in the development of the one kilometre section of the Rail Trail at the Little River Township.
5. Since the initial report further information is now reported on drainage, land use and construction issues with rough order cost attached (public excluded) and associated information included from consultation with other potential stakeholders.
6. The details of each option are described briefly and the significant or potentially significant issues are noted.
7. The Akaroa/Wairewa Community Board requested a further staff report which gave it an update with the extra information collected prior to reporting to the Council. The report was presented to the Community Board's 26 September 2007 meeting when the Board resolved:
  - (a) *Having considered all of the options, to support a short and long term solution for the final section of the Christchurch-Little River Rail Trail, along the eastern side of State Highway 75 (SH75):*
    - (i) *Short Term - the Railtrail pathway is constructed on the east side of SH75 following the highway from the existing end point of the Railtrail path to a point where the river veers east away from the highway, at which point the pathway would follow the riverside to intersect with Wairewa Pa Road, and that Transit New Zealand be requested to employ some traffic calming measures on State Highway 75, from the southern side of the Little River Hotel.*
    - (ii) *Long Term - the Railtrail pathway is constructed on the east side of SH75 following the highway from the existing end point of the Railtrail path to a point where the river veers east away from the highway, at which point the pathway would follow the riverside to intersect with Wairewa Pa Road. A corridor for public access to then be secured with land owners, and a Railtrail pathway constructed along a strip of land on the east side of SH75. This would extend south from a point near the Little River Historic Railway Station, parallel to SH75 to a midway point where it veers east to alongside the river and follows this to Wairewa Pa Road.*
  - (b) *To request that the Chairman be granted permission to speak to the Council in support of this resolution.*



**8 Cont'd**

The Board also supported the concept of an avenue approach to the township or some type of special landscaping, to delineate the Railtrail from the highway.

The Chairman of the Community Board will be in attendance to discuss the Board's preferred immediate and long term options.

**FINANCIAL IMPLICATIONS**

8. The work associated with the consultation and adoption of a preferred Railtrail route can be accommodated within existing budgets, but it is not appropriate to consult on this project prior to capital funding being confirmed. The capital costs for any long term route will be submitted as part of the 2009/19 LTCCP review.

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

9. The capital funding for a long term option for the Little River Township section of the Railtrail is not included in the 2006/16 LTCCP.

**LEGAL CONSIDERATIONS**

10. There are considered to be no legal implications however dependent on options selected some resource consent, legal easements etc will need to be gained.

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

11. As above

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. As per above

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

13. As per above

**ALIGNMENT WITH STRATEGIES**

14. The project aligns with the Councils walking and Cycling Strategies. It also aligns with the Strategic Plan for Banks Peninsula.

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

15. Yes

**CONSULTATION FULFILMENT**

16. Consultation with directly involved significant stakeholders and interested parties has been undertaken to a level commensurate with a feasibility study. If the project is to be progressed the preferred long term option will be used as a basis for public consultation as part of the standard capital projects development process.

**STAFF RECOMMENDATION**

It is recommended that the Council consider the additional feasibility information provided along with the Akaroa / Wairewa Community Board's resolutions to date and then confirm its preference for both long term and immediate term option/s for the Little River Township section of the Christchurch to Little River Rail Trail. However long term option work cannot commence until project funding is adopted by the Council as part of the 2009/19 LTCCP.



8 Cont'd

**BACKGROUND (THE ISSUES)**

17. Members will recall the staff report and feasibility study on the Rail Trail presented at the Council's 19 July 2007 meeting to gain its view on a preferred short and long term option. The Akaroa Wairewa Community Board considered the report prior to the Council and recommended to the Council:
  - (a) *'That in the long term, the final section of the Christchurch-little River Rail Trail, from the little River Hotel to Little River Township, stay on the eastern side of the State Highway, tracking along its corridor to a point opposite the Little River Historic Rail Station car park where a crossing is developed.'*
  - (b) The Community Board's considerations were included, alongside the Little River Rail Trail report in the Councils agenda on the 19 July 2007, where the Council resolved:
    - (i) *That the Council support the concept of the Rail Trail shared pathway in Little River.*
    - (ii) *That the Council support the recommendations within the attached feasibility report for the immediate actions to be progressed.*
    - (iii) *That staff be asked to further investigate options for the successful development of the Rail Trail in consultation with local landowners and Transit NZ, and report back to the Council before 1 November 2007.*
18. The feasibility study recommended immediate improvements for giving Railtrail users access into Little River - refer to section 4 of the study - these were:
  - Arrange Railtrail shared pathway access along the length of the rail embankment on property 4165 Christchurch to Akaroa Road.
  - Install railtrail markers.
  - Utilise the existing footpath between Morrisons and Barclays Roads and possibly mark a cycle lane for north bound cyclist.
19. Discussions with Transit New Zealand are in progress and the outcome/ progress of this will be reported at the meeting.
20. Discussions with landowners have progressed and the details are reported within the relevant route options.
21. The Community Board also requested that staff consult further with stakeholders towards identifying better immediate term options and to report back. This has been progressed included into the report.
22. The rough order costs that include estimated values for gaining access to private properties are reported in the public excluded section.
23. This report should be read in conjunction with the attached previous report and feasibility study attached.

