



CHRISTCHURCH CITY COUNCIL AGENDA

THURSDAY 24 APRIL 2008

9.30AM

COUNCIL CHAMBER, CIVIC OFFICES

AGENDA - OPEN



CHRISTCHURCH CITY COUNCIL

**Thursday 24 April 2008 at 9.30am
in the Council Chamber, Civic Offices**

Council: The Mayor, Bob Parker (Chairperson).
Councillors Helen Broughton, Sally Buck, Ngaire Button, Barry Corbett, David Cox, Yani Johanson,
Claudia Reid, Bob Shearing, Gail Sheriff, Mike Wall, Sue Wells, Chrissie Williams and Norm Withers.

ITEM NO	DESCRIPTION
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| 2. | CONFIRMATION OF MINUTES - COUNCIL MEETINGS OF 27.3.2008 AND 10.4.2008 |
| 3. | DEPUTATIONS BY APPOINTMENT |
| 4. | PRESENTATION OF PETITIONS |
| 5. | REVOKING DELEGATED AUTHORITY |
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| 7. | CCHL AND VBASE GROUP HALF YEARLY REPORT TO 31 DECEMBER 2007
STATEMENT OF INTENT FOR CIVIC BUILDING LTD FOR 2007/08 AND SUBSIDIARY
STATEMENTS OF INTENT FOR 2008/2009 |
| 8. | MAYOR'S WELFARE FUND CHARITABLE TRUST |
| 9. | CLEANFILL LICENSING BYLAW 2008 |
| 10. | INTERIM GLOBAL STORMWATER RESOURCE CONSENT |
| 11. | CHRISTCHURCH BOTANIC GARDENS CENTRE |
| 12. | CHRISTCHURCH CITY COUNCIL GRAFFITI OFFICE |
| 13. | BORROWING FOR NEW CIVIC BUILDING PROJECT AND CAPITAL WORKS |
| 14. | AIDANFIELD FARM BUILDINGS |
| 15. | THE RUAPUNA PARK NOISE ENVIRONMENT |
| 16. | REPORT OF THE REGULATORY AND PLANNING COMMITTEE:
MEETING OF 3 APRIL 2008 |
| 17. | NOTICES OF MOTION |
| 18. | QUESTIONS |
| 19. | RESOLUTION TO EXCLUDE THE PUBLIC |

1. APOLOGIES

2. CONFIRMATION OF MINUTES - COUNCIL MEETINGS OF 27.3.2008 AND 10.4.2008

Attached.

3. DEPUTATIONS BY APPOINTMENT

(a) MR JOHN LEENEN - WAITIKIRI DRIVE

Speaking rights have been granted to Mr John Leenen in respect to clause 5 of the agenda, relating to his request for the Council to grant a right of way easement over the land it owns at Bottle Lake Forest to his property at 8 Waitikiri Drive.

4. PRESENTATION OF PETITIONS

5. REVOKING DELEGATED AUTHORITY

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Legal Services Manager
Author:	Ian Thomson, Solicitor

PURPOSE OF REPORT

- At its meeting on 1 March 2007 the Council resolved:

"That the Council consider revoking the delegated authority of the Corporate Support Manager, in so far as it affects the property at 8 Waitikiri Drive and note that staff will report back on this matter."

- This report is in response to that resolution.

EXECUTIVE SUMMARY

- By resolution dated 23 October 1996, the Council delegated to the (now) Corporate Support Manager the authority to:

"Grant or decline, subject to any reasonable term or condition, consent to dealings with the Council's property including consent to the registration, variation and discharge of mortgages, easements, leases and subleases and their registration, caveats and other documents in similar dealings (excluding reserve land)."

- In 2002, Mr and Mrs JPM and AFM Leenen (the Applicants) sought the Council's consent to a right of way easement over land owned by the Council at Bottle Lake forest. The applicants own a property adjoining that land.
- The request was declined and since then Council staff have consistently advised the applicants that access to their property was not available across Council land.
- Notwithstanding this advice, reiterated by the Corporate Support Manager in 2004, the applicants have continued to press for access to be granted. This has included approaches to the Mayor, Councillors, Community Board members and the Chief Executive.
- In a report to the Burwood/Pegasus Community Board in December 2006, Council staff noted that this was a matter for Council staff to deal with and not an issue of governance. The report stated that the matter had been considered and reviewed by a number of Council officers since 2002 and that there was a high degree of objectivity reflected in the decisions made. The Board did not accept this advice and instead recommended that the Council consider revoking the Corporate Support Manager's delegated authority. This was adopted by the Council.
- At the request of Councillor Sheriff the Chief Executive has reviewed the matter and concluded that the applicants should not be granted access over the Council's land.
- There is nothing in the Local Government Act 2002 to prevent the Council from deciding to revoke the Corporate Support Manager's authority to make the decision that he made. However, for the reasons set out in this report, it is recommended that the Council should not do so.

FINANCIAL IMPLICATIONS

- A decision to revoke the delegated authority granted to a Council officer would not in itself have any financial implications.
- Any costs that would flow from that decision would be met by the applicants, apart from internal staff costs.

5 Cont'd

LEGAL CONSIDERATIONS

12. In 1989 the Waimairi District Council approved the subdivision of the property at 16B Waitikiri Drive. This was conditional upon one of the lots being amalgamated with the property at 8 Waitikiri Drive and one Certificate of Title being issued in respect of both of these lots. This was required to enable the subdivided land to have road access to Waitikiri Drive.
13. This condition was complied with and a single Certificate of Title was issued for both areas of land (Lots 1 and 3). Any further subdivision would require a right of way in favour of Lot 1 being created over Lot 3.
14. The applicants, current owners of the property at 8 Waitikiri Drive, purchased their property in 1994. They were aware of the amalgamation condition and the fact that if Lot 1 was to be subdivided the only road access available was across Lot 3 to Waitikiri Drive.
15. Despite this, the applicants have made many attempts to persuade the Council to grant access to Lot 1 through adjoining land owned by the Council that forms part of the Bottle Lake forestry area. Eventually, in the valid exercise of his delegated authority, the Corporate Support Manager reviewed the reasons for the Council declining the owners request. He found that the decision made by Council staff to decline the request for a right of way easement was the correct one.
16. This was eventually reported to the Burwood/Pegasus Community Board at the applicants' insistence. Notwithstanding the advice of staff that the decision to decline consent was appropriate, the Board has recommended that the Council consider revoking the Corporate Support Manager's delegated authority insofar as it affects the property at 8 Waitikiri Drive.
17. The Council's power of delegation is set out in Clauses 32AA–32B of Schedule 7 of the Local Government Act 2002. Clause 32(4) states that a Council officer to whom any responsibilities, powers or duties are delegated without confirmation by the Council may exercise or perform them in the like manner and with the same effect as the Council could itself have exercised or performed them. In the present case, the Corporate Support Manager has exercised the decision making power of the Council in accordance with the terms of the delegation granted to him.
18. So far as the right to revoke a delegation is concerned, there is nothing in the Act that specifically enables the Council to do this. Section 715(8) of the Local Government Act 1974 (now repealed) gave a local authority the power to revoke a delegation at will. Further, no delegation could prevent the exercise of any power by elected members.
19. There is no similar provision in the 2002 Act, although Clause 30(6) of Schedule 7 prevents the Council from rescinding or amending a decision made under a delegation by a committee, subcommittee or other subordinate decision-making body.
20. It is the view of the Legal Services Unit therefore that where the Council validly delegates its decision making power to a staff member then it follows that it can make a decision to revoke that delegation and take back the decision making power it had previously relinquished. Alternately it could amend the delegation by adding conditions to it.
21. In the present case, the Council could decide to revoke its decision to delegate to its Corporate Support Manager the authority to grant or decline a consent to easements in respect of Council owned property, leaving the other aspects of the delegation in place.
22. The Council could immediately re-delegate that authority, with the exception of the Council's interest in the land over which the right of way easement is sought (contained in Certificate of Title 348/274). The Council would then itself have to consider the matter of the applicants' application for consent to a right of way easement over the Council's land. Any process adopted by the Council for making its decision would have to comply with the consultation and decision-making obligations set out in the Local Government Act.

5 Cont'd

23. Whilst this may be possible, it is the firm view of the Legal Services Unit that it is not good practice and that elected members would be compromising the distinction between governance and management that properly exists in Local Government.
24. Professor K A Palmer in "local government law in New Zealand" has noted that:

"The practice and extent of delegation of powers to officers may depend on the conventions of a particular local authority, and the leadership and management role which elected members adopt in relation to the officers. Members may tend to assume a greater management function and risk duplicating the role of senior officers. In principal members should act primarily as policy makers at a directorship level, and should not assume officer or administrative functions."
25. Since 2002, Council staff have on more than one occasion, reviewed their advice to the applicants that the right of way easement would not be available. The Corporate Support Manager in the valid and proper exercise of his delegated authority formally declined to grant the easement in September 2004. In the ordinary course of events, that should have been the end of the matter.
26. Individuals refusing to accept a decision that is against their wishes is not a sufficient reason for elected members to consider revoking the authority that was given to a staff member to make that decision. There has been no new evidence put forward to suggest that the decision was not the right one. In fact, the stopping of the unformed road adjacent to all properties in, or off, Waitikiri Drive that share a rear boundary with the Bottle Lake forest recreational area is a clear indication that the Council's intention is that no road access to private dwellings would be provided across that land.
27. A decision to revoke would set a precedent that could be used by other people who are also unhappy at a valid decision made by Council staff in similar circumstances. It could also mean that the owners of other properties that share a rear boundary with Bottle Lake land could put pressure on Council staff for access as well. As indicated earlier, this is clearly not the Council's intention.
28. The applicants in this case have already built a house on the rear of their property. Building consent was granted in reliance on a plan submitted to the Council that included provision for road access to Waitikiri Drive. Sufficient width was shown on the plan for a driveway and noted on it was a statement that the existing office/garage was to be removed. By continuing to press for access across the Bottle Lake forest land, the applicants are indicating that they are not prepared to comply with a plan that they themselves prepared for the purposes of getting building consent.
29. An aspect of this matter that should not be overlooked is the possible effect of Section 138 of the Local Government Act 2002. Since the land over which access is sought is no longer designated as an unformed road, its primary status is as part of the Bottle Lake recreational area. Therefore, the Council would be required by Section 138 to consult on a proposal to dispose of any part of that land for example by granting an easement over it.

STAFF RECOMMENDATION

It is recommended that the Council resolve to confirm the decision made under delegation by the Corporate Support Manager in respect of an application for access over Council-owned land to the property at 8 Waitikiri Drive, Christchurch.

5 Cont'd

BACKGROUND (THE ISSUES)

30. This matter began when the Waimairi District Council granted consent to the owner of the property at 16B Waitikiri Drive to subdivide his land. The result was the creation of a section that adjoined Council land on part of one boundary and the rear of the property at 8 Waitikiri Drive on another.
31. A condition of the consent being granted was that the new section be amalgamated with the property at 8 Waitikiri Drive so that road access was obtained through that property. This was done and a new Certificate of Title for both lots was issued. A copy is attached.
32. If the then owner of the property at 8 Waitikiri Drive had not wished to purchase the section and amalgamate it with his existing property, the owner of the property at 16B Waitikiri Drive would have been required to provide road access to the section by way of a right of way to and from 16B Waitikiri Drive.
33. The applicants are the current owners of 8 Waitikiri Drive. They purchased the property in 1994, after the title was issued. Despite this, the applicants have advised the Council that they believed access to the rear portion of the property could be obtained from the road servicing the Burwood landfill site. Although there was nothing to support that view, the applicants apparently were of the understanding that if appropriate representation was made to the Council, such access would be considered.
34. This was entirely the applicants' own view. There is nothing to indicate that Council staff either discussed subdivision of their property with them or led them to believe that access across Council land would be considered.
35. This did not prevent the applicants from pursuing the matter. On 1 March 2002 they were advised that their application for access from the Burwood landfill had been declined.
36. Following a subsequent meeting with Council staff, the applicants were advised by letter dated 18 July 2002 that their application would not be approved.
37. There was further correspondence from the applicants. On 5 December 2002 the Council responded, setting out in considerable detail the reasons for their request being declined. It was reiterated that the Council had no obligation to provide access, nor did it wish to, and the original decision would remain. No new information had been provided.
38. Again, the applicants refused to accept the Council's decision. The applicants lodged a number of submissions to the City Plan hearings including one relating to the matter of access. However, they did not appear before the hearings panel. It was suggested by staff that their application could be addressed at the time they sought consent to subdivide their property, if that is what they wanted to do. The panel agreed with this view, noting that the decision sought was premature and should be addressed through the sub-division process. In yet another letter, dated 27 March 2003, the applicants were advised that a review committee of Council staff had not supported their application for a right of way easement.
39. Further attempts to get the Council staff to change their minds followed. The applicants complained to the Mayor. The Facility Assets Manager, who had delegated authority at the time, carried out another review of the matter. He advised the applicants by letter dated 3 September 2004 that the application for access had been declined.
40. Despite this, the applicants still continued their efforts to get the Council to reconsider its position. They again involved the Mayor, Councillors and the Chief Executive. The Corporate Support Manager reviewed the file and on 1 August 2005 advised the applicants that the previous decision was sound and that the Council would not support their application for access over Bottle Lake forestry land. He noted that "undoubtedly this is not the response you would have hoped for, but I trust you can understand that I have considered all relevant factors, other than private concerns and benefits, when making this decision".

5 Cont'd

41. The applicants then turned their attention to the Burwood/Pegasus Community Board. The Council's Property Unit was instructed to prepare a report which it duly did. The Board did not accept the Unit's conclusion that the matter had been considered and reviewed by a number of Council officers from at least 2002 and that the decision making progress had a high degree of independence and objectivity. The report stated that "obviously this is not Mr Leenen's preferred outcome and as a result he has not accepted the decision nor given up on his request".
42. That, essentially, is the problem. The applicants will not take "no" for an answer. This has resulted in the matter getting far more attention than it would otherwise have got.
43. In July 2006, whilst continuing to try and get the Council to change its mind, the applicants applied for and obtained consent to build a new house on the rear section of their property. The building has been completed and until recently the applicants have apparently been crossing the Council owned land to get access to it. The wire in a low wire and bollard fence was removed.
44. The wire was replaced, but when it was removed again within 24 hours, more substantial bollards were installed.
45. It should also be noted that the access sought by the applicants would connect with the landfill road on the landfill side of gates that close the road to the public at night and at weekends. The opening and closing of the gates is managed by the City Water and Waste Unit. Clearly there would be issues of security and public safety if the gates were opened to allow access to the applicants' property. Alternatively, the gates would have to be moved.
46. In their application for building consent, the applicants included a site plan that included a driveway from the rear of their property to Waitikiri Drive. It was of sufficient width for the purpose and complied with Council standards.
47. Also on the plan was a statement that the existing office/garage was to be removed and a new, replacement structure built elsewhere on the property. The applicants had previously advised Council staff, and elected members, that there was not enough room for a driveway and that Mr Leenen could not find a contractor prepared to demolish the office/garage.
48. Building consent for the dwelling was granted on the basis of the site plan submitted with the application. No impediment exists that would prevent the applicants from continuing with and completing the development of their property as outlined in the application.
49. For this reason, and those set out in this report, the Legal Services Unit view is that Councillors should not consider revoking the Corporate Support Manager's delegated authority in this matter. The applicants do not need access to their property over Council land. There is a viable alternative.
50. In February 2008 the Chief Executive, Tony Marryatt, reviewed the matter. He has advised the Legal Services Unit as follows:
 - (a) Since 2002 the applicants have been requesting access over Council land to their property at 8 Waitikiri Drive. Council staff, under delegated authority, have continued to deny such access.
 - (b) The original reason for refusing the application was that the area behind the applicants' property is stopped road, being managed as part of Bottle Lake Plantation, the stopped road being part of the fire break between the plantation and adjacent residential land.
 - (c) As a rule all applications for vehicle easements over reserve land are turned down. The reasons for this are:
 - (i) To protect the future use of the land;
 - (ii) Because formed roads are created for access to private properties.

5 Cont'd

- (d) Of concern is the precedent effect if access is given to properties over Council reserves when they already have access to a formed road.
 - (e) The applicants applied for consent to develop the property at 8 Waitikiri Drive in mid 2006. The consent applied for clearly shows access from Waitikiri Drive to the new house at the back of the section. The plan accompanying the application describes demolishing the existing office and also the fall from the front to the back of the section. Council staff have approved both the width and the fall of the proposed access to the new house.
 - (f) In summary, it would have been preferable for the applicants to obtain access to their property from the Burwood Landfill private road. They applied for and were denied access. The applicants then applied for consent to develop their property which was granted. The consent showed the demolition of existing buildings and access from Waitikiri Drive.
51. A decision to revoke an officer's delegation to enable a one-off decision to be made and then to reinstate it is an unusual step to take. There must be compelling reasons for elected members to cross the boundary between governance and management. Whether or not to grant an easement over Council land is clearly a management matter and one that has been dealt with hundreds of times without incident. Because two individuals do not accept a decision that goes against their wishes, is not sufficient reason to revoke the authority of a staff member to make that decision. To do so would undermine the confidence staff have that decisions made in the valid discharge of their delegated authority will be supported by elected members.

THE OBJECTIVES

52. The main objective of this report is to respond to the Council's request for staff to report back on the matter of whether or not the Council should consider revoking the delegated authority of the Corporate Support Manager in so far as it affects the property at 8 Waitikiri Drive.

THE OPTIONS

Option 1

53. The first option is to maintain the status quo and to do nothing. The decision of the Corporate Support Manager would remain in force. The applicants would continue with their development in accordance with the building consent granted by the Council.

Option 2

54. The second option is to revoke the Corporate Support Manager's delegated authority to grant or decline consent to easements over Council property. The delegation could then be reinstated without the ability to grant or decline consent to the right of way easement over the Council's land adjoining the property at 8 Waitikiri Drive. The owners of that property would then reapply to the Council for consent and this would be dealt with by elected members. In accordance with the decision-making requirements imposed on them by the Local Government Act 2002. They would be considering the same matters that staff have already considered.
55. If Councillors propose that the easement is to be granted the matter will have to be put out for public consultation. If the proposal is supported, the applicants would then have to apply for sub-division consent.

THE PREFERRED OPTION

Option 1

56. The first option is the preferred option.

6. CHRISTCHURCH CITY HOLDINGS LTD - DRAFT STATEMENT OF INTENT FOR YEAR ENDING 30 JUNE 2009

General Manager responsible:	General Manager Regulation and Democracy Services DDI 941-8549
Officer responsible:	General Manager Regulation and Democracy Services
Author:	Peter Mitchell

PURPOSE OF REPORT

1. The purpose of this report is to present the Christchurch City Holdings Ltd (CCHL) Statement of Intent (Sol) for the year ending 30 June 2009.
2. The Local Government Act 2002 provides that the Council, as 100% shareholder of CCHL, must make any comments on the Sol to CCHL by 30 April 2008. CCHL must then consider these comments and deliver its completed Statement of Intent to the Council by 30 June 2008.
3. The Council, as shareholder, is invited to comment on the attached document.
4. The CEO of Christchurch City Holdings Limited will be at the meeting to answer questions.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Receive the draft Statement of Intent for CCHL.
- (b) Decide whether or not to make any comments to CCHL regarding the draft 2008/09 Statement of Intent.

**7. CCHL AND VBASE GROUP HALF YEARLY REPORT TO 31 DECEMBER 2007
STATEMENT OF INTENT FOR CIVIC BUILDING LTD FOR 2007/08 AND SUBSIDIARY
STATEMENTS OF INTENT FOR 2008/09**

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8549
Officer responsible:	General Manager Regulation and Democracy Services
Author:	Peter Mitchell

PURPOSE OF REPORT

1. The purpose of this report is to:
 - Receive the Christchurch City Holdings Ltd (CCHL) and Vbase Group half year report to 31 December.
 - Agree to the Statement of Intent for Civic Building Ltd for the year ending 30 June 2008.
 - Receive the draft Statements of Intent for the CCHL subsidiary and associate companies and the draft Statements of Intent for the Council owned subsidiaries.
 - Decide whether or not to make any informal comment to CCHL regarding the draft Statements of Intent for the CCHL subsidiary and associate companies.
 - Decide whether or not to make any formal comment on the Statement of Intent for the three Council owned subsidiary companies.
 - If the Council does not wish to make any formal comment, then the Council agree to the Statements of Intent.

EXECUTIVE SUMMARY

2. The Council has received a number of documents from the Chief Executive of Christchurch City Holdings Ltd which are listed below:
 - (a) CCHL and Vbase Group half year report to 31 December 2007 (Attachment A).
 - (b) Draft Statement of Intent for Civic Building Ltd for the year ending 30 June 2008. (Attachment B).
 - (c) Draft Statements of Intent for the CCHL subsidiaries and associated companies (Attachment C). CCHL is the shareholder of these companies. Those companies are:
 - Orion Group Limited
 - Christchurch International Airport Limited
 - Lyttelton Port Company Limited
 - Red Bus Limited
 - City Care Limited
 - Christchurch City Networks Limited
 - Selwyn Plantation Board Limited
 - (d) Draft Statements of Intent for the 2008/09 year for the Council owned subsidiaries (Attachment D), of which CCHL has a monitoring role on behalf of the Council:
 - Vbase Limited
 - Civic Building Limited
 - Tuam Limited

7 Cont'd

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Receive the CCHL half year report to 31 December 2007 for the parent company and the group, and also the half year reports of the Vbase group of companies.
- (b) Agree to the Statement of Intent for Civic Building Ltd for the year ending 30 June 2008.
- (c) Receive the draft Statements of Intent for the CCHL subsidiary and associate companies and the draft Statements of Intent for the Council owned subsidiaries.
- (d) Decide whether or not to make any informal comment to CCHL regarding the draft Statements of Intent for the CCHL subsidiary and associate companies.
- (e) Decide whether or not to make any formal comment on the Statement of Intent for the three Council owned subsidiary companies.
- (f) If the Council does not wish to make any formal comment, then the Council agree to the Statements of Intent.

BACKGROUND

- 3. In February 2008 Vbase gained approval from its shareholder (CCHL) to amalgamate several of the companies in their group. It was felt that the legal structure was cumbersome and it did not reflect the governance and management structure that the shareholder had implemented. Those companies amalgamated were Christchurch City Facilities Ltd, Vbase Ltd and Vbase No 2 Ltd. These three companies now form a single company called Vbase Ltd.
- 4. With regard to the Statement of Intent for CCHL subsidiaries and associate companies the Council has been asked to provide comment to CCHL which has the statutory role under the Local Government Act 2002 of providing comments, or not as the case may be, to those subsidiary and associate companies by 30 April 2008. The Council's role with those companies is in the nature of providing informal comment to CCHL.
- 5. Last year there were separate Statements of Intent for Jet Engine Facility Ltd and Tuam 2 Ltd. As these companies are now subsidiaries of Vbase Ltd and Civic Building Ltd, they no longer require their own Statement of Intent.
- 6. With regard to the three Council owned subsidiaries the Council itself as the shareholder is entitled to formally make comments on the draft Statements of Intent for those five companies by 30 April 2008 and those companies must deliver the completed Statement of Intent to the Council by 30 June 2008.

8. MAYOR'S WELFARE FUND CHARITABLE TRUST

General Manager responsible:	General Manager Community Services
Officer responsible:	Community Support Unit Manager
Authors:	Robert O'Connor, Solicitor, Legal Services Unit & Robyn Steel, Team Leader Safer Christchurch, Community Support Unit

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's agreement as sole Trustee of the Mayor's Welfare Fund Charitable Trust to:
 - (a) Alter the Mayor's Welfare Fund Charitable Trust Deed to grant to the Council the power to nominate a person in the place of the Mayor as a member of the Mayor's Welfare Fund Charitable Trust Committee where the Mayor does not wish to act in that capacity and for that person to be the chairperson of the Committee in lieu of the Mayor; and
 - (b) Select the groups who may nominate members of the Mayor's Welfare Fund Charitable Trust Committee as required by the Trust Deed; and
 - (c) Alter the Mayor's Welfare Fund Charitable Trust Deed to allow Maori, Pacific and Refugee and Migrant representatives to be members of the Mayor's Welfare Fund Charitable Trust Committee; and
 - (d) Alter the Mayor's Welfare Fund Charitable Trust Deed to permit the delegation of the Trustee's powers of investment to certain Council Officers; and
 - (e) Update the list of nominated persons with authority to act as signatories of the Mayor's Welfare Fund Charitable Trust bank account.

EXECUTIVE SUMMARY

2. The Council is the sole Trustee of the Mayor's Welfare Fund Charitable Trust established by Deed of Trust dated 7 September 1992 (attached).
3. A number of amendments to the Deed of Trust are required to reflect current practice and a number of decisions of the Council as Trustee are required to comply with the terms of the Trust Deed.
4. The Trust Deed currently provides in clause 4.8(a)(ii) that the Mayor of Christchurch for the time being shall be a member of the Mayor's Welfare Fund Charitable Trust Committee. In addition clause 4.8A.4 of the Trust Deed provides that the Mayor shall be chairperson of that Committee. It is proposed, where the Mayor declines to accept appointment or wishes to discontinue his appointment, that the Council be given power to nominate a person to act as a member of that Committee in the Mayor's place and for that person to act as Committee chairperson in lieu of the Mayor.
5. The Mayor's Welfare Fund Charitable Trust Committee appointed under the Trust Deed currently includes representatives from the following agencies/organisations/sector/community groups:
 - Age Concern
 - Salvation Army
 - Catholic Social Services
 - Christchurch City Mission
 - Home and Family Christchurch Inc
 - Barnardos
 - Methodist Mission
 - Ministry of Social Development – Work and Income
 - Prisoners Aid and Rehabilitation
 - Refugee and Migrant Community
 - Presbyterian Support
 - St Vincent de Paul
 - Maori Community
 - Pacific Community

8 Cont'd

6. It is a formal requirement of clause 4.8(a)(i) of the Trust Deed that the Council as Trustee formally "selects" those groups entitled to representation on the Mayor's Welfare Fund Charitable Trust Committee.
7. The current wording of the Trust Deed does not expressly permit the appointment of representatives from the Maori, Pacific and Refugee and Migrant communities to the Mayor's Welfare Fund Charitable Trust Committee and accordingly it is necessary to amend the Trust Deed to formally permit that representation to occur.
8. The Trust Deed provides in clause 4.1 that "the Trustee [i.e. the Council] may invest any part of the Trust Fund by purchase, exchange or otherwise in such investments as the Trustee may in its uncontrolled discretion determine ...". To avoid the need for individual investment decisions to be referred to the Council as Trustee it is recommended that the Council as Trustee delegate its investment powers under the Trust Deed to certain specified Council officers.
9. By resolution dated 25 February 1999 the Council as Trustee granted authority to certain elected members and officers to act as signatories of the Trust's bank account. This authority needs to be updated to reflect the current operational structure of the Council organisation. It is therefore necessary for the Council as trustee to cancel or revoke all previous authorities in respect of the Trust bank account and to authorise any two of the holders from time to time of the following positions to be authorised signatories on that account:
 - Mayor of the City of Christchurch
 - Chairperson of the Mayor's Welfare Fund Charitable Trust Committee
 - General Manager Community Services
 - Community Support Unit Manager
 - Community Development Manager
 - Assistant Management Accountant
 - Team Leader Community Grants Funding

Financial implications

10. There are no financial implications.

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

11. Yes.

LEGAL CONSIDERATIONS

12. Clause 12 of the Trust Deed gives express power to the Council as Trustee to alter the Trust Deed "if in the opinion of the Trustee:
 - (a) The same is made to correct a manifest error.
 - (b) Is of a formal or technical nature.
 - (c) Is necessary to give the Trustee any further powers or discretions consistent with the terms of these Rules including (without limiting the generality thereof) a revision of the Trustee's powers of investment and allowance for continuing developments in areas relating to the Purposes.
 - (d) Is to allow the Trust to continue to be approved or to be approved by any relevant fiscal authority.
 - (e) Is necessary to allow the Trust to receive the benefit of any gift, grant or other funding.

PROVIDED THAT no such alteration shall be made if its nature or effect would be such as to derogate from the exclusive charitable nature of these presents."

8 Cont'd

13. The Legal Services Unit is of the opinion that the proposed changes to the Trust Deed are of a technical or formal nature and further, that they do not derogate from the exclusive charitable nature of the Trust Deed and that they are therefore permitted under clause 12 of the Trust Deed.
14. The Trust Deed currently provides in clause 4.8(a)(ii) that the Mayor of Christchurch for the time being shall be a member of the Mayor's Welfare Fund Charitable Trust Committee. In addition clause 4.8A.4 of the Trust Deed provides that the Mayor shall be chairperson of that committee ex officio.
15. It is proposed, where the Mayor declines to accept appointment or wishes to discontinue his appointment, that the Council be given power to nominate a person to act as a member of that Committee in the Mayor's place and for that person to act as Committee chairperson in lieu of the Mayor. If that proposal is to be adopted, it is necessary to amend the Trust Deed.
16. It is a formal requirement of clause 4.8(a)(i) of the Trust Deed that the Council as Trustee formally "selects" from time to time those "welfare groups" entitled to representation on the Mayor's Welfare Fund Charitable Trust Committee.
17. This clause provides that:

"... the committee shall mean a committee comprising:

 - (i) one nominee of each of that or those welfare groups selected by the Christchurch City Council from time to time at its discretion the welfare groups so selected at the date hereof set out in the list annexed hereto and marked with the letter "B".
18. To permit the formal 'selection' of those groups and organisations presently represented on the Mayor's Welfare Fund Charitable Trust Committee to occur it will be necessary to amend clause 4.8(a)(i) of the Trust Deed to remove the reference to "welfare" groups so that other groups, such as Maori, Pacific and Refugee and Migrant communities, may be represented.
19. In addition, in order to formalise the current Committee membership it is necessary for the Council as Trustee to formally by way of resolution "select" in terms of the Trust Deed those groups entitled to representation on the Mayor's Welfare Fund Charitable Trust Committee.
20. The Trust Deed provides in clause 4.1 that "the Trustee [i.e. the Council] may invest any part of the Trust Fund by purchase, exchange or otherwise in such investments as the Trustee may in its uncontrolled discretion determine...".
21. Clause 4.8(a) of the Trust Deed permits the Council as Trustee to "delegate at any time or times and to the Committee any of the Trusts, powers, authorities or discretions vested in the Trustee by these rules {which includes the Trustee's powers of investment] as and when it shall see fit upon such terms and conditions and under such regulations (including the power to sub-delegate) as the Trustee may think fit ...". Presently, this clause only permits the delegation of such powers to the Trust Committee. If it is considered appropriate to delegate those powers not to the Trust Committee but to certain specified Council officers then it will be first necessary to alter clause 4.8(a) to permit this to occur.
22. Under clause 5.9 of the Trust Deed the Council as Trustee is granted the power to "open bank accounts or other accounts with any bank firm company or person and for such purpose to delegate the right to operate on any such account to any person or persons ...". By resolution dated 25 February 1999 the Council granted authority to certain elected members and officers to act as signatories of the Trust's bank account. This authority needs to be updated to reflect the current operational structure of the Council organisation.

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

23. Yes – see above discussion.

8 Cont'd

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

24. Yes

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

25. Yes

ALIGNMENT WITH STRATEGIES

26. Strengthening Communities Strategy

Do the recommendations align with the Council's strategies?

27. Yes

CONSULTATION FULFILMENT

28. Not applicable

STAFF RECOMMENDATION

It is recommended that the Council as Trustee of the Mayor's Welfare Fund Charitable Trust, and with effect from the date of this resolution, resolves:

- (a) That pursuant to clause 12 of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 that the said Trust Deed be altered as follows:
 - (i) By deleting in clause 4.8(a)(ii) the words "the Mayor of Christchurch City for the time being" and substituting them with the words "the Mayor of the City of Christchurch for the time being, or where the Mayor declines to accept such appointment or wishes to discontinue such appointment, such other person as shall be appointed by the Christchurch City Council PROVIDED THAT where the Christchurch City Council shall appoint such other person as aforesaid that person shall hold office as a member of the Committee at the pleasure of the Christchurch City Council, but shall in any event vacate office upon the expiry date of the term of office of the Christchurch City Council which appointed that nominee"; and
 - (ii) By deleting in clause 4.8A.4(a) the words "The chairperson of the Committee shall be the Mayor of Christchurch ex officio" and substituting them with the words "The chairperson of the Committee shall be the Mayor of the City of Christchurch for the time being ex officio or where the Mayor declines to accept such appointment or wishes to discontinue such appointment then the chairperson of the Committee shall be that person appointed by the Christchurch City Council as a member of the Committee in the Mayor's place pursuant to clause 4.8(a)(ii) of this Deed and that person shall hold office as chairperson of the Committee for so long as that person shall hold office as a member of the Committee".
 - (iii) By adding in clause 4.8A.4(b) the words "or the chairperson appointed pursuant to clause 4.8A.4(a)" after the word "Mayor".
 - (iv) By deleting in clause 4.8(a)(i) the word "welfare" where ever it appears in that clause.
 - (v) By adding in the first line of clause 4.8(a) the words "or to any officer or employee of the Trustee" after the word "Committee".
 - (vi) By deleting clause 15.

8 Cont'd

- (b) That pursuant to clause 4.8(a)(i) of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 (as amended as above) that the following groups be selected to nominate from time to time one person each as a member of the Mayor's Welfare Fund Charitable Trust Committee:

- Age Concern
- Salvation Army
- Catholic Social Services
- Christchurch City Mission
- Home and Family Christchurch Inc
- Barnardos
- Methodist Mission
- Ministry of Social Development – Work and Income
- Prisoners Aid and Rehabilitation
- Refugee and Migrant Community
- Presbyterian Support
- St Vincent de Paul
- Maori Community
- Pacific Community

- (c) That pursuant to clause 4.8(a) of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 (as amended above) the Council's powers under clauses 4.1 to 4.6 inclusive be delegated to any two of the persons as shall hold from time to time the following Council officer positions:

General Manager Corporate Services
Corporate Finance Unit Manager
Senior Financial Accountant
Financial Accountant

- (d) That pursuant to clause 5.9 of the Mayor's Welfare Fund Charitable Trust Deed dated 7 September 1992 the persons holding the following Mayor's Welfare Fund Charitable Trust and Council elected and officer positions from time to time be formally granted delegated authority and authorised to be signatories of the Mayor's Welfare Fund Charitable Trust's bank account:

- Mayor of the City of Christchurch
- Chairperson of the Mayor's Welfare Fund Charitable Trust Committee
- General Manager Community Services
- Community Support Unit Manager
- Community Development Manager
- Assistant Management Accountant
- Team Leader Community Grants Funding

PROVIDED THAT the signatures of any two of the above persons shall be required to operate the Mayor's Welfare Fund Charitable Trust's bank account.

- (e) That all previous authorities in respect of the Mayor's Welfare Fund Charitable Trust's bank account are hereby cancelled.

8 Cont'd

BACKGROUND

29. The Council is the sole Trustee of the Mayor's Welfare Fund Charitable Trust established by Deed of Trust dated 7 September 1992.
30. The Trust Deed establishes a committee comprised of the Mayor of the City of Christchurch, one councillor of the Christchurch City Council and one nominee from each of the welfare groups listed in the Trust Deed.
31. The current powers of the Committee as delegated to it by the Council as trustee are limited to the power to set the grant criteria, to make grants and to sub-delegate grant decisions to the Mayor's Welfare Fund Charitable Trust administrators. The Committee has no other powers.
32. The Mayor's Welfare Fund Charitable Trust was originally established in 1897 as 'The Mayor's Coal and Blanket Fund'.
33. A bequest of \$556,000.00 was received from the estate of Mr Harry Philpott who died in 1949. In his will Mr Philpott left his Okuku farm to the children of his son, Douglas, subject to a life interest in favour of Douglas Philpott. The will also provided that if Douglas Philpott died without leaving children that the capital of the estate was to be gifted to the Coal and Blanket Fund operated by the Mayor of Christchurch. As Douglas Philpott died in 1994 without leaving children the capital of the estate accordingly passed to the Mayor's Welfare Fund Charitable Trust.
34. Following the Philpott bequest, the Mayor's Welfare Fund Charitable Trust was formally established to provide last resort relief funding to Christchurch citizens when all other alternatives for funding have been exhausted. Applicants to the fund must meet the criteria for the fund which is determined by the Mayor's Welfare Fund Charitable Trust Committee. The Mayor's Welfare Fund office is open 9am–3.30pm daily and is staffed by an administrator.
35. The Council as trustee resolved on 25 September 1996 that the capital sum of the Philpott Bequest of \$556,000 be retained on investment to provide an ongoing income for the Mayor's Welfare Fund Charitable Trust, with provision for access to the capital by the Mayor's Welfare Fund Charitable Trust provided it is first approved by the Council. The Mayor's Welfare Fund Charitable Trust relies on interest from the Philpott Bequest and grants from the Council and other organisations. Council staff currently reinvest half of the interest received from the Philpott Bequest fund annually in order to grow the capital base of the Trust. The Philpott Bequest fund balance at 31 December 2007 is \$598,688.
36. The Mayor's Welfare Fund currently receives the following annual grants:
 - \$50,000 from Christchurch City Council
 - \$20,000 from The Community Trust
 - \$12,000 from Meridian Energy
 - \$20,000 from AFW and JM Jones Foundation
37. A Statement of financial performance for the six months 1 July 2007 to 31 December 2007 is attached to this report.
38. In the 2007 calendar year 1,604 people visited the Mayor's Welfare Fund office for assistance, and 1,167 people were assisted with a grant.

9. CLEANFILL LICENSING BYLAW 2008

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	City Water and Waste Manager
Author:	Zefanja Potgieter, Asset and Network Planning

PURPOSE OF REPORT

1. The purpose of this report is to recommend the making of the Christchurch City Council Cleanfill Licensing Bylaw 2008, and to amend delegations relating to the current bylaw.

EXECUTIVE SUMMARY

The Bylaw

2. On 11 October 2007 the Council considered a proposed new Cleanfill Licensing Bylaw. The Executive Summary from the report before the Council at that time explained the following:
 - “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 licence 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.”
3. At the 11 October 2007 meeting the Council resolved:
 - “(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.”
4. During the special consultative procedure period, 17 October to 21 November 2007, no submissions were received and therefore there was no need to appoint a hearings panel.
5. The bylaw is therefore submitted to the Council in the same form as the special consultative procedure version, with the recommendation that it be adopted as is, and that it becomes effective on 1 July 2008 as the Christchurch City Council Cleanfill Licensing Bylaw 2008.

9 Cont'd

Delegations

6. There are delegations made under the 2003 Bylaw which also need to be amended and new delegations made in relation to the new Bylaw (to also come into effect on 1 July 2008). Currently the Council Hearings Panel has the following power delegated to it:

"The powers under clause 3.5(b) of the Christchurch City Cleanfill Licensing Bylaw 2003 and under clause 12 of the Christchurch City General Bylaw 1990 to determine whether or not any licence issued under the Christchurch City Cleanfill Licensing Bylaw 2003 should be revoked or suspended."

7. The City Water and Waste Manager is also currently delegated the following powers:

"10. All of the Council's powers under clauses 3.1 and 3.3 of the Christchurch City Cleanfill Licensing Bylaw 2003; and

11. The power to issue and serve upon the holder of any licence issued under clause 3.1 of the Christchurch City Cleanfill Licensing Bylaw 2003 a notice, pursuant to clause 12(1) of the Christchurch City General Bylaw 1990, calling on that person to show cause why that person's licence should not be revoked or suspended; and

12. The power to initiate any prosecution for any offence against the Christchurch City Cleanfill Licensing Bylaw 2003, together with the power to make any decision on any matter relating to such prosecution; and

13. The power to apply to the District Court for an injunction restraining any person from committing a breach of any provision of the Christchurch City Cleanfill Licensing Bylaw 2003; and

14. The power to take enforcement action against any person who breaches any such injunction and to make any decision in any matter relating to such action."

8. These powers are still applicable under the new Bylaw, as clauses 3.1 and 3.3 still apply to the granting of licences. There are also delegations to enforcement officers "for the purpose of detecting offences against the Christchurch City Cleanfill Licensing Bylaw 2003" which will also need to be amended to refer to the new Bylaw.

STAFF RECOMMENDATION

It is recommended that the Council resolve:

- (a) To adopt the Christchurch City Council Cleanfill Licensing Bylaw 2008 which is attached to this report and which is to come into force on 1 July 2008.
- (b) To advertise the adoption of the Bylaw in "The Press" and the "Christchurch Star" on Saturday 3 May 2008 and other suitable community newspapers at or close to that time.
- (c) To amend the delegation to the Council Hearings Panel on page 13 of the delegations register so that from 1 July 2008 it reads:

"The powers under clause 3.7(b) of the Christchurch City Council Cleanfill Licensing Bylaw 2008 and under clause 12 of the Christchurch City General Bylaw 1990 to determine whether or not any licence issued under the Christchurch City Council Cleanfill Licensing Bylaw 2008 should be suspended or cancelled."

9 Cont'd

- (d) To amend the delegations to the City Water and Waste Manager on page 34 of the delegations register so that from 1 July 2008 they read:
- “10. The Council’s power to grant licences under clauses 3.1 and 3.3 of the Christchurch City Council Cleanfill Licensing Bylaw 2008; and*
 - 11. The power to issue and serve upon the holder of any licence issued under clause 3.1 of the Christchurch City Council Cleanfill Licensing Bylaw 2008 a notice, pursuant to clause 12(1) of the Christchurch City General Bylaw 1990, calling on that person to show cause why that person’s licence should not be revoked or suspended; and*
 - 12. The power to initiate any prosecution for any offence against the Christchurch City Council Cleanfill Licensing Bylaw 2008, together with the power to make any decision on any matter relating to such prosecution; and*
 - 13. The power to apply to the District Court for an injunction restraining any person from committing a breach of any provision of the Christchurch City Council Cleanfill Licensing Bylaw 2008; and*
 - 14. The power to take enforcement action against any person who breaches any such injunction and to make any decision in any matter relating to such action. (and delete the repeated delegations in paragraphs 18 to 22)”*
- (e) To amend all other delegations to enforcement officers in the delegations register concerning the enforcement of the Christchurch City Cleanfill Licensing Bylaw 2003 to refer to the Christchurch City Council Cleanfill Licensing Bylaw 2008 from 1 July 2008.