**THE OBJECTIVES**

24. In 2003, the Christchurch-Little River Railtrail Trust was formed as an incorporated charitable trust to transform the former railway route into a trail catering for walkers and cyclists wishing to view the region at close quarters, while avoiding the traffic on the busy road between Little River and Christchurch.
25. The objective of the Christchurch to Little River Rail Trail Trust is to achieve a mainly off road walkway/cycleway linking Christchurch to Little River and the communities between.



## 8 Cont'd

26. The Trust works closely with its partners in developing the Railtrail - Department of Conservation, Wairewa Runanga, Selwyn District Council, Christchurch City Council, Environment Canterbury and Transit New Zealand. The Trust has key objectives of raising funds to complete the Trail and to engage in consultation with the wide range of interest groups.
27. Whilst the Wairewa Runanga has formal responsibility for the trail development up to the vicinity of the area opposite the hotel (Department of Conservation land) it is also acting in an informal facilitating and advocacy role in the process of establishing a route for the remaining section of the Trail into the Little River Township on behalf of the CLRRTT. The Christchurch to Little River Rail Trail Trust has maintained the overall responsibility to ensure the objectives of the Trail are met.
28. The Wairewa Runanga and CLRRTT representatives met in August to discuss their collective stance on the Trail development into Little River Township. If the Trail travels across the SH 75 in a high speed area the Runanga would require an Underpass. Whilst recognising that the decision making rests with the Council and Transit NZ, the west side of SH 75 is seen as feasible by the Runanga but its preference is for the Trail to remain on the eastern side of SH 75 until it crosses within the lower speed environment of the township.
29. The Trust also sees both the eastern and western options as feasible but its preference is for the Trail to be developed on the west. It would prefer some type of formalised crossing facility in the high speed area on the SH 75 with preference for an underpass. If the Trail were to progress along the eastern side and cross in the township (currently 70 kph) it would still prefer some type of formalised crossing facility
30. Immediate term options were also discussed between the two organisations with the Runanga having a preference for the Trail to be developed on the eastern side as it isn't supportive of the level crossing of SH 75 to access the western options. The Trust recognises that the existing Trail crossing point on SH 75 meets Transit NZ's crossing requirements and whilst it wants a better grade crossing in the long term, the immediate term existing level crossing is acceptable to it.

## THE OPTIONS

31. The Railtrail route options are segmented into section elements that can be linked in differing combinations to make up complete routes. These section elements are individually detailed on maps in the options report attached to assist the Council in its selection process.
32. The Council has resolved an immediate option be implemented but added resolutions that are linked, requiring staff to investigate and report back prior to November 2007.
33. The long term options for public consultation described below should be read in reference to the maps attached.
34. Generally securing of access through private properties will be sought via way of legal easements.
35. No legal surveys have been undertaken on the routes and the land boundaries have been deduced from existing generic mapping data.
36. The Community Board's preferred long term option from a route from Wairewa Pa Road to the Historic Rail Station following the road corridor was investigated – Transit New Zealand are unsupportive of this option as it would need to substantially utilise the road carriageway. There would also be considerable drainage costs involved and some form of separation costs to segregate the railtrail users from the carriageway traffic. In addition it is probable that most on road car parking would need to be removed along the eastern side. However several other options that would achieve an eastern route for the Railtrail in this section have been investigated and are presented below (Options D1 and D2).