10. INTERIM GLOBAL STORMWATER RESOURCE CONSENT

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Asset and Network Planning Manager
Author:	Richard Holland, Asset and Network Planning

PURPOSE OF REPORT

1. An application for an interim seven-year global consent from Environment Canterbury to approve certain stormwater discharges within the Christchurch City Council Stormwater Management Area will be lodged. This is a reasonable interim solution to addressing stormwater discharges within the city to prescribed limits while Integrated Catchment Management Plans (ICMPs) are prepared.

EXECUTIVE SUMMARY

2. The proposed Natural Resources Regional Plan prepared by Environment Canterbury (ECan) was publicly notified in July 2004 and rule WQL7 requires that all territorial authorities prepare Integrated Catchment Management Plans (ICMPs) and obtain resource consents to authorise the discharges of stormwater from their stormwater management networks. The Christchurch City Council Stormwater Management Area will have 10 ICMP's based on the main physical surface water catchment areas in the city (refer attachment). These are Avon, Estuary, Halswell, Heathcote, Otukaikino, Styx, Akaroa, Lyttelton, Northern Bays and Southern Bays. A report on the pilot ICMP for south-west Christchurch will be brought to the Council in May 2008.
3. The discharges of stormwater into land or receiving water within the Christchurch City Stormwater Management Area require authorisation under section 15 of the Resource Management Act 1991. In March 2006 the Council and Environment Canterbury agreed to a joint protocol to guide the development of ICMPs for Christchurch City.
4. Developed in consultation with ECan the application for an interim seven-year global consent will authorise the Council to assess and be the approving authority for stormwater discharges as delegated and allowed by the consent granted by ECan for small to medium sized development. This will improve the efficiency of the consenting process by reducing time delays and inconsistencies that currently occur for new developments within Christchurch City. Thousands of various building and subdivision consents received annually within the rules for stormwater discharges as contained in the Proposed Natural Resources Regional Plan (PNRRP) will be processed in a timely and consistent manner within the parameters as set by the global consent. As Integrated Catchment Management Plans (ICMPs) are prepared, global consent areas will be replaced by the ICMP's. Consent conditions for the discharge of stormwater to land and water have been discussed with ECan and it is envisaged that they will be approved as requested with conditions that can be achieved.

FINANCIAL IMPLICATIONS

5. The duration for this consent is seven years as it is considered that this duration is appropriate to allow for the preparation of each ICMP required for the Council territorial authority area. It is intended that as ICMP's for a particular area are consented, these areas will be surrendered from this global interim consent.

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

6. Under the interim global consent the Council will be the approving authority as delegated by ECan for residential development of under 4 hectares on the flat and under 2 hectares on the hills. Non residential larger developments will still require an ECan consent to discharge stormwater on the hills and for larger hard standing areas on the flat.

10 Cont'd

7. As one of the approving authorities the Council will need experienced professional staff to set the conditions for discharge consents and monitor the effects as provided for under the PNRRP for water quality and quantity. The Council intends to ensure that those resources are in place as the ICMP's programme is rolled out. The adoption of this interim global consent will assist the Council in identifying the exact resource requirements that will be needed for the future monitoring and consenting processes. Initially it is considered that additional resources may be required as the Council takes on a more active role as a consenting authority, a role currently with ECan. Until the work commences it is unclear if the existing resources currently involved in the subdivision consent process and the environmental monitoring will be able to fully support the transition provided by the global consent. Resources to support the implementation of interim global consent and the introduction of ICMP's (the first at the end of 2008) will be reviewed once some experience in the processing of consents and the impact on monitoring has been established. This would flow through into the 09/29 LTCCP programme.
8. Currently ECan have a charging system in place to process consent applications, it would be prudent for the Council to review its current consent charges to ensure that any additional funding required to support the global consent process and the future ICMP's is put in place. Officers can currently charge their time to process an application.

LEGAL CONSIDERATIONS

9. The discharges of stormwater into land or water within the Christchurch City Stormwater Management Area require authorisation under section 15 of the RMA 1991 unless the discharges are expressly allowed by a rule in a regional plan or resource consent. There are four regional plans that are relevant when considering whether discharges of stormwater require consent in the Canterbury region.

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

10. There are four regional plans that are relevant when considering whether discharges of stormwater require consent in the Canterbury region. These are the Transitional Regional Plan, the Proposed Canterbury Natural Resources Regional Plan, the Regional Coastal Environment Plan, and the Waimakariri River Regional Plan. The proposed Natural Resources Regional Plan prepared by Environment Canterbury (ECan) was publicly notified in July 2004 and rule WQL7 requires that all territorial authorities prepare Integrated Catchment Management Plans (ICMP's) and obtain resource consents to authorise the discharges of stormwater from their stormwater management networks.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. Activity Management Plans and the LTCCP state the Council provides and operates the city's stormwater system, manages the waterways into which it discharges, and protects and enhances the life supporting capacity of the city's waterways and wetlands.

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

12. Mitigating the risk of flooding within the city through network design and response during rainfall events. Levels of service are that the proportion of properties with no nuisance flooding during a normal rain event is 99%.

ALIGNMENT WITH STRATEGIES

13. As part of the Surface Water Strategy currently under development, a main part will be to prioritise the preparation and consent of Integrated Catchment Management Plans. These plans will focus on areas of the city, and as already agreed by the Council and ECan, joint protocol to guide the development of ICMP's for Christchurch City. The first ICMP's will be southwest Christchurch and Belfast to meet the needs of area plans.

10 Cont'd

Do the recommendations align with the Council's strategies?

14. Prior to the completion of area plans and the development of ICMP's as required by the PNRRP, the global consent will ensure the following actions are undertaken during the term of the consent.
- Continue the existing environmental monitoring programme and develop it further to meet the needs of the future ICMP requirements.
 - Continue to work with Environment Canterbury to progress the implementation of ICMP's.
 - Apply the rules of the global consent to all development proposals submitted to the Council within the parameters of developments generally under 4 hectares on the flat and under 2 hectares on the hills.

CONSULTATION FULFILMENT

15. The Council and Environment Canterbury agreed to a joint protocol to guide the development of ICMPs for Christchurch City. The requirement for ICMP's is contained within the ECan Proposed Natural Resources Regional Plan which has been consulted on. Environment Canterbury is the consenting authority under the RMA 1991. The interim global consent gives the Council certain powers with a similarity to those contained in the Transitional Regional Plan to approve certain residential developments within parameters set by the consent. Larger non-residential developments will still require a discharge consent from ECan. Notification of the interim global consent rests with ECan.

STAFF RECOMMENDATION

It is recommended:

- (a) That the Council approve the process of applying for an interim global stormwater consent from Environment Canterbury for seven years while Integrated Catchment Management Plans are developed for the 10 natural surface water catchments in the Christchurch City Council Stormwater Management Area.
- (b) That the Council be the approving authority for stormwater discharges as delegated and allowed by the consent granted by ECan for small to medium sized development.
- (c) That Council charges for processing subdivision requests are reviewed.

10 Cont'd

BACKGROUND (THE ISSUES)

16. The Proposed Natural Resources Regional Plan for Canterbury requires that territorial authorities prepare Integrated Catchment Management Plans and obtain resource consents to authorise the discharge of stormwater from their stormwater management networks. Stormwater management in Canterbury in the past has been managed in a fragmented manner. Each development is generally assessed individually and this can result in the development of isolated stormwater systems with varying requirements for treatment, maintenance and monitoring.
17. In March 2006 the Council and ECan agreed to a joint protocol to guide the development of ICMP's for Christchurch City. The Planning and Consents Protocol for Surface Water Management established the initial principles, policies, and procedures, for the development and consenting of the various ICMP catchments identified within the city. The catchment boundaries for each ICMP catchment are determined on the basis of the relationships between land and water environments. Area plans which provide a framework for future land use change and ICMP's are being prepared concurrently. The ICMP's form an integral part of the area plans especially those being developed for the city's high growth areas. Table 2.1 of the Protocol sets out the ICMP catchments for Christchurch and their corresponding area plans. Southwest Christchurch will be the first ICMP to be initiated.
18. Work involved for preparing the first ICMP for the southwest area plan has been extensive and time-consuming and it is expected that coverage of the whole Council territorial area through ICMP's will be a lengthy process. In the meantime development continues and there are inconsistencies in the way stormwater discharge consents are dealt with in terms of both the consenting process and with respect to consent requirements for each individual development.

THE OBJECTIVES

19. The interim global consent will allow the Council to manage stormwater discharges into and out of their system in an integrated way. The Council currently holds over 40 separate consents incorporating over 400 conditions for the operation and maintenance of the city's land drainage system. This interim global consent if granted would replace these consents and will provide the Council with the opportunity to implement integrated solutions to managing, maintaining and monitoring the effectiveness of the systems in place and the resulting effects on the environment. The consent would authorise discharges from the Council stormwater reticulated network and discharges into the system provided certain conditions were met. Obviously this would drastically reduce the number of smaller and medium range applications referred to ECan for stormwater discharge consents. By setting resource consent conditions for the interim global consent developers and Council staff can ensure that a consistent and integrated approach to stormwater management is achieved. The interim global consent will set conditions that are not at a level required by a full ICMP. It will also allow time to prepare ICMP's as required by the Proposed Natural Resources Regional Plan.

THE OPTIONS

20. The options are for Environment Canterbury to consent all individual stormwater discharge consents or share the responsibility with the Council as will be the situation when the ICMP's are in place and the Council will be responsible for meeting the stormwater network and quality and quantity environmental discharge consent conditions as set by ECan.
21. In March 2006 the Council and Environment Canterbury agreed to a joint protocol to guide the development of ICMPs for Christchurch City. Developing ICMP's will take time and in the meantime an interim global consent can be put in place and replaced by ICMP's as they are consented.

10 Cont'd

THE PREFERRED OPTION

22. The preferred option is to prepare for the introduction of ICMP's and use the interim seven-year global consent from Environment Canterbury to approve stormwater discharges within the Christchurch City Council Stormwater Management Area. In March 2006 the Council and Environment Canterbury agreed to a joint protocol to guide the development of ICMPs for Christchurch City. Developing ICMP's will take time and in the meantime an interim global consent can be put in place and replaced by ICMP's as they are consented. By setting resource consent conditions for the interim global consent, developers and Council staff can ensure that a consistent and integrated approach to stormwater management is achieved. The interim global consent will set conditions that are not at a level required by a full ICMP. It will also allow time to prepare ICMP's as required by the Proposed Natural Resources Regional Plan.

ASSESSMENT OF OPTIONS**The Preferred Option**

23. An interim seven-year global stormwater discharge consent from Environment Canterbury.

	Benefits (current and future)	Costs (current and future)
Social	Surface water is managed and communities do not experience flooding.	
Cultural	Communities are involved in decisions concerning waterway management.	
Environmental	Integrated catchment management planning. Protection of natural waterway and wetlands and environmental assets.	
Economic	Sustainable management and development of land drainage infrastructure to meet city growth requirements.	
<p>Extent to which community outcomes are achieved:</p> <p>A safe city where flood hazards are controlled and managed to provide for a healthy residential environment. The natural assets of the waterways and wetlands are protected.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>The Council has a responsibility under the PNRRP to prepare integrated catchment management plans. The interim global consent allows seven years for these to be consented for the various catchments in the city which will have different consent conditions.</p> <p>Effects on Maori:</p> <p>Protection of natural asset waterways and surface water quality and quantity.</p> <p>Consistency with existing Council policies:</p> <p>The CCC and ECan Protocol for surface water management has set the principles policies and procedures for the development and consenting of the various ICMP catchments identified in the city.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Under Area Plans the ICMP's will be consulted with the communities. They will reflect the land use and community characteristics and the relationships between land and water environments.</p> <p>Other relevant matters:</p>		

10 Cont'd

Maintain the Status Quo (if not preferred option)

24. There is no status quo. The other option is for ECan to approve all individual stormwater consents while the Council accelerates the ICMP programme.

	Benefits (current and future)	Costs (current and future)
Social	Surface water is managed and communities do not experience flooding.	
Cultural	Communities are involved in decisions concerning waterway management.	
Environmental	Integrated catchment management planning. Protection of natural waterway and wetlands and environmental assets.	
Economic	Sustainable management and development of land drainage infrastructure to meet city growth requirements.	
<p>Extent to which community outcomes are achieved:</p> <p>A safe city where flood hazards are controlled and managed to provide for a healthy residential environment. The natural assets of the waterways and wetlands are protected.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>To develop 10 ICMP's in a short period would be virtually impossible given the time it has taken (over three years) to understand the south-west Christchurch surface water and ground water systems and develop an ICMP for the southwest area plan.</p> <p>Effects on Maori:</p> <p>Non-integrated catchment planning but individual site by site consents do not achieve the overall picture in protecting the waterways and water quality and quantity.</p> <p>Consistency with existing Council policies:</p> <p>Would meet the terms of the Protocol with ECan and Council, but would be impossible to deliver in the short time frame.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Views will be sought as part of area plan process or through ICMP's if they are developed outside the area plans. The two are integrated and should be worked together where possible. Accelerating the ICMP's means that only surface water would be considered in isolation of other planning use and asset networks development.</p> <p>Other relevant matters:</p>		

11. CHRISTCHURCH BOTANIC GARDENS CENTRE

General Manager responsible:	General Manager Capital Programme, DDI 941-8235
Officer responsible:	Transport & Greenspace Manager
Author:	Matt Cummins

PURPOSE OF REPORT

1. The purpose of this report is to inform the Council of progress to date on the Botanic Gardens Centre project, advise on scope and budget, and to seek approval to proceed with the proposed design competition.

EXECUTIVE SUMMARY

2. Following a recommendation from the Hearings Subcommittee, the Council adopted "Concept 1" in Appendix 4 of the Draft Hagley Park/Botanic Gardens Master Plan as a preferred site for the location of a new combined visitor centre/staff facility. (This is the location of the existing nursery and staff quarters, situated across the river from the main car park, off Rolleston Avenue.) Specifically, "a new, re-developed visitor/information and operational facility, (supported to be a building complex that can achieve a six green star NZ certified rating, to be designed by competition, and referred to, initially at least, as the Botanic Gardens Centre").
3. The Hearings Subcommittee also recommended a combined pedestrian and vehicle access bridge from the Armagh Street driveway in North Hagley Park across the Avon River to the recommended site for the proposed facilities to be built in the Botanic Gardens. The bridge will reduce the necessity for service vehicles to drive through the Botanic Gardens.
4. Over the past six months Council staff have been working on the planning aspects of this project and a core team has been formed to look at some of the issues in more detail.
5. The project team wishes to proceed in 2008 with the appointment of an assessment panel and an invited design competition to select an architect/lead consultant.

FINANCIAL IMPLICATIONS

6. Current project budget in the 2006-16 LTCCP is \$10m:

2007/08 - \$189,000
2008/09 - \$2,850,000
2009/10 - \$7,000,000

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

7. The former City Solutions Unit drafted a project brief in 2003. The functional requirements in this brief were reviewed and costed by an independent quantity surveyor in December 2007.
 - (a) Construction cost (including demolition, landscaping and fit-out) - \$9.6m
 - (b) Professional fees and consents – \$1.7m

The above figures do not include inflation or project contingency.

8. Included in the Hearing Subcommittee's recommendation is a new access bridge across the river and into the site. It is proposed that the bridge, identified in the Hagley Park/Botanic Gardens Master Plan, is included in this project as a "service-vehicle"-only bridge with the existing pedestrian bridge remaining as the main entrance point for visitors. It should be noted that there is currently no funding in the LTCCP for the bridge. Anticipated cost is approximately \$1m and funding will be a Council decision through the LTCCP process.
9. In order to minimise disruption to the rest of the Gardens and to avoid heavy vehicle traffic travelling through from Rolleston Avenue, it is proposed that a temporary bridge is erected across the river and into the site during the construction period. This will eventually be replaced with a more permanent structure if the Council resolves that this should happen.

11 Cont'd

10. Point no. 14 in the Report of the Hagley Park/Botanic Gardens Subcommittee (August 2007) states that "the additional cost for an environmentally green building has not been estimated". Professional advice sought on this matter suggests an additional cost of 10% to 15% of the total budget. The objective to achieve "six green star" environmental accreditation should be reviewed in terms of the additional expenditure versus value added. It is understood that no "six green star" building exists in New Zealand and that there is currently no tool available to assess compliance of a public building. The "six green star" accreditation is extremely difficult to achieve and is largely a good marketing opportunity. It also relies heavily on stringent compliance and ticking the right boxes. Consideration should be given to the fact that an environmentally sustainable, green building does not have to be a "Six Green Star Building".
11. The total budget will be specifically stated in the design competition brief and the successful consultant will be asked to produce a design to meet this requirement.

LEGAL CONSIDERATIONS

12. None

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

13. N/A

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. The replacement of the Botanic Gardens visitor centre and an upgrade of staff facilities is a major capital project in the Long-Term Council Community Plan 2006-2016.

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

15. Yes

ALIGNMENT WITH STRATEGIES

16. Hagley Park and Botanic Gardens Master Plan 2006

Do the recommendations align with the Council's strategies?

17. Yes

CONSULTATION FULFILMENT

18. Consultation was undertaken on the Hagley Park and Botanic Gardens Master Plan. At this stage, no further consultation is planned for the Botanic Gardens Centre.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Appoint an assessment panel consisting of (suggested) a Chairperson, the Transport and Greenspace Manager, Botanic Gardens Operations Manager, Botanic Gardens Curator, an architect, a landscape architect and a nominated elected member. The panel will be supported by relevant Council staff.
- (b) Instruct staff, in consultation with the panel, to proceed with registrations of interest.
- (c) Request the panel to shortlist consultants to participate in the design competition.
- (d) Invite those successful to provide a design for a green building to the highest possible standard within budget.
- (e) Request the panel to recommend to the Council the preferred design concept.

11 Cont'd

BACKGROUND

19. It is proposed that a consultant be engaged (through a competition process) to provide a full architectural and engineering service. The selection process will occur in two stages. Stage 1 will invite all consultants to register expressions of interest in the project. These expressions will be evaluated by an appointed assessment panel, comprising of both Council staff and external advisers. In Stage 2, the successful consultants will be invited to participate in an invited design competition, with a pre-determined fee paid to each consultant.
20. An external architect (Professor John Hunt, University of Auckland) has been engaged as a competition adviser based on his extensive experience of design competitions. It is proposed that Professor Hunt be asked to chair the assessment panel. A probity specialist (Pricewaterhouse Coopers) has also been engaged to ensure that the Council follows a thorough, fair and transparent process throughout the competition.
21. REBRI methodologies (Resource Efficiency in the Building and Related Industries) will be applied during demolition and construction. The new building will incorporate sustainable strategies and technologies, where possible, and will be an iconic 'green' building for the city of Christchurch.
22. The project to construct a new bridge is inextricably linked to the Botanic Gardens Centre but currently has no funding in the LTCCP. It is proposed initially, that a temporary bridge will be constructed across the Avon River to allow vehicles and machinery to access the site and to reduce the impact to the Gardens from heavy vehicles accessing from Rolleston Avenue.
23. It is proposed that the current visitor centre be demolished (along with the nursery) and the adjacent area landscaped to direct pedestrians towards the new facility. Investigations into relocating the existing visitor centre concluded that it would need to be split into several sections to manoeuvre it through the Gardens which would prove very costly. There may be opportunities to find a new use for the existing building. However, it is located directly in front of the project site and so the assumption for now is that it will be demolished.
24. Options for the existing café are currently being explored and advice being taken from the Council's property consultants. It is assumed, however, that this building will remain as a drinks/ice cream outlet but that the main leaseholder will be based in the café within the new Centre. A newly constructed café/kitchen will be reasonable in size and will be cater towards sandwiches and coffees rather than a large scale restaurant catering for outside functions.
25. Achieving Green Star accreditation is attainable but adds considerable cost to the project, (in the region of 10% to 15%). A good example of a five star accredited project is the Meridian Building in Wellington (www.meridianbuliding.co.nz). There may be an opportunity for the Christchurch City Council, in partnership with other councils, to fund and develop a tool for assessing Green Star compliance of public buildings.
26. New staff facilities are included within the scope of this project. It is acknowledged that the current staff facilities are inadequate. Storage is one of the biggest concerns for Gardens staff and whilst there is extensive space needed for the storage of plants, there are also collections of books, archives, records and a herbarium that needs to be housed. These are all utilised on a regular basis by staff and more rarely by members of the public. Solutions should allow for future growth, alteration and take into account the varying demands of the public, the Council and the botanical community.
27. The Botanic Gardens is envisaged as a facility that can support the science community and provide limited opportunities for research and the development of students and knowledge in the academic environment. To this end it is important that there is opportunity to provide space and facilities (generally computer facilities and bench space for prep.) for both post and undergraduate students to work within the Botanic Gardens environment.