**8 Cont'd**

**Options Reference: Section elements**

**Option A1**

- (a) The construction of an underpass for the Railtrail pathway to cross SH 75 in the southern area immediately next to the Little River Hotel and the continuation of the Railtrail pathway north along the western side of the Highway for 350 metres.
- (b) The underpass is predicted to require the use of an area of land owned by the Hotel which includes housing the underpass ramp area and use of a strip of land on the parking area frontage. Widening of the existing culvert just north of the Hotel or some such construction will be needed to allow the trail physical passage way past the waterway.
- (c) Suggested piping of drain area on road corridor in front of number 4111 Christchurch to Akaroa Road (Historic Cottage) approx 130 metres north of proposed under pass rather than resumption of strip of flat land closer to the cottage that is also on legal road corridor but used as a cottage garden.

**Issues:**

- (i) Council will need the continued involvement and agreement of Transit New Zealand to the underpass on SH 75. Progress of a management approach to Transit New Zealand will be reported at the meeting.
- (ii) Topographical and legal surveys will need to be undertaken to progress investigations of any underpass. Staff advice is that the underpass appears viable but technically difficult to build and if pursued will require more site work investigations.
- (iii) Use of the Little River Hotel land will require careful design to ensure safety of users especially around the car park area and also successful negotiation for securing the access with the owners.

**Option A2**

- (a) The Railtrail pathway underpass construction in the northern area alongside the existing SH 75 culvert crossing, just north of the Little River Hotel and the continuation of the Railtrail pathway north for 300 metres along the western side of the Highway.
- (b) The notes and issues under this element are identical to A1 with the exception that no private property access will be needed for in and around the underpass and no extra costs for widening the existing culvert is needed and it utilises more of the existing pathway hence requiring less new pathway construction. For these reasons if an underpass option is pursued this option (A2) is considered preferable to option 1A.

**Option A3**

- (a) The Railtrail pathway follows the existing trail path to its current termination point at an area partially developed as a level crossing.
- (b) This option utilises the existing path and may require formalisation of a crossing point with some extra facility such as holding rails and path alignment if crossing SH 75 is progressed instead of staying on the eastern side of the highway.

**Issues:**

- (i) Management is approaching Transit New Zealand to discuss the best way forward in regard to speed reduction possibilities in this area. Progress will be reported to the meeting.



**8 Cont'd**

**Option B1**

- (a) The Railtrail pathway travels along the historic railway the length of the private property to Morrisons Rd. By using the rail embankment only a surface treatment is require for the pathway development along with a stock gate at each end of the property.

**Issues:**

- (i) Successful negotiation for securing the pathway access with the owners who are very positive about this facility as it complements their property development plans.
- (ii) Planning staff from the Environmental Policy and Approvals advise that a resource consent is needed to develop the walking and cycling pathway in the small settlement zone – this may take approximately six months to gain.

**Option B2**

- (a) The Railtrail pathway crosses Morrisons road from a gateway at property no 4165 to SH 75 on the northern berm. A 2.5 metre sealed pathway will be constructed on the road corridor and will likely necessitate some resumption of land and the repositioning of a fence, posts and some work ensuring adequate path width around a culvert at the intersection of SH 75.
- (b) It may require some drainage being allowed for. This is a very quiet rural road providing a relatively safe road crossing environment and the northern side has only one residential driveway crossing.

**Issues:**

- (i) This section will probably involve some resumption of land.

**Option B3**

- (a) The Railtrail pathway travels along the historic railway for approximately two thirds of the length of the private property towards Morrisons Rd and then detours east towards SH 75 where it then tracks north alongside the western side of the road corridor where it is constructed as a 2.5 metre sealed pathway up to the intersection with Morrisons Road.
- (b) This option has since been discussed and the owners response is that any such deviation from the railway embankment onto the remainder of their land would not be able to be accommodated with their other plans for the property.

**Issues:**

- (i) The owners of the private property linking from Morrisons Rd to (approx 460 metres south) the State Highway would need to be able to accommodate detouring the pathway from the historic rail trail through the centre of their property.
- (ii) This alignment would skirt the pathway around the Small Settlement Zone and therefore not require the gaining of a resource consent.
- (iii) There may be some width issues utilising the western berm that may require some securing of access over private land.
- (iv) The detour would move the path off the historic rail trail alignment and its associated advantages or disadvantages would need to be considered alongside the chosen overall long term route.



## 8 Cont'd

### Option B4

- (a) The Railtrail pathway travels along the western side of the SH 75 as a 2.5 metre sealed pathway from the existing crossing point to the intersection with Morrisons Road.

#### Issues:

- (i) There may be some width issues utilising the western berm that may require some securing of access over private land.