11 Cont'd

28. Permanent staff within the Gardens have core duties that involve research and need to be accommodated within the facilities. These generally include seed cleaning, preparation and storage, sample storage and maintenance of plant records.

THE OBJECTIVES

29. The key objective is to prepare the existing site for the new building(s), construct a sustainable combined visitor and staff facility to meet the requirements of the City Council, Botanic Gardens staff and the general public, and to find suitable accommodation for staff until the new facility is available for use.

THE OPTIONS

30. See paragraphs 33 and 34.

THE PREFERRED OPTION

31. To proceed with the design competition based on the current budget and appoint a lead consultant to commence design and drawings. A service-vehicle-only bridge will be included in the scope of the project (leading to the back of the nursery) and this will be subject to additional funding through the LTCCP process at a later date. In the meantime, the consultant will be asked to design and construct a temporary bridge into the site to avoid vehicle traffic from Rolleston Avenue, thus minimising disruption to the Botanic Gardens.
32. To apply for separate funding through the LTCCP/Annual Plan process for the construction of a service vehicle access bridge, linking the site to the Armagh Street driveway.

11 Cont'd

ASSESSMENT OF OPTIONS**The Preferred Option**

33. See point 32

	Benefits (current and future)	Costs (current and future)
Social	A focal point in the gardens for information, education, dining and retail.	Ongoing operational costs.
Cultural	N/A	
Environmental	Sustainable strategies and technologies to be employed.	Upfront cost of green technologies.
Economic	Centre to be designed within available budget.	Additional funding may be required and this will be submitted through the LTCCP.
<p>Extent to which community outcomes are achieved:</p> <p>There is clearly a need for both an upgrade to staff facilities and a centre that meets the needs of the huge numbers of visitors to the Gardens each year.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>Responsibility to run and maintain the new facility to an acceptable standard.</p> <p>Effects on Maori:</p> <p>Mahaanui Kurataiao Limited has been identified as a key stakeholder and will be kept informed of the project.</p> <p>Consistency with existing Council policies:</p> <p>This project is a major capital project in the Council's Long-Term Council Community Plan 2006-2016.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Environment Canterbury – regular communication. University of Canterbury – communication with Professor Paula Jameson (Head of School, Biological Sciences). Friends of the Gardens – regular stakeholder contact and discussion. Botanic Gardens staff.</p> <p>Other relevant matters:</p> <p>Ellerslie Flower Show - timing/staging of construction with an increase of visitor numbers.</p>		

11 Cont'd

Maintain the Status Quo (if not preferred option)

34. Maintaining the status quo

	Benefits (current and future)	Costs (current and future)
Social	Visual amenity of Gardens will remain if construction does not proceed	Inadequate visitor facilities and staff areas.
Cultural	No disruption to Potts Lawn	N/A
Environmental	No disruption to the Gardens.	Continued use of old technologies
Economic	Extensive saving of capital budget if the project does not go ahead. However ongoing maintenance costs.	Ongoing costs of repairing / replacing poor buildings and equipment
<p>Extent to which community outcomes are achieved:</p> <p>The status quo will result in little or minimal disruption to the Gardens but will not meet the requirements of both residents and visitors to the city.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>Clearly this is a large capital project and will consume much time and resource. It is anticipated that the Capital Programme Group will lead a project team comprising of Council staff and selected consultants.</p> <p>Effects on Maori:</p> <p>N/A</p> <p>Consistency with existing Council policies:</p> <p>N/A</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Generally positive support for the chosen location and a new facility.</p> <p>Other relevant matters:</p>		

12. CHRISTCHURCH CITY COUNCIL GRAFFITI OFFICE

General Manager responsible:	General Manager Community Services 941-8986
Officer responsible:	Community Support Manager
Author:	Catherine McDonald

PURPOSE OF REPORT

1. The purpose of this report is to seek Council approval for the establishment of a Christchurch City Council Graffiti Office.

EXECUTIVE SUMMARY

2. This report provides information relating to the development of a Christchurch City Council Graffiti Office which will provide a collaborative, structured, city-wide approach to graffiti vandalism.

Demand (Service Gap - High)

3. The incidence of graffiti around the city has grown significantly in the last two years in particular, and projections for the current year indicate a continuation of this trend. Graffiti removal statistics for the period 2004/05 through to July 2007 indicate a significant increase in the Christchurch City Council contract costs for the removal of graffiti vandalism (fig.1). The increased expenditure number correlates directly to the increase in tagging hits removed by external contractors.

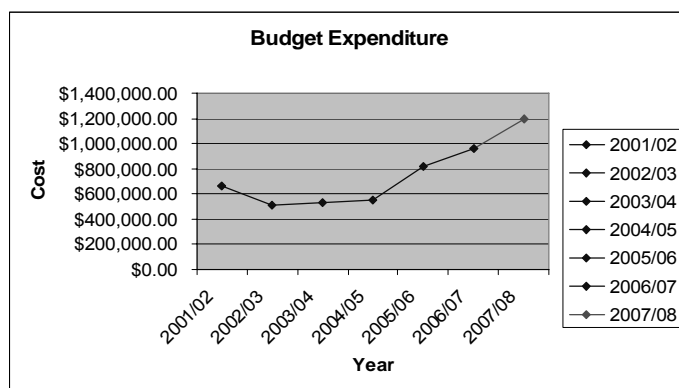


Fig 1.

4. The successful Graffiti Vandalism Pilot Project was initiated in 2005 implemented 2006 by the Phillipstown Strengthening Communities Advisory Team with the support of Council staff, the Hagley/Ferrymead Community Board, and CCC Litter Strategy Implementation team.
5. The initial brief for the project was as follows:

“It is envisaged that using a strengthening communities approach, with the support of an advisory group, will ensure that all aspects relating to graffiti and graffiti vandalism will be addressed, appropriate strategies developed and gaps identified, and provide opportunities for existing services to work together towards positive outcomes. This project will take into account restoration, education and prevention. It will be developed as a long term, sustainable, collaborative and holistic city wide initiative.”

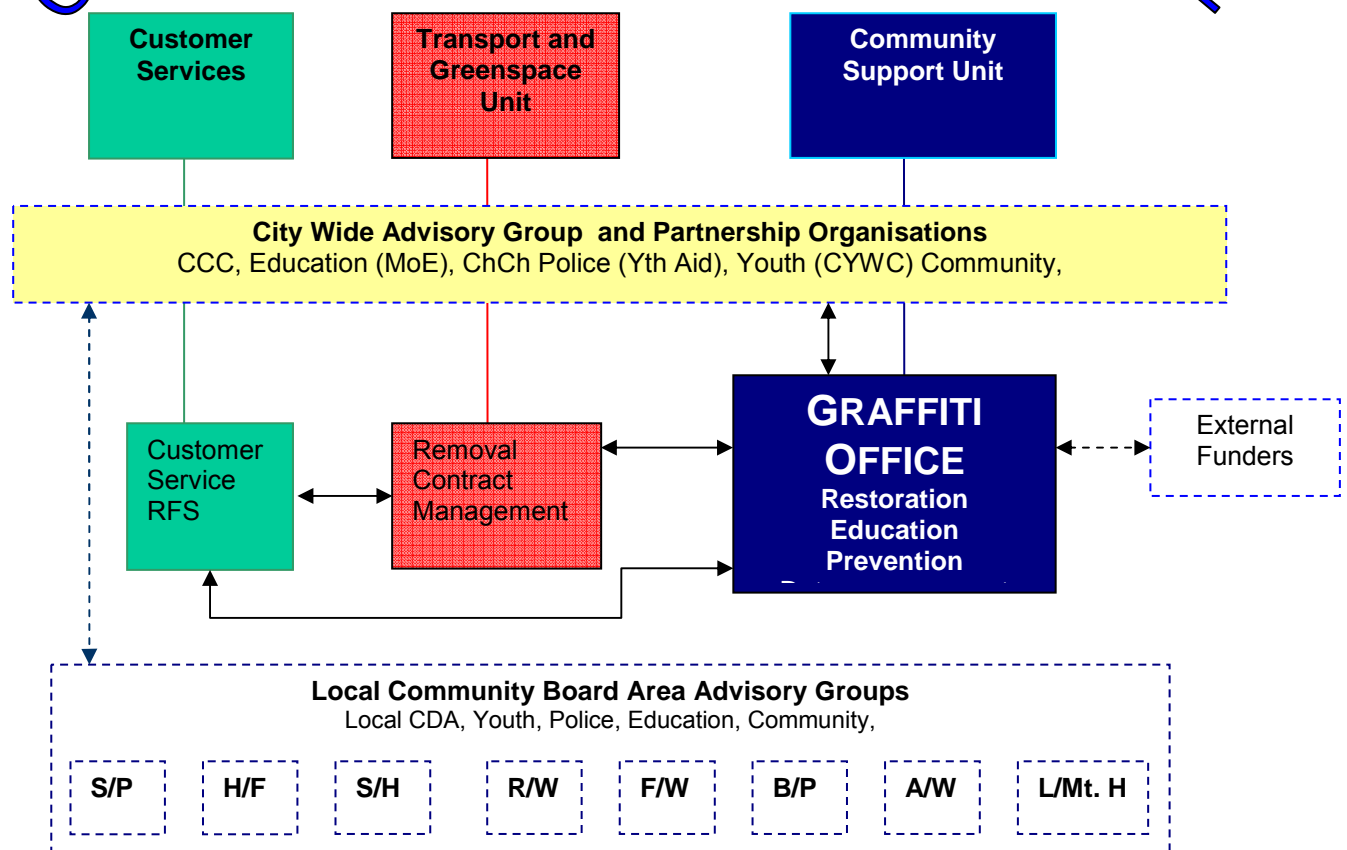
(Phillipstown Strengthening Communities Project Brief 2006)
6. Initial investigation during the planning stages of the project recognised that the role of a lead agent was a key component for achieving the project's success through collaboration between those agencies which are involved in removal, restorative justice and legal art programmes.
7. The Phillipstown Strengthening Communities Team Graffiti Vandalism Reduction Project was presented to the Litter Strategy Implementation Team and Community Development Manager in 2006 and received approval to proceed. Funding for the implementation of the pilot was accessed through the Community Support Unit and Transport and Greenspace Unit.

12 Cont'd

8. Through development of reduction strategies within the pilot project it was recognised that consistency of removal by volunteers was a key component. The pilot project team with guidance from Council staff, developed Christchurch City Council Volunteer Registration and Removal Guidelines which were subsequently released in May 2007.
9. The release of these guidelines, along with a rise in tagging across the city, prompted a significant increase in the number of communities across the city requesting support to develop localised volunteer removal programmes. Currently there are 15 areas across the city supported by more than 184 community members volunteering their time for graffiti clean up.
10. To date the project has seen some 36 young people referred to the project, completing 1,325 hours of community service. This intervention project has resulted in seven young people being supported into employment/apprenticeships along with three returning to school.
11. As the Phillipstown project neared the end of the pilot phase, it was clear to the project's advisory group that the implementation of the pilot, and coinciding increase in graffiti vandalism across the city, had propelled the project city-wide almost from the outset.
12. The identified need for the Christchurch City Council to take a strategic lead in further developing and implementing the strategies is supported by the Phillipstown Community Centre Trust, the Project Advisory Group, the Hagley/Ferrymead Community Board and Council staff within the Community Support and Transport and Greenspace Units.
13. The proposed Christchurch City Council Graffiti Office Development follows:



CHRISTCHURCH CITY COUNCIL



12 Cont'd

14. The primary aim of the proposed Christchurch City Council Graffiti Office will be to reduce the incidence and severity of graffiti
15. The main goals of the Office fall under three main components incorporating:

Restoration

Including: graffiti clean up along with data collection, collation and management.

Education

Including: resource information for customers both internal and external.

Prevention

Including: restorative justice programmes along with a range of other collaborative prevention strategies.

16. Local and city-wide advisory groups will provide direction and support for the project. These advisory groups will incorporate representation from stakeholders (with professional knowledge and expertise) from the following: Community, Education, Youth, Police, Christchurch City Council, Community Board and Business Community.

FINANCIAL IMPLICATIONS

17. The total CCC expenditure for contract removal only for the period 1 July 2007 to 30 December 2007 is reported to be \$596,159.89. Remaining at status quo it can be expected that the current trend forward to the end of June 2008, indicates that the total contractor spend to be in the vicinity of \$1.2m. It is important to note that this cost does not include costs associated with volunteer programmes, or costs by the individual residential or commercial customers.
18. In February 2008, the Government set up The Graffiti Vandalism Contestable Fund which is an allocation of three year funding made available by the Ministry of Justice's Crime Prevention Unit to New Zealand territorial authorities. The purpose of the fund is to assist in the reduction and/or eradication of graffiti vandalism including tagging and etching (hereafter referred to as graffiti vandalism) in New Zealand. The value of funding is up to \$200,000 (GST exclusive) each per annum for the three-year period 2008 to 2011. Projects must meet at least one of the following objectives to be eligible:
 - Develop a coordinated proactive approach that raises awareness of the negative effects of graffiti vandalism and the legal alternatives to such vandalism through educational programmes (including graffiti art programmes) and material (such as pamphlets, DVDs and road-shows etc).
 - Develop a strategic regional or cohesive local approach by working with police, local authorities, government agencies, public utilities and community groups to form partnerships to target local or regional graffiti vandalism.
 - Contribute in a significant way to an existing comprehensive, coordinated local approach.
19. Total project expenditure will be \$500,000. Funding will be sought from the following sources to get the graffiti office underway:
 - Transport and Greenspace: \$150,000 (part of T&G 2008/09 graffiti budget) to be transferred to Community Support Unit on the Council's approval in June 2008.
 - Ministry of Justice: \$200,000 per year for three years (pending results of an application due for consideration in May 2008).
 - In addition, staff will approach NZ Rail and Orion and others as further potential funding partners to secure the remaining \$150,000 required.
20. Should these approaches be unsuccessful, this initiative will be submitted for consideration for the 2009/2010 LTCCP budget.

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

21. Yes

12 Cont'd

LEGAL CONSIDERATIONS

22. No

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

23. Yes

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

24. The proposed Office aligns with the following LTCCP Outcomes:

- A safe city
- A city of inclusive and diverse communities
- A city of people who value the natural environment
- An attractive and well designed city

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

25. Yes

ALIGNMENT WITH STRATEGIES

26. **Strengthening Communities Strategy**

Goal 7

Enhance community and neighbourhood safety

Safer Christchurch Strategy

Goal 3 – Enhance safety from crime through preventative and supportive actions

Policing Strategic Plan to 2010

Encouraging joint partnerships between police, community boards, councils and wider community

Youth Development Strategy Aotearoa (2002)

Promotes the application of a youth development approach as a way of understanding what needs to happen for, around and with young people in New Zealand

- Acknowledging the diversity of young people

Do the recommendations align with the Council's strategies?

27. Yes. As above. It also aligns to the New Zealand Policing Strategic Plan and the Youth Development Strategy Aotearoa.

CONSULTATION FULFILMENT

28. The Phillipstown Community Centre Charitable Trust, the Project Advisory Team and the Hagley/Ferrymead Community Board are in support of the proposed graffiti office.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Approve the establishment of a Christchurch City Council Graffiti Office to be implemented in 2008.
- (b) Approve the transfer of \$150,000 from the Transport and Greenspace budget to the Community Support Unit budget from 1 July 2008.
- (c) Approve staff to submit a funding application requesting \$200,000 for three years from the Ministry of Justice to assist with the establishment of the Graffiti Office.

12 Cont'd

BACKGROUND (THE ISSUES)

29. After a significant increase in graffiti vandalism and the threatening nature of graffiti appearing in Phillipstown and the wider community during 2005, the Phillipstown Strengthening Communities working party, after discussion, agreed to investigate the development of a graffiti vandalism clean-up project in the Phillipstown area. The key aim of the project was to develop a process to significantly reduce the implications of graffiti vandalism on the perceptions of safety and well-being of the residents and businesses in Phillipstown and the wider area.
30. It was further recognised that there was a need to establish a project to develop a collaborative process for those agencies involved in removal, restorative justice and legal art programmes. This would potentially enable existing services to work together within a strengthening communities model. It was not the intention of this project to duplicate other existing initiatives, rather to develop and implement a collaborative, structured, city wide approach that compliments existing projects and services to restoration, and social justice programmes. It was envisaged that using a strengthening communities approach, with the support of an advisory group, would ensure that all aspects relating to graffiti and graffiti vandalism would be addressed.
31. The Phillipstown Strengthening Communities Team Graffiti Vandalism Reduction Project brief and implementation plan was presented to the Litter Strategy Implementation Team and Community Development Manager in 2006 and received approval to proceed. Funding for the implementation of the pilot was accessed through the Hagley/Ferrymead Community Board, and the Community Support Unit and Transport and Greenspace Unit.
32. The project responds to '*measures used to counter graffiti vandalism – the importance of an integrated, multi-faceted approach*' as identified in a paper prepared for Christchurch City Council [S. Wiley, (July 1999) Graffiti Vandalism: The current Situation in Christchurch and Potential Counter- Measures]. Wiley argued that 'a carefully developed, comprehensive and planned approach to graffiti vandalism will produce significant cost savings for local government, corporations, and the local business community and property owners. Tackling graffiti vandalism in a positive, permanent, rational manner will help restore community pride and feelings of a safer, health environment for all. Properly implemented, it may direct young people from criminal offending with education developed within the project.'

Project Goals and Key Achievement Areas

33. The following goals were identified, corresponding objectives developed, and an implementation plan established to reflect the key achievement areas of the project:
 - 5.1 To establish structures for ongoing development and support.
 - 5.2 Development and implementation of a programme that supports a collaborative, structured, city-wide approach to restoration and social justice programmes for the removal and reduction of graffiti vandalism.
 - 5.3 Development and implementation of a prevention programme in consultation and collaboration with other key agencies.
 - 5.4 Development and implementation of an education programme.

(Phillipstown Strengthening Communities Project Brief 2006)
34. The project development was supported by research and analysis undertaken in a local, national and international setting.
35. These findings revealed a common conclusion that taggers need to have their work seen, therefore the best deterrent is 'fast removal within 24 hours'. Research also supports the theory that Community Ownership of projects sees greater success.
36. The increase in graffiti vandalism is a nationwide trend, and the Council is working with the National Crime Prevention Unit which is assisting local authorities and other government agencies to ensure that strategies used address this trend are collaborative and consistent.

12 Cont'd

37. It is critical to acknowledge that graffiti vandalism trends may peak and trough. The aim of the Christchurch City Council Graffiti Office is to deal with peak times of graffiti vandalism and its impact while also looking to identify the undercurrents of other issues and trends that may affect Christchurch and Banks Peninsula communities.
38. When graffiti vandalism appears to be contained it is often evident that other 'trends' have taken its place. It is the intention that the key strategies and processes used for graffiti vandalism reduction will be used to address other issues as deemed appropriate by the project team.

THE OPTIONS

39. (a) Adopt the recommendation for the development of a Christchurch City Council Graffiti Office to be implemented in 2008.
- (b) Decline the recommendation for the development of a Christchurch City Council Graffiti Office.