### Option C1

- (a) A corridor and Railtrail pathway would be developed through two private properties to link the path directly from Morrisons Road to Barclays Road to a point opposite Council owned land on the northern side of Barclays Road.
- (b) This will involve securing access of a 4 to 5 metre corridor with the owners of the two properties - both are agreeable to considering this option subject to agreed negotiation conclusion.

#### Issues:

- (i) There is likely to be some need to re position one residential septic tank in providing a relatively direct link. The proposed concept alignment will allow regaining alignment onto the historic railway line north of Barclays Road. Some fencing and landscaping may be required.

### Option C2

- (a) The Railtrail route travels alongside SH 75 from the intersection of Morrisons Road to Barclays Road.
- (b) The footpath would be a minimum 2.5 metre sealed pathway and likely provide contra flow shared usage.

#### Issues:

- (i) There would likely be some land resumption needed over all or part of the length of this link if the road carriage way isn't significantly utilised for the route.
- (ii) Transit New Zealand is not in favour of the narrowing of the carriageway such as with any physical works. Transit would accept use of their road corridor away from or separated from the carriageway.

### Option C3

- (a) The Railtrail pathway is constructed on the southern berm side of Barclays Road, from the intersection with SH 75, to the historic railway line.

#### Issues:

- (i) There are no significant issues with only two residential driveways to cross. The northern side of the road has a drain close to the edge of the road that makes the southern side the better option of the two.



**8 Cont'd**

**Option C4**

- (a) The Railtrail pathway route follows the footpath alongside the western side of SH 75 from Barclays Road to the Little River Historic Railway Station. To create a contra flow shared path the existing footpath would need to be widened towards the residential properties. Transit does not support the narrowing of the carriageway on this section.
- (b) There are five residential driveways to cross along this length and a petrol station forecourt and travel through or across the Little River Townships main car park.

**Issues:**

- (i) All the property frontages along this section occupy legal road, some resumption would be required.
- (ii) The pathway would lead through the petrol station forecourt. It is not possible to segregate pathway users and petrol station traffic as the petrol pumps are also located on legal road.
- (iii) The Trail users would need to be accommodated in and amongst the traffic parking within the Little River Townships main car park.

**Option C5**

- (a) The Railtrail pathway route would be developed following the historic Railway alignment from Barclays Road north to the Little River Historic Railway Station. This option element is on Council owned land.

**Option C6**

- (a) The Railtrail pathway route would use the existing gravel road from Barclays Road north to the Little River Historic Railway Station. This route has the public recycling centre near the southern end of the gravel road. From the recycling centre north there is a plan to close the road off to motor vehicles leaving the area north to the Historic Rail Station free of motorised vehicles. Careful design that recognises the historic values will be particularly needed in this area nearing the Historic Rail Station.

**Option D1**

- (a) A corridor for public access would be secured with land owners and a Railtrail pathway constructed along a 5 metre wide strip of land on the east side of SH 75. It would extend south from a point near the Little River Historic Rail Station, parallel to the SH to a midway point where it veers east to alongside the river and follows this to Wairewa Pa Road.
- (b) The land owners involved have given support in principle to negotiate with them for this access way.

**Issues:**

- (i) There are a number of drainage issues from replacing an old culvert with piping near the northern end to traversing ditches further south.

**Option D2**

- (a) A corridor for public access would be secured with land owners and a Railtrail pathway constructed along a 5 metre wide strip of land on the east side of SH 75. It would extend south from a point near the Little River Historic Rail Station, parallel to the SH to the intersection with Wairewa Pa Road.
- (b) The land owners involved have given support in principle to negotiate with them for this access way.



## 8 Cont'd

- (c) This option would also require using the road carriageway to navigate around the existing culvert at Wairewa Pa Road. Substantial tree and plant removal would be needed in the property on the north eastern corner of the intersection at SH 75 and Wairewa Pa Road.

### Issues:

- (i) There are a number of drainage issues from replacing an old culvert with piping at the northern end to traversing ditches further south.
- (ii) This option offers less benefit to Railtrail users than option D1 being closer to the SH 75 and using the road carriageway at the intersection; it also has more impact on the Wairewa Pa Road corner property requiring considerable planting removal.

## Option E1

- (a) The Railtrail pathway is constructed on the east side of SH 75 following the highway to Wairewa Pa Road from the existing end point of the Railtrail. The southern section is narrow in places and will likely require some retaining works. There will also be tree trimming and likely removal in places to create adequate width for the pathway.

### Issues:

- (i) Transit New Zealand will need to agree to any scheme plan and have advised that it wants an emphasis on separation between the Railtrail pathway and the highway carriageway.
- (ii) Resource Consent will probably need to be gained for this section for the work near the river and tree felling.
- (iii) It looks likely that the Railtrail will be able to be constructed on a combination of road reserve and Department of Conservation land however this will be reliant on legal surveys confirming the generic mapping boundary indications.

## Option E2

- (a) The Railtrail pathway is constructed on the east side of SH 75 following the highway from the existing end point of the Railtrail path to a point where the river veers east away from the highway at which point the pathway follows the riverside to intersect with Wairewa Pa Road.
- (b) This eastern section is able to be constructed on a combination of road reserve and Department of Conservation land. Fencing will be required between the pathway and the adjoining private property
- (c) The southern section is narrow in places and will likely require some retaining works. There will also be tree trimming and likely removal in places to create adequate width for the pathway.

### Issues:

- (i) Transit New Zealand will need to agree to any scheme plan and have advised that it wants an emphasis on separation between the Railtrail pathway and the highway carriageway. This may require extra retaining work and / or total width for the pathway.
- (ii) Resource Consent will probably need to be gained for this section for the work near the river and tree felling.

## Option E3

- (a) The Railtrail Pathway is developed on the southern berm of Wairewa Pa Road between the river and the SH 75 intersection. This section element would be used to link the other options if relevant.



## 9. MISUSE OF DRUGS (CLASSIFICATION OF BZP) AMENDMENT BILL

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8549
<b>Officer responsible:</b>	Chris Gilbert, Legal Services Manager
<b>Author:</b>	Judith Cheyne

### PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council that it makes a submission in support of the proposed changes to the Misuse of Drugs Act.

### EXECUTIVE SUMMARY

2. In 2005 the Council investigated whether it could take steps to control where NOS/party pill shops were sited, and to control the sale of the products sold in those shops. The Council was advised that it could not take any steps, so instead resolved "*as a result of continuing community concerns regarding the use of NOS and party pills the Christchurch City Council:*
  - *Record its extreme concern regarding the practice of businesses selling such mind altering gases and substances.*
  - *Encourage Central Government to urgently adopt the supplementary order paper relating to NOS and party pills that is currently being considered by Parliament's Health Select Committee.*
  - *Request the Ministry of Health and OSH to strictly enforce all current laws to ensure the legal operation of existing shops selling such products, and their patrons."*
3. The Misuse of Drugs (Classification of BZP) Amendment Bill seeks to make it illegal to possess and use, sell, supply, import, export or manufacture benzyloperazine (BZP), phenylpiperazine, and related substances. The closing date for submissions on the Bill is 12 October 2007.
4. Given the Council's views in 2005, it would be appropriate to support the Government in making this amendment to the Act.

### FINANCIAL IMPLICATIONS

5. None

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

6. Not applicable

### LEGAL CONSIDERATIONS

7. None

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

8. Yes

### 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?

9. No



**9 Cont'd**

**ALIGNMENT WITH STRATEGIES**

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

10. Yes – alignment with the Safe City and Healthy City community outcomes.

**CONSULTATION FULFILMENT**

11. No external consultation has been carried out but the Strategy and Planning group recommended to the Legal Services Unit that the Council may wish to submit on this Bill.

**STAFF RECOMMENDATION**

It is recommended that the Council approve the attached submission to be sent to the Health Select Committee



9 Cont'd

**BACKGROUND (THE ISSUES)**

12. In 2005 the Council considered a legal opinion from the Legal Services Manager relating to NOS shops and party pills. The legal opinion was in the response to the request of the Riccarton/Wigram Community Board dated 8 March 2005 and the resolution of the Council dated 7 April 2005:

*"That as a result of concerns raised from within our communities relating to the recent and ongoing proliferation of the so called "NOS Shops" in Christchurch, Council requests:*

- *That staff thoroughly investigate all current Council bylaws with the aim of controlling the siting of these shops and the sale of the products sold.*
- *That staff thoroughly investigate all government statutes with the aim of producing a new bylaw to control the siting of these shops and the products sold."*

This opinion examines possible options available to the Council to regulate retail outlets, "NOS Bars", which sell "party pills" and NOS containers.

This report examines whether Council can make bylaws to regulate the sale and consumption of legal substances and discusses what other options exist to address this issue.