ASSESSMENT OF OPTIONS**The Preferred Option**

40. To develop a Christchurch City Council Graffiti Office under the management of the Community Support Unit.

	Benefits (current and future)	Costs (current and future)
Social	An improved environment for social interaction for residents and visitors. An increased sense of safety.	
Cultural	n/a	
Environmental	Improved city environment.	
Economic	Potential contribution to increased economic impact from visitor spend if Christchurch has a reputation of a clean city.	
<p>Extent to which community outcomes are achieved:</p> <p>Primary alignment with community outcomes, a safe city, a city of inclusive and diverse communities, a city of people who value the natural environment, and an attractive and well designed city where our people enjoy and value the environment and take responsibility for protecting and restoring it.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>Effects on Maori:</p> <p>N/A</p> <p>Consistency with existing Council policies:</p> <p>Environmental policy</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <ul style="list-style-type: none"> The New Zealand quality of Life report suggest that Christchurch residents rate highly on city pride. Graffiti is identified as being significantly more likely to be rated as a problem by residents in the 12 cities than in the rest of New Zealand. Annual residents survey and central city surveys indicate that residents of Christchurch take pride in their city environment and would support efforts to reduce graffiti vandalism and increase perceptions of safety. <p>Other relevant matters:</p>		

12 Cont'd

Maintain the Status Quo (if not preferred option)

41. Status quo

	Benefits (current and future)	Costs (current and future)
Social	Potential increase in graffiti vandalism across the city, and subsequent impact on environment and sense of safety.	
Cultural	n/a	
Environmental	No improvement to city environment.	
Economic	Potential cost through missed opportunity to improve the reputation of Christchurch as a clean and safe city.	
<p>Extent to which community outcomes are achieved:</p> <p>No improvement in primary community outcomes of a safe city, a city of inclusive and diverse communities, a city of people who value the natural environment, and an attractive and well designed city where our people enjoy and value the environment and take responsibility for protecting and restoring it.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>Continuing escalation of contractor spend for the removal of Graffiti Vandalism.</p> <p>Effects on Maori:</p> <p>Consistency with existing Council policies:</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <ul style="list-style-type: none"> The New Zealand quality of Life report suggest that Christchurch residents rate highly on city pride. Graffiti is identified as being significantly more likely to be rated as a problem by residents in the 12 cities than in the rest of New Zealand. Annual residents survey and central city surveys indicate that residents of Christchurch take pride in their city environment and would support efforts to reduce graffiti vandalism and increase perceptions of safety. <p>This option would not demonstrate that option.</p> <p>Other relevant matters:</p>		

13. BORROWING FOR NEW CIVIC BUILDING PROJECT AND CAPITAL WORKS

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
Author:	Ian Thomson - Solicitor

PURPOSE OF REPORT

1. There are a number of purposes for this report:
 - (a) Firstly, to comply with the Council's Liability Management Policy by obtaining authority to borrow \$102 million, being the Council's contribution to the new civic building project (\$62 million) and its capital funding requirements for 2007/08 (\$40 million).
 - (b) Secondly, to advance up to \$56 million of those funds to Civic Building Limited.
 - (c) Thirdly, to obtain approval for the Council to acquire redeemable preference shares in Civic Building Limited to the value of \$6 million.

EXECUTIVE SUMMARY**Funding CBL - \$62 million**

2. On 11 October 2007 the Council adopted the proposal presented to it for the purchase of the New Zealand Post building in Hereford Street and the development of new civic offices on that site.
3. The proposal involved the Council, through a Council-controlled organisation (CCO), Tuam 2 Limited, entering into a joint venture arrangement with Ngai Tahu Property Limited.
4. The Council has the authority to borrow to fund its obligations under the proposal (\$62 million). To comply with the Council's Liability Management Policy authority is sought for staff to enter into loan agreements in respect of those funds on the terms and conditions set out in this report.
5. Authority is also sought for staff to enter into a loan agreement to lend \$56 million to Civic Building Limited and to acquire redeemable preference shares in that company to the value of \$6 million on the terms and conditions set out in this report.
6. At its meeting on 16 August 2007 the Council resolved to subscribe for uncalled capital in Tuam 2 Limited comprising ordinary shares to the value of \$10 million.
7. Since then, the financial structure for development of the new civic building has changed, most importantly by the introduction of Ngai Tahu Property Limited as a joint venture partner.
8. Further, Civic Building Limited has been established for the purpose of borrowing from the Council and on-lending to Tuam 2 Limited the funds required to meet the Council's financial commitment to the project.
9. It is intended that Civic Building Limited will lend \$52.575 million to Tuam 2 Limited over the next three years to fund the purchase and development of the new civic building site. Interest will not be charged to Tuam 2 Limited, but will be payable by Civic Building Limited to the Council along with the loan principal repayment.

Capital Works Loan funds - \$40 million

10. The Annual Plan 2007/08, page 16, includes funding of ordinary capital expenditure by loan funds totalling \$59.560 million. This figure has been reviewed by considering the completion timetable of the projects, capital expenditure carry forwards and projects brought forward. Some \$40 million is identified as required borrowing for 2007/08, before 30 June 2008. Further adjustments to the capital expenditure programme are expected and any loan funding impacts will be included in the final sums borrowed which may be less than \$40 million.

13 Cont'd

11. There is a significant lead time between obtaining authority to borrow and the requirement for funds. This report commences the borrowing process.

FINANCIAL IMPLICATIONS**CBL Loan - \$62 million**

12. The LTCCP 2006-16 has budgeted for an amount of up to \$116 million to be borrowed by the Council for the purpose of the new civic building project. As a result of the joint venture arrangement with Ngai Tahu Property Limited funding the Council's contribution to the cost of the project will require the following amounts:

(a)	A one-half share of the purchase and construction costs	\$52.575 million
(b)	Pre-commitment costs	\$1.500 million
(c)	Interest to May 2010 and additional costs	\$7.925 million
Total funding required		\$62.000 million

13. These funds will be borrowed by the Council progressively from 15 May 2008, the settlement date, and on-lent to Civic Building Limited at a small margin, currently 0.10%, to cover administrative costs. Up to \$6 million will be invested in redeemable preference shares in Civic Building Limited, funded by loan repayments from CBL.
14. Interest costs incurred by Civic Building Limited will be met by that company until such time as the new civic building is completed and rental income is received.
15. The borrowing programme for the project will be carried out in accordance with the Council's Liability Management Policy. Its Investment Policy will govern the advance to Civic Building Limited.
16. Funds borrowed externally are secured over the Council's rates income.
17. The mix of borrowed funds and the issue of redeemable preference shares to the Council will ensure that Civic Building Limited remains solvent during the development phase of the new civic building project.

Capital Works Loan Funds - \$40 million

18. The need for loan funding was highlighted in the 2007/08 Annual Plan and has since been reviewed as the project timetables are known. The Council needs the loan funds to ensure liquidity levels will be met at 30 June 2008.

Impact on the Council Financial Ratios

19. The Annual Plan has already included the financial impact of the borrowing and investment. The following table shows that the Council remains well within its financial ratios policy limits:

Ratio	08/09 Plan	08/09 LTCCP	Policy Limit
External Debt to Total Assets	3.6%	4.2%	12%
External Debt to Realisable Assets	9.7%	11.5%	33%
Net Interest to Operating Revenue	-0.8%	0.2%	8%
Net Debt to Funds Flow	2.7	2.6	5

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

20. Yes.

13 Cont'd

LEGAL CONSIDERATIONS

CBL Loan - \$62 million

21. At its meeting on 11 October 2007 the Council resolved to enter into a joint venture arrangement with Ngai Tahu Property Limited for the new civic building project and to adopt a financial structure to support the Council's contribution to the cost of the development. The documentation required to enable the project to proceed has been completed and signed on behalf of all parties.
22. The Council has the authority to borrow the funding required to fulfil its obligations as one of those parties. This authority is set out in the LTCCP 2006-16. The Council's Liability Management Policy requires approval by resolution of the terms and conditions on which those funds are obtained.
23. The ability to borrow money and to issue redeemable preference shares is provided for in Civic Building Limited's constitution.
24. Section 62 of the Local Government Act 2002 states that the Council must not give any guarantee, indemnity or security in respect of the performance of any obligation by a Council-controlled trading organisation (CCTO). The issue of redeemable preference shares to the Council does not breach this provision.
25. The Council is prevented by Section 63 of the Act from lending money to a CCTO on terms and conditions that are more favourable to the CCTO than those that would apply if it was the Council that was borrowing the money. The proposed financial transactions referred to in this report comply with the provisions in Section 63.
26. The advance to Civic Building Limited complies with the Council's investment policy.
27. This means that resolution 7 of the 16 August 2007 minutes needs to be amended to remove item 7(e)(ii) and delete the words "and (ii)" from item 7(e)(iii).

Capital Works Loan funds - \$40 million

28. Borrowing under the Liability Management Policy requires authorisation by Council resolution. This report will provide that authorisation. The specific terms of the loans will be determined by the lending market conditions prevailing at the time of borrowing, as well as those required under the policy such as debt repayment provision.
29. This report requests delegated authority granted to the General Manager Corporate Services and the Corporate Finance Manager to determine the specific terms of the loans. This in turn will determine the terms of on-lending to Civic Building Limited.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

30. The recommendations of this report support references to the new civic building project in the LTCCP 2006-16.

ALIGNMENT WITH STRATEGIES

31. The recommendations align with the Council's strategies.

CONSULTATION FULFILMENT

32. The Council consulted on the funding for the proposed new civic building in the 2006-16 LTCCP.

13 Cont'd

STAFF RECOMMENDATION

It is recommended that the Council resolve to:

- (a) Borrow \$102 million on the usual terms and conditions available to the Council in respect of external borrowing, in accordance with the Liability Management Policy.
- (b) Advance \$56 million to Civic Building Limited on terms which match, as far as practicable, the same terms on which the Council has borrowed externally, plus a margin to cover administrative costs.
- (c) Subscribe for redeemable preference shares issued by Civic Building Limited to a value of \$6 million.
- (d) Authorise the General Manager Corporate Services and the Corporate Finance Manager (jointly) to approve the detailed terms and conditions of the funding transactions, including the subscription for shares, and to enter into all documentation required to complete those transactions.
- (e) Amend the Council minutes of 16 August 2007, resolution 7, as follows:
 - (i) Delete clause (e)(ii); and
 - (ii) Delete the words "and (ii)" from clause (e)(iii).

14. AIDANFIELD FARM BUILDINGS

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8177
Officer responsible:	Programme Manager, Liveable City
Author:	Neil Carrie, Principal Adviser, Heritage and Urban Design

PURPOSE OF REPORT

1. The purpose of this report is to consider the terms and potential costs of a possible agreement with Aidanfield Holdings Limited ("AHL") for the purchase (and thus retention) and external restoration of the heritage granary and shearing shed farm buildings at 20 Nash Road, Halswell on the site of the former Sisters of Mercy complex of Mt Magdala ("the farm buildings") at Halswell.

EXECUTIVE SUMMARY**Previous Report to Council**

2. The Council considered a report on the possible purchase of the Aidanfield farm buildings and associated land at a meeting on 20 September 2007. The staff recommendations contained in that report did not support the Council purchase of the farm buildings due to the lack of the need for additional recreation reserves in the subdivision, the lack of budget provision for the restoration of the buildings and the lack of any identified uses for the buildings. The Council resolved that the report lie on the table, a site visit be undertaken for staff, elected representatives and external interests to consider options to save the granary and shearing shed and report back to Council. The Council resolution of 20 September 2007 provided for elected representatives and external groups to be involved with the discussions and any subsequent negotiations for retention. The Council also requested that the Network and Asset Planning Unit advise why the area was not considered suitable for a reserve. The previous report is provided as Attachment 1.
3. Following the Council's decision, but independent to it, Aidanfield Holdings Ltd (AHL) applied for a resource consent to demolish the farm buildings. This was granted by the Council and the consent was appealed by the Halswell Residents' Association and Environment Canterbury (with the NZ Historic Places Trust as a Section 274 party). The appeals seek the retention of all farm buildings on the site.
4. In response to both the Council decision and the appeals lodged against the Council's consent, communication was opened up with a number of parties. These included Aidanfield Holdings Limited, the Riccarton/Wigram Community Board (to facilitate the identification and development of any potential long term owners or occupiers of the buildings), the Halswell Residents' Association, Environment Canterbury and NZ Historic Places Trust.

Negotiations with Aidanfield Holdings Limited

5. Discussions occurred with Mr P Mahoney on behalf of Aidanfield Holdings Limited (AHL) on 11 December 2007. It was agreed that AHL would respond with a proposal for the Council on the basis of the potential retention of the granary and shearing shed and associated land.
6. A proposal dated 31 January 2008 was received by the Council from AHL and is included with this report as Attachment 2. The proposal suggests an indicative area of land, land cost and proposes that the Council enter into a formal land covenant to be registered against the title to the land requiring the Council to complete certain works within a specified period of time. The scope of works, construction time line, and the issue of building consents for demolition were to be agreed. A letter from AHL dated 18 March 2008 estimates the costs of upgrading the farm buildings and associated land that had been noted previously by AHL to be in the order of \$700,000–\$750,000. This contrasts to the estimate of staff to secure the buildings to a reasonable state at \$262,000. This latter figure was based on both the condition report by Stewart Ross Team Architecture and the earlier and updated Rawlinson's cost report (March 2008). This would provide for the buildings to be restored to a good state of external repair (including repainting), for the shearing shed to be repiled, steel window repairs and with some necessary timber roof repair. An allowance has been made for stormwater drainage and ongoing maintenance. Conservation would also be consistent with the provisions of the ICOMOS (NZ) Charter which is the recognised NZ standard for heritage conservation works.

14 Cont'd

7. The resulting advice received from AHL on the 28 March 2008 (Attachment 3) states that "...this (*Council's estimate*) suggests a bare minimum of work ... and falls well short of maintaining a standard of amenity compatible with a residential subdivision." AHL state that the buildings would be required to be restored and maintained "... to a standard compatible with the immediate locality and environment, which forms part of an expanding and developing high quality residential location".
8. The specific implications of these statements from AHL in relation to the brick and corrugated iron farm buildings are not apparent. It would appear that an acceptable standard of renovation for AHL could be determined by their anticipated upgrade costs (as stated in their letter of 31 January 2007) of \$700,000 - 750,000,. According to advice from AHL, these estimates do not anticipate the costs of upgrading for any specific (and currently unidentified) uses.
9. Therefore while AHL have indicated a willingness to sell the land and buildings to the Council, they have specific expectations as to the level of refurbishment they would wish to bind Council to in any agreement. This position stems from a desire to ensure that the final buildings complement and possibly enhance the attractions of the surrounding subdivision, rather than detract from it. This concern is also reflected in their expectation that any works be carried out in a timely manner.
10. If negotiations are to continue with AHL then an agreement on the scope of works would require the scheduling of all building elements to be upgraded and the nature and extent of the work identified and agreed with AHL. Further works not apparent before construction would also need to be agreed and subsequently included in the schedule.

Contributions from other Parties

11. In addition to negotiating with AHL, letters requesting the involvement of interested parties to be included in the process and possible contributions were sent to Environment Canterbury, the Riccarton-Wigram Community Board, the NZ Historic Places Trust (NZHPT) and the Halswell Residents Association. A meeting with Environment Canterbury in response related only to the Appeals to the Council decision on demolition and that it was not its role to own or fund heritage buildings. The Riccarton-Wigram Community Board has advised that the Board were not able to assist through facilitating the formation of any Trust, the President of the Halswell Residents Association advised that the Association had no funding to promote the retention of the buildings, and the NZHPT advised they could not make any direct contribution as they do not include the farm buildings in their Heritage Register. Consequently it is apparent that irrespective of the amount required to fund the purchase and/or restoration of the buildings that no other form of funding source other than Council has been identified. It should also be noted that no potential owners or uses of the buildings have been identified through the process either. Indeed had an active user been identified the costs predicted for the building restoration would have been significantly higher and include structural strengthening, the provision of services to the site and the establishment of ablution facilities and other core elements.

Environment Court Appeal

12. The resource consent application by AHL for the demolition of all of the listed Heritage Aidanfield farm buildings (except the brick granary) was approved by Council in a decision dated 30 November 2007. This decision was appealed to the Environment Court by Environment Canterbury, the Halswell Residents Association, and the New Zealand Historic Places Trust as a s274 party in support of Environment Canterbury. The Environment Court required that the parties to the appeal undertake mediation. This took place on 31 March 2008.
13. No outcome was achieved from the mediation which would have provided the basis of a potential settlement of the appeals. Legal counsel for the Council requested that the parties to the appeal provide 'concrete' proposals for retention of the farm buildings including the scope of the proposal, the costs for retention, repair and re-use, and financial support. No proposals have been put forward and no actual uses have been identified as a result of the mediation to date. Further mediation may occur if the Council agrees to consider the retention of the buildings.

14 Cont'd

Acquisition as Recreation Reserve through Development Contributions

14. In its earlier report staff noted the cost of purchasing the farm building site would be in addition to the normal reserve contribution requirements for the development. The development contributions for stage 7A and 7B Aidanfield were based on the LTCCP level of service of 4.7 ha per 1000 population for urban parks. All the reserve land acquired through the reserve development contributions was purchased at the Development Contributions rate of \$13,806 including GST per HUE (household unit equivalent). This purchase did not extend to the additional land sitting under the historic buildings. The approved subdivision plan for Aidanfield Stage 7 A and B (S.16082 Revision 7) is included as Attachment 4. The recreation reserve land, the cemetery and the farm buildings are indicated on the plan.
15. The stage 7 subdivision negotiations also delivered the old cemetery site at no cost to the Council. This land was additional to the reserve contribution from this stage. A section of reserve was also acquired as part of stage 7 to link the subdivision to the adjoining 145 ha Canterbury Park which is a regional park of mixed use including walking, sports, natural areas, open agricultural land, horse riding and the A&P Association.
16. The proposed reserve beside the cemetery obtained through development contributions contains none of the historic buildings. Two residential lots were held back for the buildings being lots 827 and 787. The Council does not require this land as part of the recreation reserve land contribution.
17. The reasons the farm buildings land is not considered appropriate for Recreation Reserve is:
 - Some 2.7870 ha have been taken as reserve contribution to provide four main neighbourhood parks and recreation walking links. There are green links along the proposed southern motorway and the upper Heathcote River corridor to form walkway linkages.
 - The four main neighbourhood parks provide the required recreation spaces.
 - Lots with higher density housing have been provided beside the wide river corridor.
 - There are also areas of local purpose drainage reserve providing greenspace which are not part of the reserve contributions but are a requirement to satisfy stormwater treatment and retention.
18. Some of the Aidanfield Reserve contributions have been taken as cash. This has been identified to develop the parks space with landscaping, walking paths, seating and recreation facilities. The unallocated development contribution equivalent to \$454,000 (which will be taken as cash) will be used for this purpose and is sufficient to provide for the level of service open space given there will be 227 lots.

Acquisition as an 'Historic Reserve' through Development Contributions

19. The Council could purchase the land under the historic buildings from the capital programme reserve purchases as contained in the LTCCP WBS 562/423 (Strategic Reserve Purchases) and the reserve classified as Historic Reserve. This is separate to the development contributions for reserves in the immediate subdivision. The estimated cost of the land for 1740m² is \$488,000. Authority to use the reserve development contributions is contained in the Development Contributions Policy 2007 ("DCP") as described below.

14 Cont'd

20. At paragraph 3.3.1 of the DCP it states:

“The Council will take development contributions of either cash and/or land towards providing reserves for open space and recreation from subdivision and/or development, depending on which will more effectively add to the quality, diversity and distribution of open spaces and recreation areas in the city, as determined by the Council's Area Plans Programme and other mechanisms concerning **strategic land acquisition**.”

The basis for development contributions for reserves is the additional actual or potential demand anticipated for open space and recreational land consequent to subdivision and/or development; that is, its effects in terms of land use and intensification. ...

21. The Council will seek cash and/or land contributions where they will provide for one or more of the following:

- The purchase or acquisition of **regional reserves** including coastal areas, the plains, wetlands and the Port Hills, for the **protection and conservation of natural, cultural and heritage landscapes**, ecology and features and to contribute to the 'Garden City' image;
- And other purposes permitted by Sections 205 and 206 of the LGA.

22. This land would not be suitable as a regional reserve, but can come under “other purposes permitted by Sections 205 and 206 of the LGA”, because section 205 of the LGA allows the use of development contributions for reserves for the following:

(c) the purchase of land or an interest in land –

- (i) to be held for conservation purposes under the Reserves Act 1977:
- (ii) that is, or will be, subject to a conservation covenant under section 77 of the Reserves Act 1977:

23. The Reserves Act 1977 sets out different reserves classifications, and these include Recreation Reserves, Historic Reserves, and Scenic Reserves etc, although none of the different types of reserves in the Reserves Act has a purpose expressly using the words “for conservation purposes” a classification as a Historic Reserves, under section 18 of the Reserves Act, means it is “for the purpose of protecting and preserving in perpetuity such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest.” This would appear to satisfy the need that the land be held for conservation purposes. The Council could therefore purchase the land using reserves development contributions for the purpose of making it a Historic Reserve under the Reserves Act 1977.

24. There will also need to be landscaping of the site and a car park. The landscaping costs are \$30,000 and car park \$40,000 and these costs could be funded directly from the (cash) reserve development contributions that are derived directly from stage 7 of the subdivision.

Council Costs Update

25. The area of land identified by AHL is 1740 square metres and the market value (subject to agreement on land area) is \$488,000 excluding GST. The previous report to Council estimated the land area as 1630 sq metres and costs of \$450,000. However, these were not able to be confirmed based on the approved subdivision plan since the approved plan did not anticipate the retention of these particular heritage buildings with associated allotments.
26. The AHL advised land area and value has been used in the financial summary below since this is within the scope of the previously advised area and costs, but would be subject to final negotiations on land area and valuation if Council agrees to continue consideration of purchase.

14 Cont'd

27. The following Council staff updated cost summary based on figures from AHL (land area and valuation) and Rawlinson's, (conservation, stabilisation, maintenance, re-painting and repair of the brick granary and shearing shed excluding GST). The potential for the use of the capital programme reserve purchases (Development Contributions) as a funding source has also been identified.