**ADVICE:**

My advice is that Council cannot make bylaws addressing this problem for the following reasons:

4. Existing Central Government statute law and Christchurch City Bylaws do not prohibit the sale and consumption of these products. The sale of the NOS, when prescribed, is legal. Party pills can be legally sold unless they contain a prescription medicine or controlled drug.
5. The Local Government Act 2002 requires that before Council embarks on any attempt to regulate these products it needs to be certain that the products are causing a nuisance, that they are harmful, and that it has the legal power to regulate them.
6. Enforcement of the bylaw would be extremely difficult for reasons explained below.
7. There are existing laws available for other agencies to control the sale and abuse of NOS and party pills. Any shortcoming are shortly to be addressed by central Government making greater effort to enforce the laws and reviewing their effectiveness.
8. My advice is that it would be extremely difficult and probably futile to prohibit the retail sale of NOS and the sale possession and consumption of party pills by a new Bylaw. Any attempt would not be effective and could be subject to a successful challenge.
9. The City Plan is not available as a public order control mechanism.
10. The Council may want to consider less interventionist measures such as education.
11. The regulation of the sales of such products is clearly most suited to central Government."



**9 Cont'd**

13. On 2 June 2005, the Council resolved:
- "1. That a Council seminar be held to allow Councillors to be briefed on current enforcement practices.*
  - 2. That, as a result of continuing community concerns regarding the use of NOS and party pills the Christchurch City Council:*
    - Record its extreme concern regarding the practice of businesses selling such mind altering gases and substances.*
    - Encourage Central Government to urgently adopt the supplementary order paper relating to NOS and party pills that is currently being considered by Parliament's Health Select Committee.*
    - Request the Ministry of Health and OSH to strictly enforce all current laws to ensure the legal operation of existing shops selling such products, and their patrons."*
14. The Council's concerns and submissions to central government may be one of the factors that lead to the introduction of this Bill and the Council should therefore support the Bill.



## 10. REVIEW OF CLEANFILL LICENSING BYLAW 2003

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8656
<b>Officer responsible:</b>	City Water and Waste Manager
<b>Author:</b>	Zefanja Potgieter

### PURPOSE OF REPORT

1. The purpose of this report is to recommend the review of the Cleanfill Licensing Bylaw 2003, the making of a new bylaw and the commencement of the statutory special consultative procedure.

### EXECUTIVE SUMMARY

2. The Cleanfill Licensing Bylaw 2003 came into effect on 1 March 2004 and is due for a review in terms of the provisions of the Local Government Act 2002. In addition the disposal levy provisions in this bylaw became redundant when the Council suspended collecting levies under this bylaw subsequent to the High Court judgement end of March 2006 relating to the Waste Handling Facilities Bylaw 2005. The review process also includes recommendations to make some minor changes to the list of materials that can be disposed of at cleanfills, plus some formatting and wording improvements. It is considered appropriate to revoke the current Bylaw and adopt a new Bylaw, rather than simply amend the current Bylaw, given the amendments being made, and the fact that the new Bylaw, once adopted, will also apply to the Banks Peninsula wards (the current bylaw does not). A list of factors to consider when assessing new license applications have also been added – clause 3.3.
3. The attached draft bylaw also includes a new provision for an annual monitoring fee to be paid by licence holders – an amount of \$3,470 (plus GST) per site to be revised from time to time. Since the cessation of the levies the monitoring costs have been rates funded. It is furthermore proposed to increase the licence application fee for new licences from \$50 to \$250 (plus GST).
4. Non-statutory consultation with cleanfill site licence holders has taken place during the last 12 months in the process of developing the new bylaw.
5. The review process is as follows:
  - (a) The Council resolves that a bylaw is the most appropriate way to address the issue of managing cleanfill sites, the proposed bylaw is in the most appropriate form, and that there are no inconsistencies with the New Zealand Bill of Rights Act (See recommendations below);
  - (b) The Council approves the statement of proposal and summary of information and publicises it for public submissions, and appoints a hearings panel to hear submissions (See recommendations below);
  - (c) A special consultative procedure will run from 17 October to 21 November 2007;
  - (d) Hearing of submissions to take place late in December 2007; and
  - (e) The Council to receive a report from the Hearings Panel in December 2007 or February 2008 to consider the recommendations of the panel regarding the review of the bylaw.
6. Attachment A is the draft Statement of Proposal including the proposed draft bylaw, and Attachment B is the Summary of Information.
7. *Note: Due to the October 2007 local government elections a hearings panel will be appointed in November.*



10 Cont'd

**FINANCIAL IMPLICATIONS**

8. The proposed licence monitoring fees to be paid by licence holders will mean a saving of \$41,600 from rates funded operating costs.

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

9. Not applicable.

**LEGAL CONSIDERATIONS**

10. Section 146 of the Local Government Act 2002 (the Act) provides a specific bylaw making power for the purposes of regulating waste management. It also provides for the review of bylaws made under the Act, and applies to the Cleanfill Licensing Bylaw 2003.
11. Section 160 requires that in reviewing a bylaw a local authority must make the determinations required by section 155. After the review, if a local authority considers the bylaw should be amended, revoked, or revoked and replaced, then it must use the special consultative procedure.
12. Section 155 of the Act requires the Council to determine whether the making of a bylaw (and the review of an existing bylaw) is *"the most appropriate way to address the perceived problem"*. The problem in this particular instance is to regulate the intake of materials to cleanfill sites in order to maximise diversion from disposal, and, in addition, to collect specified waste data.
13. Section 77 of the Act requires the Council, in the course of a decision making process, to seek to identify and assess all reasonably practicable options for the achievement of the objectives. In August 2004 the Council determined that the following options existed:
  - (a) Do nothing i.e. allow cleanfill sites to operate without a licensing requirement with no controls over what is disposed of. This was deemed unacceptable by the Council in 2004, and the Bylaw has since proved to work well, however it does not apply to Banks Peninsula.
  - (b) Seek voluntary cooperation. This was deemed impractical by the Council in 2004, and the Bylaw has since proved to work well;
  - (c) Make a bylaw requiring cleanfill sites to obtain a licence in order to operate, with the licence conditions regulating what can, and what cannot, be disposed of, plus reporting on specified waste data. This option was recommended in 2004. Under section 538 of the Local Government Act 1974 councils have the duty to encourage efficient and effective waste management. It is considered that this option meets that duty more effectively than either of the other options above. It is therefore proposed that the draft 2007 bylaw be authorised for special consultative procedure purposes.
14. After considering these options the Council in August 2004 resolved that, as is required in terms of section 155 of the Act, a bylaw was the most appropriate way to address the issues of regulating disposal at cleanfill sites, and that the bylaw was in the most appropriate form.
15. The regulatory framework for councils has not changed since 2004, and it follows that the need for retaining the bylaw still exists. A similar resolution should be adopted in this instance where the aim is to update the bylaw and include the Banks Peninsula area. As mentioned above the waste levy provisions in the current bylaw are no longer enforced and are recommended for deletion. Together with the other changes suggested to the Bylaw, it is also considered that the new Bylaw is in the most appropriate form,
16. There are no provisions in the New Zealand Bill of Rights Act 1990 which have a bearing on the draft Cleanfill Licensing Bylaw 2007 and therefore there are no inconsistencies between the draft bylaw and the statute.



**10 Cont'd**

17. The special consultative procedure under the Act requires that the Council prepare a statement of proposal that must include:
- (a) As the case may be:
- (i) a draft of the bylaw as proposed to be made or amended; or
  - (ii) a statement that the bylaw is to be revoked; and
  - (iii) the reasons for the proposal; and
  - (iv) a report on any relevant determinations by the local authority under section 155.
18. The Act also requires the Council to determine the form of the summary of Information and to determine the appropriate manner for distributing that summary. Section 89(c) requires that it be distributed as widely *"as reasonably practicable....having regard to the matter to which the proposal relates"*. In this case as the bylaw only concerns cleanfill site operators and relevant construction and waste industry organisations it is considered appropriate to distribute the summary of information to those persons and organisations. Section 83(e) of the Act also requires that the Council must give public notice of the proposal and the consultation being undertaken.

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

19. See above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

20. Supports waste minimisation objectives.

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

21. Not applicable.

**ALIGNMENT WITH STRATEGIES**

22. The bylaw aligns with the waste minimisation targets of the 2006 waste management plan.

**CONSULTATION FULFILMENT**

23. The statutory special consultative procedure will follow the adoption of the recommendations of this report. Prior consultation with licence holders have taken place during the preparation of the bylaw (see Background section below).