Land Cost	\$488,000	(Development Contribution - Strategic Reserve Purchases Fund)
Site works	30,000	(Development Contribution)
Car Park	<u>40,000</u>	(Development Contribution)
	\$558,000	
Building Upgrades	212,000	(New funding required)
Storm water Services	25,000	(New funding required)
Professional Fees	<u>27,000</u>	(New funding required)
	\$264,000	

Total Estimate: Initial Costs \$822,000

Ongoing annual maintenance \$5,000 per annum (New funding required)

28. Upgrade costs for specific uses are not ascertainable, but additional upgrade costs could be in the range of \$500 to \$3000 per square metre depending on the anticipated use of the building. Uses associated with the upper cost range would be potentially unacceptable due to a high level of probable intrusion and loss of integrity of the heritage buildings. The area of the shearing shed is 168 square metres and the granary approximately 250 square metres giving an upgrade cost range of \$209,000 (lower) to \$1,254,000 (upper).

Aidanfield Holdings Costs

29. AHL consider that the final costs for the repair and conservation only of the two heritage buildings would be in the region of \$700,000–\$750,000 excluding land costs, which is approximately the mid-point of the estimated cost range for additional upgrades outlined above. AHL have confirmed the basis for their estimate of the building upgrade costs, which while not subject to any detailed analysis, would be the level of expenditure required to meet their expectations for the scope and quality of the renovation works required if purchase is to be considered.
30. The initial project costs based on the AHL position and using the lower end of their range would be as follows:

Land Cost	\$488,000	(Development Contribution - Strategic Reserve Purchases Fund)
Site works	30,000	(Development Contribution)
Car Park	<u>40,000</u>	(Development Contribution)
	\$558,000	
Building Upgrades	700,000	(New funding required)
Storm water Services	25,000	(New funding required)
Professional Fees	<u>27,000</u>	(New funding required)
	\$752,000	

Total Estimate: Initial Costs \$1,310,000

14 Cont'd

FINANCIAL IMPLICATIONS

31. The total initial cost of the farm buildings including upgrade is analysed above and is estimated at between \$822,000 and \$1,310,000 depending on the level of initial upgrade. The cost is further split for funding source purposes:

	Possible Funding Source	Base Case	AHL request
Land related costs	Development Contribution Strategic Reserve Purchases Fund	558,000	558,000
Initial upgrades and other costs	New funding required	264,000	752,000
Estimated Initial Cost		\$822,000	\$1,310,000

Should the property be purchased and the land classified as a historic reserve, funding of \$558,000 from the Strategic Reserve Purchases budget would be required. The Reserve's budget for the 2008 year is \$1,800,000, of which \$100,000 has been spent or committed to date.

32. There are no dedicated budget funds available for the building stabilisation, external upgrades and ongoing maintenance of the two Aidanfield farm buildings and the associated land. The estimated initial cost excluding the land is:

Minimum	\$264,000
Estimate as requested by AHL	\$752,000

33. The Council does operate a Historic Places Fund (past purchases include Sydenham Heritage Church, Grubb Cottage). However, the fund is intended to be a revolving fund to acquire and pass buildings on to long term owners. No future long term owners have been identified. In addition the funding gap for the Council (assuming it will purchase the land from the Strategic Reserve Purchases Fund) is not for the buildings (which have no asset value) but for the restoration. The use of this fund to finance the restoration of the buildings is not consistent with the funds purpose.
34. Similarly there is no current budget provision for the maintenance of the land and buildings which is estimated at \$5,000 per annum.

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

35. No. While City Development includes, as an objective, the retention of heritage to be measured by the importance that Christchurch's heritage be retained for the future, this must be weighed against the fact that heritage retention, in this instance is currently unbudgeted for in the 2007/08 Annual Plan or the 2006-16 LTCCP for the costs of the upgrading of the two farm buildings or the annual maintenance costs of the land and buildings.

ALIGNMENT WITH STRATEGIES**36. Greater Christchurch Urban Development Strategy (UDS)**

- Heritage development projects provide opportunities for increased commercial and residential activity in the city while at the same time enhancing the heritage townscape. The UDS considers heritage as an integral part of Christchurch and an aspect of growth management provided for is through the protection, maintenance and enhancement of heritage.

Christchurch City Plan

- Heritage protection is consistent with the Heritage provisions of the City Plan. Volume 2, Part 4 which provides objectives and policies for Heritage protection.

14 Cont'd

New Zealand Urban Design Protocol

3. Heritage development projects improve the quality and design of the urban environment by protecting the heritage of the city, which is stated in the Protocol as being an attribute of successful towns and cities. The retention of Heritage will contribute towards the implementation of the New Zealand Urban Design Protocol, to which the Council is a signatory.

South-West Christchurch Area Plan (Draft)

4. Policy 3.2 provides for protection of priority heritage places in south-west Christchurch. Policy 3.5 provides for mechanisms to consider ways of incorporating heritage elements into new developments.

Do the recommendations align with the Council's strategies?

37. Yes. While the previous staff recommendation did not provide for acquisition by the Council of the farm buildings as a means of heritage retention the City Plan recognises that for Group 2 heritage buildings protection for these buildings is limited to where this can be reasonably achieved.

LEGAL CONSIDERATIONS

38. The Council is under no legal obligation to purchase the farm buildings and the associated land.
39. The LTCCP/Development Contributions Policy, through the Local Government Act 2002, provide that a developer can be required to provide the Council with a Development Contribution for reserves either through the provision of land, cash in lieu or a combination of both. However, for the reasons set out above the Network and Asset Planning Unit has determined this land is not suitable to be purchased as recreation reserve, under the Development Contributions Policy and other criteria of the Council.
40. There is, however, the possibility that the land could be purchased as Historic Reserve under the Reserves Act 1977, using reserves development contribution funds, on the basis set out in the section above entitled "Acquisition as a "Historic Reserve" through Development Contributions".
41. Section 18 of the Reserves Act 1977 permits the classification of reserve as "historic reserve" for the "purpose of protecting and preserving in perpetuity such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest". That section goes on to provide that historic reserve is to be administered and maintained so that "the structures, objects and sites illustrate with integrity the history of New Zealand" and that in general terms the "public shall have freedom of entry and access to the reserve".
42. Section 58A of the Reserves Act 1977 provides that "the administration body with the prior consent of the Minister ... may from time to time grant leases or licences to any person, body, voluntary organisation, or society (whether incorporated or not) for domestic residential purposes or for the carrying on of any activity, trade, business, or occupation in any building or on any specified site within the reserve and grant leases of any such building or site for any such purpose or purposes". Such leases may not exceed a term (including all renewals) of more than 33 years.
43. A resource consent application was lodged to permit the demolition of the buildings, excluding the brick granary. The Council has approved the application for demolition of these farm buildings but this decision is presently the subject of an appeal by the Halswell Residents' Association and Environment Canterbury (with the New Zealand Historic Places Trust as a s274 party to the Environment Canterbury appeal). This legal process is running in parallel to the Council's direct negotiations with AHL. The appeals are for the retention of all of the farm buildings.

14 Cont'd

44. It is possible for the Historic Places Trust or other parties approved by the Minister of Conservation as Heritage Protection Authorities to give a Notice of Requirement for a Heritage Order to the Council to protect the buildings under s189 of the Resource Management Act 1991. However, there has been no suggestion that any such action is likely, or that the Historic Places Trust has the evidence to support such an action. The Historic Places Trust does not register the buildings as historic places.
45. Environment Canterbury and the Halswell Residents Association have made appeals against the Council decision to the Environment Court, with the NZHPT as a s274 party to the Environment Canterbury appeal as noted above. This legal process is running in parallel to the Council's direct negotiations with AHL. The appeals are for the retention of all of the farm buildings. Insofar, as the CCC/AHL negotiations are for a potential agreement for retention of only the granary and shearing shed buildings, any agreement which may be reached regarding the protection of these buildings will be subject to a decision of the Environment Court with regard to all of the farm buildings.
45. The proposal received from AHL is essentially that the Council would purchase the land and the farm buildings at an agreed price and that the Council would enter into a land covenant registered against the land for the benefit of AHL under which it would be obliged to restore the farm buildings to an agreed standard within an agreed timeframe. The Legal Services Unit has some concerns around AHL's apparent insistence on the Council entering into a registered land covenant to secure the Council's obligation to restore the farm buildings. The Legal Services Unit's view is that a registered land covenant is not the correct legal instrument to be used in these circumstances. Further, if the land was purchased as historic reserve under the Reserves Act 1977 it would not be possible to register such an instrument against the land title. In any event the Legal Services Unit's advice is that if the Council was prepared to enter into such an obligation that it do so in the form of a contractual term contained in the purchase agreement rather than through the medium of some type of legal instrument formally registered against the land title.

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

46. Yes. AHL has accepted that the brick granary and the shearing shed buildings and associated land may be purchased for the purpose of retention subject to final agreement on the conditions of such an agreement. This outcome is still subject to the Environment Court decisions on the wider appeals against the Council decision to allow for demolition of the farm building complex in its entirety.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

47. Heritage protection is aligned to the Community Outcome 'An Attractive and Well-designed City'. This provides for, among other things, ensuring "our lifestyles and heritage are enhanced by our urban environment".
48. One of the objectives under the Strategic Direction Strong Communities provides for "protecting and promoting the heritage character and history of the city" (Goal 7, Objective 4).
49. 'City Development Activities and Services' aims to help improve Christchurch's urban environment among other things. One activity under City Development provides for Heritage Protection.
50. City Development Activities and Services provide for reserves contributions through the Development Contributions Policy Part 3 s 4.1.1 Development Contributions.

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

51. No. The LTCCP supports heritage protection but the retention of the Aidanfield farm buildings other than for land acquisition is not an identified project, and no budgetary provision has been made for this purpose.

14 Cont'd

CONSULTATION FULFILMENT

52. The Council has addressed the parties to the appeal with regard to the possible negotiated position of the Council and AHL. There is no requirement to consult more widely on this issue.

STAFF RECOMMENDATION

The recommendation to Council remains unchanged from that made in September 2007 as follows:

- (1) That the Council does not purchase land in the Aidanfield Stage 7 subdivision for the purpose of the retention of the heritage farm buildings at 20 Nash Road.

It is further recommended:

- (2) That the Council continue to oppose the appeal lodged by the Halswell Residents' Association and Environment Canterbury which seeks the retention of all of the Aidanfield farm buildings.

However, if the Council is of a mind to support the acquisition of the granary and shearing shed farm buildings and associated land at 20 Nash Road then it is recommended that the Council:

- (a) Grant delegated authority to the Corporate Support Manager to negotiate and enter into an agreement for the purchase of the granary and shearing shed buildings and associated land at 20 Nash Road, Christchurch as a historic reserve under the Reserves Act 1977 on such terms and conditions as he shall see fit (including the acceptance of an obligation on the part of the Council to restore those buildings within an agreed period of time at its cost) to be funded from the Regional Reserves budget .
- (b) Approve the classification of the land area associated with the granary and shearing shed farm buildings as an historic reserve under s18 of the Reserves Act 1977.
- (c) Approve additional unbudgeted funding over the 2007/08 and 2008/09 financial years of up to \$752,000 to restore the Aidanfield farm buildings.
- (d) Approve additional ongoing budget of \$5,000 per annum for the maintenance of the restored structures.
- (e) Instruct officers to seek a consent order with appellants to allow for the retention of the Aidanfield farm buildings as heritage buildings to be owned by the Christchurch City Council.

BACKGROUND (THE ISSUES)

Council Options

58. The Council's options at this stage are therefore:

- To decide to purchase the land and buildings generally on the terms offered by AHL as set out in Attachment 2; or
- To require re-consideration of the terms and conditions of any purchase agreement with AHL regarding purchase; or
- To take no further action with regard to the purchase of the land and buildings.

There are no parties other than the Council who have any expressed interest in the purchase or use of the land and farm buildings.

59. The Aidanfield farm buildings are listed as Group 2 heritage in the City Plan. The background issues and recommendation are dealt with in the previous Council report of 27 September 2007 (Attachment 1) which should be referenced for the purposes of this report.

15. THE RUAPUNA PARK NOISE ENVIRONMENT

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8177
Officer responsible:	City Plan Team Leader
Author:	Jane Anderson

PURPOSE OF REPORT

1. The purpose of this report is to provide the Council with information on the existing and potential noise environment in the surrounds of Ruapuna Park, and to provide options for addressing the potential adverse effects created by this noise environment.

EXECUTIVE SUMMARY

2. Ruapuna Raceway and Speedway are located on Ruapuna Reserve, Hasketts Road, Templeton (Attachment 1). The Raceway track is leased and operated by the Canterbury Car Club for motor-racing. The Canterbury Car Club sub-lease and hire the track to a number of other clubs including the Canterbury Motor Racing School Limited and the Pegasus Bay Drag Club Ltd. The lease on the Raceway track is due to expire in 2017. The speedway track is leased and operated by the Christchurch Speedway until 2020, with a right of renewal until 2053.
3. The provisions of the City Plan provide for motor-sport activities as a permitted activity, subject to controls on noise and hours of operation (Attachment 2). Additionally, the Plan controls the development of any new residential dwellings within 400 metres of the track. There are five dwellings within this 400m setback.
4. The rules for restricting noise at Ruapuna Reserve were first established in 1995, when the City Plan was notified. These rules were relaxed as a result of the submission process and were adopted by Council in 1999.
5. Since late 2005, Council officers have experienced a dramatic increase in the number of complaints regarding the noise created by motor-sport activities at Ruapuna Reserve. The members of "Quieter Please" have expressed their concern over what they feel to be excessive noise levels adversely affecting the health and wellbeing of residents in the area, and also their concerns about the City Plan process, which took place without them being specifically made aware of it.
6. In April 2006, Council's Environmental Effects Team completed their programme of noise monitoring at Ruapuna. This monitoring was undertaken over a season of racing (November 2005 until March 2006). The monitoring established that events at Ruapuna were operating within the noise provisions of the Plan.
7. On the 24th August 2006, Council received a deputation from "Quieter Please". A report on the matters raised by this deputation was considered by Council on the 30th November 2006. Council resolved to adopt Option 3 of the report, that *"the Council at this time make no decision and await the outcome of the pending staff report on possible future development changes in the area that may affect motor-sport activities"*.
8. Additionally, a proposal to relocate the Speedway and Raceway to the Pound Road Quarry was brought to Council officers by the Canterbury Car Club.
9. Council officers commissioned Marshall Day Acoustics to report on the noise issues associated with motor-sport activities in the Templeton area (Attachment 3). The Marshall Day report established criteria for assessing the "reasonableness" of noise created by activities at Ruapuna Park. The results of assessing the noise environment using the Marshall Day criteria are as follows:
 - (a) Current noise environment - Seven dwellings are exposed to a "moderate to significant" noise environment by the Raceway. Three dwellings are exposed to a "moderate to significant" noise environment by the daytime use of the Speedway, and 21 dwellings are exposed to night-time noise from the Speedway that is "moderate to severe". These noise environments are defined in the report as "unreasonable" (Attachment 4).

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- (b) Maximum noise environment permitted by the provisions of the City Plan – Marshall Day Acoustics predict that the potential noise environment will be “significant to severe” for 10 dwellings in the Templeton area for daytime operations, “significant to severe” for 21 dwellings for night-time operations. An additional 24 dwellings would potentially experience “moderate to significant” noise effects for night-time operations. Marshall Day Acoustics considers that it is “unreasonable” for Ruapuna Park to operate at its maximum permitted capacity under the provisions of the City Plan (Attachment 5).
- 10. Additionally, Marshall Day Acoustics have established that the 400m building restriction around Ruapuna should be extended to 1300m to prevent moderate noise effects on new dwellings.
- 11. It is important to note that while the Marshall Day report refers to 21 dwellings affected by the existing noise environment, there are in fact 22 affected dwellings. Further, there are an additional two properties within the affected area where residential dwellings may be built. Therefore there are 24 affected properties.
- 12. There are a number of options for addressing the noise environment in the area surrounding Ruapuna. These options include, making a change to the City Plan to limit the activities to the existing level, constructing acoustic shields around the park, limiting the noise at point source, mitigating the noise at the receiving environment, possible buy-outs of affected residential dwellings and relocating the motor-sport activities into the Pound Road Quarry or elsewhere. The level of effectiveness of the majority of these options is low.
- 13. It is recommended that a combination of options are developed for addressing the noise environment at Ruapuna, this combination should include placing a cap on the noise environment to reflect current noise levels, restricting all new residential developments within 1300m of the Park boundary and to investigate the possible buy-out of the identified affected properties.

FINANCIAL IMPLICATIONS

- 14. The financial implications of the proposed options outlined in this report vary greatly.
- 15. Should Council agree with maintaining the status quo, there will be no financial implications for Council.
- 16. Should Council agree to undertake a change to the Plan to place limits on the noise environment and restrict residential dwellings within 1300 metres of the Park, the financial implication will be those associated with a Plan Change. Costs cannot be predicted accurately, but could be in the vicinity of \$250,000 if it proceeds to the Environment Court.
- 17. The financial implications of constructing acoustic shields around Ruapuna Park cannot be predicted. Further investigations into the appropriate design and materials would need to be undertaken before any costs could be supplied.
- 18. The financial implications for operators at the Park of mitigating the noise at point source cannot be predicted. The mitigation at point source may be an option, but the Council would need the agreement of the operators using the Park as there is no ability for the Council to require noise mitigation without an Environment Court Order. Further, the lessees of the Park may seek compensation for the restrictions this option may place on the motor-sport activities. It is anticipated that this option will create additional costs for Council for mitigation measures, monitoring and enforcement.
- 19. A preliminary assessment of the financial implication of possible purchase of the affected properties has been undertaken (Attachment 6 (public excluded section)). Three options for the use of the purchased affected land have been identified, these are summarised below:

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- (a) Reselling of properties with covenants restricting noise complaints – The size of the adversely affected land is approximately 81.36 hectares with a rateable value of \$14.1 million. On preliminary investigation, a 5-10% value reduction range from the purchase price has been established as a reasonable estimate for the resale price of affected properties. (current rateable values have served as the basis for estimating the possible purchase price of all affected properties; all values include a consideration of holding costs and legal costs). These values require further research.
 - (b) Retain affected land for future use – The affected land may be of use for future use, such as reserves or for sporting activities complimentary to motor-sport activities. Preliminary discussions with Council staff have indicated that there are few, if any community open spaces uses for this area.
 - (c) Quarrying of the land of affected properties – Council staff have investigated the possibility of using the affected land for quarrying. The key direct risks associated with this option are the quality of the gravel, overall market prices and quantity of gravel and cost of extraction. The other key issue is obtaining consents to undertake quarrying activities. A brief assessment of this option suggests that a maximum loss of \$19 million would be incurred over the 12 year life of the activity, this is mainly due to high land costs and extraction costs.
20. The financial implication of mitigating the noise at the receiving environment is dependent on the threshold at which residents are assessed as being adversely affected by the noise to a level that requires acoustic treatment. According to the criteria used in the Marshall Day report, twenty-two dwellings are significantly affected by the current noise environment. However, should the Raceway operate to the maximum noise levels permitted by the Plan, it is anticipated that this number would increase to 46 dwellings. It is not possible to be certain of the costs without assessing the dwellings in the area. However, the research undertaken by Lyttelton Port Company has established a maximum cap of \$60,000 for acoustically treating a dwelling. Therefore, the costs to the Council to acoustically treat 22 dwellings would be approximately \$1.3 million, increasing to approximately \$2.8 million to treat all 46 dwellings.
21. The financial implications of relocating the motor-sport facilities from Ruapuna Park would be very extensive. Setting aside the difficulties of finding a suitable site, the cost of land purchase and construction would run to many millions of dollars.

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

22. No. While the cost of any plan change could be incorporated within the City Plan budget, no funding has been identified within the LTCCP for the possible purchase of affected properties. Once investigation and research has been undertaken on this buy-out option, details would need to be included in the 2009-2019 LTCCP budget.

LEGAL CONSIDERATIONS

23. Council staff commissioned a legal opinion from Simpson Grierson regarding a number of the legal considerations associated with regulatory and non-regulatory options for controlling noise emissions from the Ruapuna Raceway and Speedway (Attachment 7). The outcomes of this legal opinion are summarised below:
- (a) Change to the City Plan Noise Provisions – in terms of lowering the noise below current levels, any change to the plan provisions would be ineffective as the Park could then rely on existing use rights under section 10 of the Resource Management Act 1991 (RMA). However, there is an opportunity to stop activities from reaching the maximum permitted noise level provided by the plan by changing the provisions to place a cap on the maximum permitted noise levels and days of activity to reflect the current usage levels.

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- (b) Exercising powers pursuant to section 16 of the RMA by taking enforcement action requiring the adoption of the best practicable option for ensuring the level of noise emitted is reasonable – there is limited scope within the RMA to pursue enforcement proceedings for a purported breach of section 16. Further, any enforcement order is likely to be subject to a statutory bar preventing the Environment Court from granting an order due to the effect of section 319(2). Even if an enforcement order was sought, the Court still has the discretion to grant or decline the application and the Court is unlikely to make an order, given that the noise effects of the Ruapuna complex appear to have been expressly considered and authorised by the Council when approving the City Plan. Similarly, an abatement notice is unlikely to be upheld due to the effect of section 325(5) and for similar reasons as those for the enforcement action.
- (c) Exercising powers pursuant to Section 41 of the Reserves Act 1977 to adopt a reserves management plan to control the use of the Ruapuna Complex – there is no mechanism in the Reserves Act to enforce management plans, and accordingly prescribing noise limits or seeking to restrict activities by way of a management plan for the Park would be ineffective.
- (d) Controls through the development of a new bylaw to control the impact events have on a pre-existing noise environment – the use of bylaws under the Reserves Act or the Local Government Act 2002 have the potential to be able to control the noise effects, however there are practical and political difficulties with the passage of such bylaws which would be subject to the public scrutiny, including the lessees of the Park, and ultimately all bylaws affecting reserves require approval from the Minister of Conservation.
- (e) Exercising powers to alter or enforce lease agreements restricting the use of Ruapuna Park – the lease agreement for the Car Club contains an “offensive activity” provision restricting activities that are likely to disturb adjoining occupiers of land. It is arguable that the provision makes the emission of unreasonable noise a breach of the lease by the Car Club. However, this may be inconsistent with the primary purpose of the lease, which was to enable such activities and should be considered in the context. Further, the Council can be considered to have created the existing noise problem by allowing the encroachment of noise sensitive activities such as residential housing in the vicinity of Ruapuna. The ability of the Council to enforce the “offensive activity” clause to control noise emissions from the usual activities of the Car Club is limited. Further, there is no provision regarding “offensive activities” in the lease for the Speedway.
- (f) Dealing with noise through the claims for nuisance as a statutory nuisance under the Health Act 1956 – the statutory nuisance provisions under the Health Act require the purported nuisance to be injurious to public health. Further research would need to be undertaken to assess whether the noise environment is injurious to public health. With further evidence it may be possible to undertake statutory nuisance proceedings under the Health Act. However, it may be doubtful, given the number of affected properties, that the noise emissions were injurious to public health.
- (g) Dealing with the noise through claims of nuisance at common law – there would be a threshold issue with regard to the standing of the Council for any claim in private nuisance at common law. While the process may be able to provide some basis for control of the noise emissions in the form of an injunction, the Council is unlikely to have the standing to bring such proceedings. Further the claim in public nuisance would be difficult to establish, as the purported nuisance does not appear to affect a public right, rather it has a specific effect on private landowners.

Finally, the legal opinion states that given the Council has effectively created the current situation, by authorising the activities at Ruapuna as a landowner and as regulator under the RMA, a course of action that effectively seeks to remove the ability of the complex to lawfully continue those activities may raise issues of wrongful use of statutory powers, collateral purposes, illegality or unreasonableness with regard to the exercise of such powers by the Council.

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

24. Yes

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

25. This report is consistent with the programme of City Development under the LTCCP that seeks to provide an ongoing programme of improvements to enhance the planning documents of the City, to ensure an attractive built environment and minimise adverse effects on the environment (pg 145).

26. Additionally, this report is consistent with the programme of Liveable Cities under the LTCCP that seeks to provide a good built environment that improves people's quality of life.

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

27. Yes

ALIGNMENT WITH STRATEGIES

28. Liveable City Strategy and Healthy Environment Strategy

Do the recommendations align with the Council's strategies?

29. Yes

CONSULTATION FULFILMENT

30. Yes

STAFF RECOMMENDATION

It is recommended that:

- (a) The report be received.
- (b) That the Council agree to consider the possible purchase of the twenty-four most affected properties or offer a mitigation package to the owners.
- (c) That the Council prepare a change to the City Plan to:
 - (i) prevent growth in noisy activities beyond a point that is reasonable,
 - (ii) impose greater separation distance to residential activities that is appropriate to the level of activity at Ruapuna,
- (d) That no further consideration is given to the enforcement option under Section 16.
- (e) That Council staff develop a detailed proposal for land purchase or mitigation package for consideration by Council, the community and user groups.

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BACKGROUND (THE ISSUES)

31. Ruapuna Reserve is owned by the Christchurch City Council. Ruapuna Raceway and Speedway are located on Ruapuna Reserve, Hasketts Road, Templeton (Attachment 1). The Raceway track is leased and operated by the Canterbury Car Club for motor-racing activities. The Canterbury Car Club sub-lease and hire the track to a number of other clubs for a variety of motor-sport activities. The lease on the Raceway track is due to expire in 2016, with no right of renewal. The Speedway track is leased and operated by the Christchurch Speedway until 2020, with a right of renewal until 2053.
32. The Raceway tracks were established on the reserve in the 1960s. The tracks are used for activities such as racing, car trials, driver training and drifting. A number of clubs utilise the Raceway tracks, including the Canterbury Motor Racing School Limited, the Pegasus Bay Drag Club and the Canterbury Auto Cycle Club. The Canterbury Car Club organises a number of events for each racing season, these events include the Lady Wigram Trophy Race and the Southern Festival of Speed.
33. The Speedway tracks are used for the racing of a number of different classes of vehicles, including sprint cars and midjets. Speedway events generally occur in the evenings over the summer period.
34. Ruapuna Reserve is zoned Open Space 3 in the City Plan. The provisions of the Plan provide for motor-sport activities as a permitted activity, subject to controls on noise and hours of operation (Attachment 2). Additionally, the Plan controls the development of any new residential dwellings within 400 metres of the track. There are five dwellings within this 400m setback.
35. The rules for restricting noise at Ruapuna Reserve were first established in 1995, when the City Plan was notified. After public notification, Council received a number of submissions on these noise provisions from organisations and individuals seeking to have the provisions relaxed. When the summary of these submissions were published, Council received one submission opposing the relaxation of the rules. At the hearing, the Commissioner seems to have been influenced by the fact that the Raceway and Speedway were long established, that there was little or no history of complaints and that therefore the proposed changes could be justified. Council adopted the Commissioners recommendation and publicly notified the changes in 1999. No appeals were lodged in the Environment Court. Therefore, the noise provisions for the Reserve have been in effect since June 1999. Residents now consider that the public notification process was not an adequate way of making them aware of the City Plan provisions, and they should have been directly consulted, especially after the submissions seeking relaxation were received and the officer's reports to the Hearings Commissioner were prepared. The residents say they were unaware of these processes.
36. The noise provisions of the City Plan provide for motor-sport activities as a permitted activity, subject to controls on noise and hours of operation (Attachment 2). Operational noise levels of 90dBA Lmax and 65dBA L10 (1 hour) apply between the hours of 0900 and 2200 hours throughout the year. Additional provisions allow for the site to operate until 2300 hours on up to 200 days per year, with permitted noise levels of 95dBA Lmax and 80dBA L10 (1 hour), for up to 15 days per year the site may operate until 2400 hours, and for up to 5 days per year no Lmax shall be applied. Additionally, the Plan controls the development of any new residential dwellings within 400 metres of the track. There are five dwellings within this 400m setback.
37. Since late 2005, there has been a dramatic increase in the number of complaints regarding the noise created by motor-sport activities at Ruapuna Reserve. A group of Templeton residents called "Quieter Please" have been corresponding with Councillors, local Members of Parliament and Council officers since late 2005. The members of "Quieter Please" have expressed their concern over what they feel to be excessive noise levels adversely affecting the health and wellbeing of residents in the area, and also their concerns about the City Plan process, which took place without them being specifically made aware of it.

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38. In December 2005, the Riccarton-Wigram Community Board requested that Council officers provide a report regarding the City Plan noise provisions for Ruapuna. This report was presented to Council on the 14th February 2006.
39. In April 2006, Council's Environmental Effects Team completed their programme of noise monitoring at Ruapuna. This monitoring was undertaken over a season of racing (November 2005 until March 2006) and was part of the Environmental Effects Team's scheduled noise monitoring programme. The monitoring established that events at Ruapuna were operating within the noise provisions of the Plan. The Monitoring Report was presented to the Community Board on 11 April 2006.
40. The Riccarton-Wigram Community Board held a facilitated meeting between Templeton residents and motor-sport operators on the 24th April 2006. Both parties agreed to a number of measures for addressing the issues discussed.
41. On the 24th August 2006, Council received a deputation from "Quieter Please". A report on the matters raised by this deputation was considered by Council on the 30th November 2006. Council resolved to adopt Option 3 of the report, that *"the Council at this time make no decision and await the outcome of the pending staff report on possible future development changes in the area that may affect motor-sport activities"*.
42. Additionally, a proposal to relocate the Speedway and Raceway to the Pound Road Quarry was brought to Council officers by the Canterbury Car Club.
43. The motor-sport activities that occur at Ruapuna Reserve provide a number of social and economic benefits to the City. The Raceway facilities, leased by the Canterbury Car Club, are used for car racing, car trials, driver training and driver safety and education. The Car Club holds more than 50 events per season; these events attract participants and car-enthusiasts from all over the country into the City. The Speedway facilities, leased by Ruapuna Speedway, are used for Speedway events for a variety of vehicle classes in approximately 20 events per year. The motor-sport activities at Ruapuna provide economic benefits for motor-sport related industries and more indirect economic benefits to the hospitality industry.
44. The Canterbury Car Club has advised Council that since March 2006 the Club has undertaken a number of measures to mitigate the adverse effects associated with the noise of motor-sport activities, these measures include:
 - a) Limiting the opening hours of the track, to ensure that racing and/or vehicle testing may not occur prior to 0900 hours,
 - b) Placing more stringent controls on the use of the PA system, and
 - c) The training cars used by the Motor Racing School have been muffled
45. Council officers commissioned Marshall Day Acoustics to report on the noise issues associated with motor-sport activities in the Templeton area. The brief requested that the assessment investigate the "reasonableness" of the current and potential noise environment, possible noise mitigation options, and determine the potential noise effects from Ruapuna Raceway and Speedway if relocated 8 metres below ground in the Pound Road Quarry.
46. The report from Marshall Day Acoustics is provided as Attachment 3. As part of the report Marshall Day sought to define the levels of adverse effects created by motor-sport noise. It was established that any increase in noise effects above "moderate effects" should be considered "unreasonable" (Marshall Day Report, page 30). These parameters for defining "reasonableness", or the "annoyance criteria", were influenced by the a number of issues, including that the raceway and speedway have been in operation before most residents moved into the area, and the high levels of ambient noise from aircraft and quarry activities. Marshall Day Acoustics, having defined what constitutes a "reasonable" noise environment, established that:

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- (a) According to the “annoyance criteria”, the report has established that seven dwellings have been identified as being “moderately to significantly” affected by noise from the Raceway and three dwellings have been identified as being moderately to significantly affected by noise from the Speedway. The exposure rates for these dwellings has been assessed as between 61-62dBAL eq (1 hour) during predominant winds (Marshall Day Report, page 49). It is in the view of Marshall Day Acoustics that it would be reasonable for these residents to expect noise levels to be reduced below 60dBAL eq (1 hour) or to have the number of events reduced. Twenty-one dwellings have been identified as being exposed to night-time noise from the Speedway that is moderate to severe and, therefore “unreasonable” (Marshall Day Report, page 50).
 - (b) The Park is not operating to the maximum capacity permitted by the noise rules. The predictions for the potential noise environment created by motor-sport activities operating at the maximum permitted capacity under the rules has been assessed as being “unreasonable” for a number of surrounding residents (Marshall Day Report, page 51). Thirteen dwellings have been assessed as potentially being exposed to moderate to significant noise effects from activities occurring at the Raceway in this noise environment, and seven dwellings potentially being exposed to significant to severe effects. For the night-time operations of the Speedway, 24 dwellings have been identified as potentially being exposed to moderate to significant effects and 23 dwellings potentially exposed to significant to severe effects. It is in the view of Marshall Day that it is “unreasonable” for Ruapuna Park to operate at the maximum capacity provided by the provisions of the City Plan.
 - (c) The current buffer distance of 400 metres is sufficient for preventing significant noise effects on new dwellings, however extending the building restriction to 1300 metres would prevent minor to moderate noise effects on new dwellings (Marshall Day Report, page 64).
 - (d) The possible relocation of the Ruapuna motor-sport facilities into the Pound Road quarry would increase the adverse effects of noise on the surrounding residents to an “unreasonable” level. The relocation would result in significant increases in noise at a number of locations. It is in the view of Marshall Day Acoustics that it would be reasonable for residents to not expect any perceptible increase in noise as a result of relocating the motor-sport activities (Marshall Day Report, page 58).
47. It is important to note that while the Marshall Day report refers to 21 dwellings affected by the existing noise environment, there are in fact 22 affected dwellings. Further, there are an additional two properties within the affected area where residential dwellings may be built. Therefore there are 24 properties affected by the current noise environment.
48. There are a number of options for addressing the noise environment in the area surrounding Ruapuna. These options include, making a change to the City Plan to limit the activities to the existing level, constructing acoustic shields around the park, limiting the noise at point source, mitigating the noise at the receiving environment, possible buy-outs of affected residential dwellings and possible relocation of the motor-sport activities into the Pound Road Quarry or elsewhere. Lowering the noise limits in the City Plan below the existing noise environment would not be an effective option because existing use rights have been established.

THE OBJECTIVES

49. The objective of this report is to provide Council with the results of an independent report of the “reasonableness” of the noise environment surrounding Ruapuna Park and to provide options for mitigating the adverse effects produced by the noise.

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THE OPTIONS**OPTION 1**50. *The Status Quo*

The current City Plan noise provisions provide for motor-sport activities as a permitted activity. The status quo option involves maintaining the provisions as outlined in Attachment 2. The activities at Ruapuna Park are not currently operating at the maximum permitted capacity provided for by the noise provisions; therefore, there is scope for a substantial increase in the potential adverse affects of noise in this environment. A number of Templeton residents are increasingly voicing their opposition to the noise provisions for Ruapuna, stating that the activities are adversely affecting their health and well-being. It is in the view of Marshall Day Acoustics that the potential noise environment created by motor-sport activities at Ruapuna operating at the maximum permitted capacity as determined by the City Plan provisions would be "unreasonable" for the surrounding residential population.

REGULATORY OPTIONS**OPTION 2**51. *Changes to the City Plan Noise Provisions*

This option would seek to place restrictions on the use of the existing Ruapuna motor-sport facilities to help limit the potential adverse affects on the surrounding rural-residential environment through a change to the City Plan noise provisions. A Plan Change to place limitation on the noise provisions may be undertaken in a number of ways, including; lowering the permitted noise levels, changing the number of days of operation, limiting the number of events, and increasing the development setback for new housing from the Park boundaries.

It is important to note that any plan change will not extinguish "existing use rights". It is in the view of Marshall Day Acoustics that the noise environment will become increasingly "unreasonable" for surrounding residents should the Park operate at the full permitted capacity provided for by the provisions in the City Plan. However, there is an opportunity to place a cap on the current noise by restricting activities to the current levels.

OPTION 352. *Legal Enforcement*

The use of section 16 of the Resource Management Act to ensure the level of noise emitted is reasonable has been explored as part of the legal opinion from Simpson Grierson. The legal opinion states that there is limited scope within the RMA to pursue enforcement proceedings for a purported breach of section. Further, any enforcement order is likely to be subject to a statutory bar preventing the Environment Court from granting an order due to the effect of section 319(2). Even if an enforcement order was sought, the Court still has the discretion to grant or decline the application and the Court is unlikely to make an order, given that the noise effects of the Ruapuna complex appear to have been expressly considered and authorised by the Council when approving the City Plan. Similarly, an abatement notice is unlikely to be upheld due to the effect of section 325(5) and for similar reasons as those for the enforcement action.

Exercising powers pursuant to Section 41 of the Reserves Act 1977 to adopt a reserves management plan to control the use of the Ruapuna Complex has also been explored as part of the legal opinion from Simpson Grierson. The legal opinion states that there is no mechanism in the Reserves Act to enforce management plans, and accordingly prescribing noise limits or seeking to restrict activities by way of a management plan for the Park would be ineffective.

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OPTION 453. *Claims for statutory nuisance under the Health Act 1956*

This option would allow for Council to use the provisions of the Health Act 1956 to control the noise if a statutory nuisance was being committed. The statutory nuisance provisions under the Health Act require the purported nuisance to be injurious to public health. Further research would need to be undertaken to assess whether the noise environment is injurious to public health, to allow for the control of the noise at Ruapuna. However, it may be doubtful, given the number of affected properties, that the noise emissions were injurious to public health.

OPTION 554. *Nuisance at common law*

This option would seek to use a claim in nuisance at common law. It is in the view of the Simpson Grierson legal opinion that there would be a threshold issue with regard to the standing of the Council for any claim in private nuisance at common law. While the process may be able to provide some basis for control of the noise emissions in the form of an injunction, the Council is unlikely to have the standing to bring such proceedings. Further, the claim in public nuisance would be difficult to establish, as the purported nuisance does not appear to affect a public right, rather it has a specific effect on private landowners.

NON-REGULATORY OPTIONS**OPTION 6**55. *Mitigation measures at Ruapuna Park*

This option would seek to have additional noise barriers constructed around Ruapuna Park to mitigate the adverse effects of noise from Ruapuna Park. There is an existing bund around the southern side of Ruapuna Raceway and bunds surrounding the majority of the Speedway track, these bunds provide a line-of-sight screening to most residents and have been assessed by Marshall Day Acoustics as providing some effectiveness as a noise barrier.

Marshall Day Acoustics undertook an assessment of the noise reduction created by the construction of an additional fence or bund along the southern boundary of the Park. The results of this assessment established that a significant noise reduction would be produced close to the barrier. However, at the location of the surrounding dwellings the noise reduction would not be significant (less than 2dBA). Additionally, it has been determined that increasing the height of the existing bund would not provide an appreciable decrease in the noise level.

OPTION 756. *Mitigation measures at the Point Source*

This option would seek to place restrictions on the vehicles to meet a yet to be determined noise performance standard. This option would involve the testing of all vehicles and the fitting of mufflers and bafflers to all cars that do not meet a prescribed noise standard. Currently, vehicles using the Raceway are required to meet the current MotorSport New Zealand noise rules whereby no vehicle shall exceed the noise level of 95dBA. Similar restrictions are placed on the use of the Speedway. Preliminary research suggests that the use of mufflers for the reduction of noise "may have a limit of 5dBA"¹.

¹ Marshall Day Acoustics, Ruapuna Park and Christchurch Kart Club Noise Assessment, 2007.

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OPTION 8

57. *Mitigation measures at the Receiving Environment*

This option would seek to acoustically treat the dwellings that are adversely affected by the noise environment. Acoustically treating the receiving environment usually includes the installation of double glazing, increasing the mass of internal walls and ceiling linings, installation of ventilation systems so that windows remain shut and treating external doors. It is important to note that outdoor recreational areas would continue to receive the same amount of noise.

OPTION 9

58. *Possible buy-out of affected residential dwellings or provision of a mitigation package to property owners*

This option would seek to minimise the number of residents exposed to the noise environment by seeking to buy out the properties most affected. It is in the view of Council staff that it is not appropriate to compulsorily acquire these properties under the Public Works Act 1981, as it is not a public works. However, if affected property owners are willing to sell, the Council may purchase these properties. The Public Works Act may be used to establish the purchase price where the property owner wishes to sell but agreement on price has not been reached. Alternatively, should affected property owners refuse to sell, there is an opportunity for a mitigation package to be provided to affected property owners in return for a no complaints covenant on the affected property. Should the Council agree that some form of mitigation package for this noise environment is justified, there are a number of issues arising from this issue that require further research, including establishing the criteria for determining which properties should be included in this proposal, whether this option would set a precedent for other potentially "unreasonable" activities and how such an option would be funded.

Council staff have identified three possible options available for the use of this land if purchased by Council:

- (a) Reselling of affected properties with covenants restricting noise complaints - It is anticipated that there will be a lowering of property values to be expected. Preliminary investigations suggest that the sale price with a no noise complaint covenant will be reduced by an average of 5-10% of the value of the property.
- (b) Using the land purchased for quarrying purposes - The land area associated with the 24 most affected properties is approximately 81 hectares. It is anticipated that the value of minerals in this block of land is approximately \$95 million. However, this option would require applying for a resource consent to allow for quarrying activities and may have a negative impact on the Templeton community in general.
- (c) Retain the land purchased for other future uses – The affected land may be of use for future use, such as reserves or for sporting activities complimentary to motor-sport activities. Preliminary discussions with Council staff have indicated that there are no known deficiencies on this area in the provision of parks, reserves and community facilities.
- (d) It is noted that there may be potential for the land to be used for the relocation of the Christchurch Kart Club (Carrs Road). However, there are a large number of issues that will require further investigation. Previous testing of the potential noise environment created by Kart Club in the Pound Road quarry has shown that the Kart Club generates significant noise. It is anticipated that if the Kart Club was relocated closer to Ruapuna Park, an additional group of residents, beyond the current 24 affected properties, are likely to be affected. The extent of this will need to be confirmed by additional modelling. If the noise issues associated with relocating the Kart Club can be resolved, the Club could only be relocated if all the affected residents were bought out or mitigated. The timing of this may extend beyond the proposed rezoning in Awatea, which may make any relocation an academic exercise.