**STAFF RECOMMENDATION**

It is recommended that the Council resolve that:

- (a) It has determined that, as is required in terms of Section 155 of the Local Government Act 2002, a bylaw is the most appropriate way to manage cleanfill sites and regulate disposal at all cleanfill sites and the collection of specified waste data.
- (b) There are no inconsistencies between the draft Christchurch City Cleanfill Licensing Bylaw 2007 and the New Zealand Bill of Rights Act 1990, and the draft Bylaw is in the most appropriate form.
- (c) The attached Statement of Proposal and Summary of Information for the draft Christchurch City Cleanfill Licensing Bylaw 2007 be publicly notified, and be distributed to cleanfill site operators and relevant construction and waste industry organisations for the Local Government Act 2002 special consultative procedure.



**10 Cont'd**

**BACKGROUND**

24. Resulting from the decision of the Council to stop collecting cleanfill bylaw levies as from 30 March 2006 it is appropriate to remove any provisions relating to levies. By reviewing the bylaw now it will also in future apply to the two Banks Peninsula wards where no such bylaw or other provisions exist at present.
25. The proposed draft bylaw also includes a new provision for an annual licence monitoring fee to be paid by licence holders – an amount of \$3,470 (plus GST) per site to be revised from time to time. To date monitoring costs have been rates funded. It is furthermore proposed to increase the once-off licence application fee for new licences from \$50 to a more realistic \$250 (plus GST).
26. To clarify which factors will be considered in assessing applications for new licenses a list of four factors have been included in clause 3.3.
27. A study has been commissioned by the Council to evaluate the current state of market options for reuse of materials currently permitted to be cleanfilled. When the report becomes available in April 2008 a review of all the permitted materials in Schedule A will be undertaken in conjunction with cleanfill site operators. In the mean time there are a few minor changes that are proposed to Schedule A. The following changes are therefore currently proposed:
  - (1) Reduce the permitted vegetative content in cleanfill from 2.5% to 1% per load. The amount of vegetation being disposed of into cleanfill sites is minimal – this being the case the proposed 1% would allow for error only.
  - (2) Regarding reinforced concrete as a permitted material, it is proposed to restrict the length of reinforcing rods that cannot be separated from the concrete to a maximum length of 1m. Experience has been that in a high number of incidences iron far outweighs the concrete that it is attached. Furthermore Iron can be readily recycled. To give guidance to Council Enforcement Officer(s), Cleanfill Operators and Demolition Contractors a transparent and enforceable measurement is required.
  - (3) Regarding glass as a permitted material, it is proposed that glass that contains any non-glass material such as laminating, wire reinforcing, rubber lining (for example windscreens will not be permitted for disposal.
  - (4) Delete fibre cement building products from Schedule A. The majority of buildings being demolished are of this era and fibre cement board containing asbestos is difficult to detect when compared with other concrete fibre cement board. Due to the difficulty in detecting what board is hazardous and what is not both cleanfill operators and enforcement officers support the removal of this material from Schedule A.
28. Some formatting and minor typographic updating have been included.
29. Consultations with cleanfill site operators on possible changes to the bylaw have been ongoing over the past eighteen months, including the changes proposed in this report. The special consultative procedure will provide a formal opportunity for the site operators, and other interested parties, to make written submissions on any issues of concern.
30. The bylaw ensures a consistent acceptance criteria across all cleanfills within Christchurch and is supported by ECAN.

**THE OBJECTIVES**

31. To advance the waste diversion targets of the Council's waste management plan 2006 by regulating what can and what cannot be disposed of at cleanfill sites, and to obtain specified waste data.

**THE OPTIONS**

32. See "Legal Considerations" above.



**11. REPORT OF THE BURWOOD/PEGASUS COMMUNITY BOARD:  
MEETING OF 19 SEPTEMBER 2007**

Attached.

**12. REPORT BY THE CHAIRPERSON OF THE BURWOOD/PEGASUS COMMUNITY BOARD**

Attached.

**13. REPORT BY THE CHAIRPERSON OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD**

Attached.

**14. REPORT NO 1 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD**

Attached.

**15. REPORT NO 2 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD**

Attached.

**16. REPORT NO 3 BY THE CHAIRPERSON OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD**

Attached.

**17. REPORT BY THE CHAIRPERSON OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD**

Attached.

**18. REPORT BY THE CHAIRPERSONS OF THE SHIRLEY/PAPANUI AND BURWOOD/PEGASUS  
COMMUNITY BOARDS**

Attached.

**19. NOTICES OF MOTION**

**20. QUESTIONS**

**21. RESOLUTION TO EXCLUDE THE PUBLIC**

Attached.