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OPTION 10

59. Possible relocation of Ruapuna to the Pound Road Quarry

This option would seek to relocate all motor-sport activities into the Pound Road quarry pit. The intention of the relocation options was to provide the Speedway and Raceway with larger facilities in the pit while utilising the quarry walls to mitigate the noise. Council officers have commissioned reports from URS on groundwater and stormwater and from Marshall Day Acoustics on noise to investigate the viability of this possible relocation option. Additionally, the Property Consultancy Team began discussions with Fulton Hogan over the possible purchasing of the quarry pit.

The URS report established that an engineered solution would limit any adverse effects of locating motor-sport activities vertically closer to the unconfined aquifers of Zone 1 of Environment Canterbury's Natural Resources Regional Plan (NRRP).

The Marshall Day Acoustics report established that relocating Ruapuna would not result in significant decrease in the noise environment. For a number of residents, there would be a significant increase in noise. Marshall Day Acoustics conclusion on this issue states that "the current location of Ruapuna currently represents the best practicable location in terms of noise effects on existing dwellings".

OPTION 11

60. *Policy Options*

There is an opportunity to place controls on the events occurring at Ruapuna through the Reserve Management Plan or the introduction of bylaws. These policy options have been explored by Simpson Grierson. The legal opinion states that the use of bylaws under the Reserves Act or the Local Government Act 2002 have the potential to be able to control the noise effects, however there are practical and political difficulties with the passage of such bylaws which would be subject to the public scrutiny, including the lessees of the Park, and ultimately all bylaws affecting reserves require approval from the Minister of Conservation.

OPTION 12

61. *Lease Options*

There is an opportunity for the Council to exercise its powers as landowner to alter or enforce lease agreements restricting the use of Ruapuna Park – the lease agreement for the Car Club contains an "offensive activity" provision restricting activities that are likely to disturb adjoining occupiers of land. It is arguable that the provision makes the emission of unreasonable noise a breach of the lease by the Car Club. However, this may be inconsistent with the primary purpose of the lease, which was to enable such activities and should be considered in the context. Further, the Council can be considered to have created the existing noise problem by allowing the encroachment of noise sensitive activities such as residential housing in the vicinity of Ruapuna. The ability of the Council to enforce the "offensive activity" clause to control noise emissions from the usual activities of the Car Club is limited. Further, there is no provision regarding "offensive activities" in the lease for the Speedway.

OPTION 13

62. *Memorandum of Understanding with Lessees of Ruapuna Reserve*

There is an opportunity for Council staff to meet with the lessees of Ruapuna Reserve to reach a memorandum of understanding to place restrictions on the noise environment. However, it is in the view of staff that there would need to be a significant reduction in motor-sport activities at the site to achieve a decrease in the noise environment. Therefore, a memorandum of understanding with the lessees of the reserve may prove difficult.

15 Cont'd

ASSESSMENT OF OPTIONS

Option 1 - Maintain the Status Quo

63. The Status Quo provides for the opportunity for motor-sport activities to continue to operate at the current levels, with the potential for noise to reach the maximum level permitted as determined by the City Plan noise provisions.

	Benefits (current and future)	Costs (current and future)
Social	Continued use of the motor-sport facilities Retaining facilities of great social importance to motor-sport enthusiasts from Christchurch and the wider South Island	Actual and perceived adverse effects related to noise for residents living within close proximity of the Park, including impacts on health and wellbeing Does not mitigate the noise at the seven dwellings currently experiencing moderate to significant noise effects from the raceway. Does not mitigate the noise at 22 dwellings currently experiencing moderate to severe noise effects from the speedway. Does not place any limits on the existing or potential noise environment Possible future urban growth in the area may increase the number of people affected by the noise
Cultural		Potential for increase in the noise environment resulting in increase in adverse affects on lifestyle of residents.
Environmental	Retaining facilities that contribute to the local economy	Does not place any limits on the existing or potential noise environment
Economic	No costs associated with a plan change No costs associated with relocating the motor-sport facilities No costs associated with developing noise mitigation measures	Potential negative effect on property values in the area
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: May potentially impact on Council’s role, and the community’s perception of Council’s role, in providing the City’s population with a healthy living environment.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: Consistent with Council’s Recreation and Sport Policy and supports the Council 2006/16 LTCCP</p> <p>Views and preferences of persons affected or likely to have an interest: Members of “Quieter Please” are unlikely to be supportive of this option as they wish to have noise and operational limits placed on motor-sport activities occurring at Ruapuna. The Canterbury Car Club, Ruapuna Speedway and other motor-sport clubs and enthusiasts are likely to be supportive of retaining the status quo as it would allow for possible increases in the noise environment and days of operation, providing flexibility for future motor-sport activities.</p>		

15 Cont'd

Option 2 - Changes to the City Plan Noise Provisions

64. Changes to the City Plan Noise Provisions seeking to place limits on the permitted noise levels, lower the number of days of operation or place limits on the number of events occurring at Ruapuna Park to the current levels, and increase the minimum separation distance of new dwellings from Ruapuna to 1300 metres.

	Benefits (current and future)	Costs (current and future)
Social	Provides for capping the noise environment at current levels Places limits on rural-residential development and thus the number of people affected by the noise Continued use of the motor-sport facilities	Little change to the existing noise environment Possible future urban growth in the area may increase the number of people affected by the noise Does not mitigate the noise at the seven dwellings currently experiencing moderate to significant noise effects from the raceway. Does not mitigate the noise at 22 dwellings currently experiencing moderate to severe noise effects from the speedway.
Cultural		
Environmental	Provides for capping the noise environment at current levels	Little change to the existing noise environment
Economic	No costs associated with relocating the facilities No costs associated with developing noise mitigation measure	Costs involved in a plan change Costs associated with placing limits on motor-sport activities Costs involved in removing the opportunity for developing new housing in the vicinity of Ruapuna
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: Costs associated with changing the Plan with potentially limited change to the existing noise levels.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori</p> <p>Views and preferences of persons affected or likely to have an interest: Members of “Quieter Please” are likely to be supportive of this option as they wish to have noise and operational limits placed on motor-sport activities occurring at Ruapuna. The Canterbury Car Club, Ruapuna Speedway and other motor-sport clubs and enthusiasts are likely to oppose any changes to the current provisions.</p> <p>Other relevant matters: A change to the City plan noise provisions for Ruapuna may be undertaken to seek to lower the permitted noise levels, change the number of days of operation or place limits on the number of events. It is important to note that any proposed plan change will not extinguish “existing use rights” held by Ruapuna Raceway and Speedway. Therefore, should Council seek to cap the noise provisions below the existing use rights, the motor-sport activities may legally continue at the current noise levels and days of operation. Any change in the character and intensity of the activities would extinguish the existing use rights and enable Council to enforce the more restrictive conditions. The other option available is for Council to cap the noise provisions at the existing level of operation, ensuring that there are no increases to the existing noise environment.</p>		

15 Cont'd

Option 3, 4, 5 and 11 –Enforcement Options

65. Options 3, 4, 5 and 11 have been grouped together for assessment as “enforcement options” as they will each have similar costs and benefits. These four enforcement options seek to use either the RMA, the Reserves Act, the Health Act, the common law of nuisance or bylaws to place limits on the noise environment. Each option has been discussed in the Simpson Grierson legal opinion.

	Benefits (current and future)	Costs (current and future)
Social	Potential to provide for limiting the noise environment around Ruapuna. Continued use of the motor-sport facilities	Potentially places restrictions on the motor-sport activities at Ruapuna
Cultural		
Environmental	Potentially provides for limiting the noise environment around Ruapuna.	
Economic		Costs involved in enforcement Costs associated with placing limits on motor-sport activities
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: Costs associated with enforcement.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori</p> <p>Views and preferences of persons affected or likely to have an interest: Members of “Quieter Please” are likely to be supportive of this option as they wish to have noise and operational limits placed on motor-sport activities occurring at Ruapuna. The Canterbury Car Club, Ruapuna Speedway and other motor-sport clubs and enthusiasts are likely to oppose any changes to the current provisions.</p> <p>Other relevant matters:</p>		

15 Cont'd

Option 6 - Mitigation Measures at Ruapuna Park

66. Mitigation measures at Ruapuna Park seeks to develop additional acoustic noise barriers around Ruapuna Park to limit the noise environment.

	Benefits (current and future)	Costs (current and future)
Social	Minimal reduction (approx 2dBA) to the noise environment for dwellings located in close proximity to the Park May help to mitigate the noise at the seven dwellings currently experiencing moderate to significant noise effects from the raceway. May help to mitigate the noise at 22 dwellings currently experiencing moderate to severe noise effects from the speedway.	Minimal reduction to noise environment may be barely discernable for the majority of residents Possible future urban growth in the area may increase the number of people affected by the noise
Cultural	Potential for improvement to the lifestyles of residents through reduction in noise levels	
Environmental	Minimal reduction to the noise environment for dwellings located in close proximity to the Park	Does not place any limits on existing and potential noise environment
Economic	No costs associated with a plan change No costs associated with relocating the motor-sport facilities	High level of costs associated with the construction and maintenance of the noise barriers
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council's capacity and responsibilities: Marshall Day Acoustics undertook an assessment of the noise reduction created by the construction of an 8 metre fence or bund along the southern boundary of the Park. The results of this assessment established that the noise reduction would not be significant at the surrounding dwellings. However, the construction costs of developing an acoustic fence or bund around the park would be significant.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: Provision would have to be made in the LTCCP for funding the construction</p> <p>Views and preferences of persons affected or likely to have an interest: Consultation with residents regarding this option has not been undertaken; it is likely that the residents would only support this option if there would be a substantial reduction in noise.</p> <p>Other relevant matters:</p>		

15 Cont'd

Option 7 - Mitigation Measure at Point Source

67. The development of mitigation measures at the point source would seek to place restrictions on the vehicles using the facilities to meet a yet to be determined noise performance standard.

	Benefits (current and future)	Costs (current and future)
Social	Potential reduction to the noise environment for dwellings located in close proximity to the Park	Minimal reduction to noise environment may be barely discernable for many residents Possible future urban growth in the area may increase the number of people affected by the noise
Cultural	Potential improvement to the lifestyles of residents through reduction in noise levels	
Environmental	Potential reduction to the noise environment	
Economic	No costs associated with a plan change No costs associated with relocating the motor-sport facilities	Costs associated with muffling and baffling cars Costs associated with enforcement
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: The vehicles using the Speedway and Raceway facilities are subject to rules on noise emissions provided by their governing bodies. Any additional restrictions would possibly require Council to develop bylaws or place conditions on the lease of the Park. Additionally, these mitigation measures would need to be monitored and enforced by Council.</p> <p>Marshall Day Acoustics have assessed the efficacy of placing additional controls on the noise levels at point source and suggest that the use of mufflers for the reduction of noise may have a limit of 5dBA. Should Council favour this option further investigation into noise reduction at point source will need to be undertaken.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: Consistent with Council’s Recreation and Sport Policy</p> <p>Views and preferences of persons affected or likely to have an interest: Consultation with residents regarding this option has not been undertaken; it is likely that the residents would only support this option if there would be a substantial reduction in noise. The Car Club, Speedway and other users of the facilities are unlikely to support this option due to the associated costs</p> <p>Other relevant matters:</p>		

15 Cont'd

Option 8 - Mitigation Measures at the Receiving Environment

68. Mitigation measures at the receiving environment would seek to acoustically treat dwellings that are adversely affected by the noise environment.

	Benefits (current and future)	Costs (current and future)
Social	The insulation of some dwellings may mitigate the inside noise levels Potential improvement to the health and well being of residents May help to mitigate the noise at the seven dwellings currently experiencing moderate to significant noise effects from the raceway. May help to mitigate the noise at 22 dwellings currently experiencing moderate to severe noise effects from the speedway.	Issues associated with defining which dwellings should be treated Does not place any limits on the existing and potential noise environment Not effective in mitigating noise in outdoor living spaces. May not provide relief for the residents who are highly sensitised to the noise Possible future urban growth in the area may increase the number of people affected by the noise
Cultural	Potential improvement to the lifestyles of some residents through reduction in inside noise levels	
Environmental		Does not place any limits on existing and potential noise environment
Economic	No costs associated with a plan change No costs associated with relocating the motor-sport facilities	Costs associated with acoustically treating affected homes
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council's capacity and responsibilities: It is anticipated that Council will be responsible for the assessment and costs associated with acoustically treating affected dwellings, should Council support this option. Marshall Day Acoustics view this mitigation option as a last resort once other noise control measures have been exhausted.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: Additional expense of purchasing of affected dwellings not provided for within the LTCCP.</p> <p>Views and preferences of persons affected or likely to have an interest: Consultation with residents regarding this option has not been undertaken; it is likely that the residents would only support this option if there would be a substantial reduction in noise, both indoor and outdoor.</p> <p>Other relevant matters: One of the key issues arising from this possible noise mitigation option is that it may set a precedent that other Christchurch City residents living in other noise affected environments may seek to follow (e.g. along busy roads, near the airport etc).</p> <p>Would not improve outdoor living environments</p>		

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Option 9- Buy-out of affected residential dwellings

69. This option would seek to minimise the number of residents exposed to the noise environment by either seeking to buy out the properties most affected in return for a no complaints covenant.

	Benefits (current and future)	Costs (current and future)
Social	May reduce the number of affected residents May help to mitigate the noise at the seven dwellings currently experiencing moderate to significant noise effects from the raceway. May help to mitigate the noise at 22 dwellings currently experiencing moderate to severe noise effects from the speedway.	Issues associated with defining which properties should be bought out or compensated Does not make any changes to the existing or potential noise environment
Cultural	Potential improvement to the lifestyles of some residents through relocation or provisions of a mitigation package	
Environmental		Does not place any limits on existing and potential noise environment
Economic	No costs associated with a plan change No costs associated with relocating the motor-sport facilities No costs associated with developing noise mitigation measures	Costs associated with buy out the properties of residents most affected, estimated cost of \$60,000 per dwelling and \$1.4 million for 22 dwellings currently affected.
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: It is anticipated that Council will be responsible for the assessment and purchase of these dwellings, should Council support this option. Further research will need to be undertaken to identify appropriate funding sources for this option.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: Additional expense of purchasing of affected dwellings not provided for within the LTCCP. Potential to use the Strategic Land Purchase Fund to acquire the land, however, it is questionable whether such a purchase would align with the primary purpose of the fund and Council’s priorities for protecting strategic land (refer to the draft Strategic Land Protection Policy).</p> <p>Views and preferences of persons affected or likely to have an interest: One resident has suggested to officers that Council consider buying out his property. However, it is not certain that the rest of the residents would be interested in selling their properties to the Council.</p> <p>Other relevant matters: One of the key issues arising from this possible noise mitigation option is that it may set a precedent that other Christchurch City residents living in other noise affected environments may seek to follow.</p>		

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Option 10 - Possible relocation of Ruapuna to the Pound Road Quarry

70. This option would seek to relocation of all motor-sport activities into the Pound Road quarry pit.

	Benefits (current and future)	Costs (current and future)
Social	Development of new motor-sport facilities, allowing for expansion, and possibility of attracting national and Australasian level events	Motor-sport activities remain within close proximity to rural-residential areas No substantial decrease in the noise environment Potential to increase the noise environment experienced by many residents Possible future urban growth in the area may increase the number of people affected by the noise
Cultural		Potential for increase in the noise environment resulting in increase in adverse affects on lifestyle of residents.
Environmental	Upgrade environmental protection in new development, potentially providing an engineered solution for protecting the unconfined aquifer.	Potential for having adverse effects on the groundwater quality due to closer vertical proximity to the unconfined aquifers. Potential increase in the noise environment
Economic	Provide for the development and expansion of motor-sport activities in the greater Christchurch area.	Costs associated with the relocation of the motor-sport facilities Costs associated with a plan change Costs associated with developing appropriate noise mitigation measures
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: The key driver for the proposed relocation option was to minimise the noise environment created by motor-sport activities. However, a report from Marshall Day Acoustics has established that the potential reduction in the noise levels produced by motor-sport activities at 8 metres below ground level will be minimal. Further, Marshall Day has predicted a substantial increase in the noise environment for a number of residents. The conclusion of the Marshall Day Acoustics report on this issue is that “the current location of Ruapuna currently represents the best practicable location in terms of noise effects on existing dwellings”.</p> <p>Should Council support the relocation option, a Plan Change would need to be undertaken to rezone the quarry to allow for motor-sport activities. The noise provisions for the quarry would be notified and it is likely that they would be heavily contested by landowners and residents in the area. Additionally, Council would need to continue to negotiate with Fulton Hogan over the purchase of the quarry.</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Consistency with existing Council policies: The additional expenses involved with the possible relocating the motor-sport facilities is not provided for within the LTCCP.</p> <p>Views and preferences of persons affected or likely to have an interest: The Canterbury Car Club, the Speedway and other motor-sport clubs and enthusiasts are likely to be supportive of this option as it has the potential to provide improved facilities. The surrounding residents are unlikely to be supportive of this option in light of the Marshall Day report that predicts the potential for an increase in the noise environment. However, further consultation would be required to establish the views of the residents. Council officers have been discussing the opportunity of purchasing the quarry from Fulton Hogan; the Company has yet to express an official view of the proposal, but requires a rapid decision from Council if it wishes to pursue this option.</p> <p>Other relevant matters: Should Council wish to pursue this option further, there are a large number of other relevant matters that will need to be investigated, including; Transpower’s plans to develop additional transmission lines in the area, financial viability, noise mitigation options, ECan’s view of locating a restricted activity vertically closer to the unconfined aquifers, and addressing the issues associated with the possible quarrying of Ruapuna Reserve.</p>		

15 Cont'd

Option 12 – Lease Options

71. This option would provide an opportunity for Council to exercise its powers as landowner to alter or enforce lease agreements restricting the use of Ruapuna Park.

	Benefits (current and future)	Costs (current and future)
Social	Potential to provide for limiting the noise environment around Ruapuna. Continued use of the motor-sport facilities	Potentially places restrictions on the motor-sport activities at Ruapuna
Cultural		
Environmental	Potentially provides for limiting the noise environment around Ruapuna.	
Economic	No costs associated with relocating the facilities	Costs involved in enforcement Costs associated with placing limits on motor-sport activities
<p>Extent to which community outcomes are achieved: Primary alignment to – “A Healthy City” and “A City for Recreation, Fun and Creativity”</p> <p>Impact on the Council’s capacity and responsibilities: Costs associated with enforcement</p> <p>Effects on Maori: It is not known if there are cultural issues affecting Maori.</p> <p>Views and preferences of persons affected or likely to have an interest: Members of “Quieter Please” are likely to be supportive of this option as they wish to have noise and operational limits placed on motor-sport activities occurring at Ruapuna. The Canterbury Car Club, Ruapuna Speedway and other motor-sport clubs and enthusiasts are likely to oppose any changes to the current provisions.</p> <p>Other relevant matters:</p>		

CONCLUSION AS TO OPTIONS

72. It is recommended that a combination of options are developed for addressing the noise environment at Ruapuna, this combination should include placing a cap on the noise environment to reflect current noise levels, restricting all new residential developments within 1300m of the Park boundary and to investigate the possible buy-out of the identified affected properties. No further consideration should be given to relocation of Ruapuna or to developing acoustic shields around the Park.

24. 4. 2008

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**16. REPORT OF THE REGULATORY AND PLANNING COMMITTEE:
MEETING OF 3 APRIL 2008**

Attached.

24. 4. 2008

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17. NOTICES OF MOTION

18. QUESTIONS

19. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

THURSDAY 24 APRIL 2008

COUNCIL

RESOLUTION TO EXCLUDE THE PUBLIC

Section 48, Local Government Official Information and Meetings Act 1987.

I move that the public be excluded from the following parts of the proceedings of this meeting, namely items 20, 21, 22, 23 and 24.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
20. CONFIRMATION OF MINUTES -) COUNCIL MEETINGS OF 28.2.2008,) 27.3.2008 AND 10.4.2008)		
21. URBAN DESIGN PANEL) NOMINATIONS)		
22. VALUATION SERVICE PROVISION) CONTRACT)		
23. THE RUAPUNA PARK NOISE) ENVIRONMENT - ATTACHMENT 6)	GOOD REASON TO WITHHOLD EXISTS	SECTION 48(1)(a)
24. PRIVATELY REQUESTED PLAN) CHANGE 10 TO CITY PLAN -) REZONING OF 140 AND) 150 HUSSEY ROAD FROM) RURAL 3 TO LIVING 1: REPORT) AND RECOMMENDATION OF) COUNCIL HEARINGS PANEL)	UNDER SECTION 7	

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Item 20	Protection of Privacy of Natural Persons	(Section 7(2)(a))
Item 20	Conduct of Negotiations	(Section 7(2)(i))
Item 21	Protection of Privacy of Natural Persons	(Section 7(2)(a))
Item 22	Conduct of Negotiations	(Section 7(2)(i))
Item 23	Conduct of Negotiations	(Section 7(2)(i))
Item 24	Right of Appeal Exists	(Section 48(1)(d))

Chairman's

Recommendation: That the foregoing motion be adopted.

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”