



CHRISTCHURCH CITY COUNCIL AGENDA

THURSDAY 29 MAY 2008

9.30AM

COUNCIL CHAMBER, CIVIC OFFICES

AGENDA - OPEN



CHRISTCHURCH CITY COUNCIL

**Thursday 29 May 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
1.	APOLOGIES
2.	CONFIRMATION OF MINUTES - COUNCIL MEETINGS OF 24.4.2008, 28.4.2008 AND 15.5.2008
3.	DEPUTATIONS BY APPOINTMENT
4.	PRESENTATION OF PETITIONS
5.	CENTRAL PLAINS WATER - ISSUES
6.	CENTRAL PLAINS WATER TRUST - REQUEST FOR INDEPENDENT REVIEW
7.	COUNCIL PERFORMANCE REPORT
8.	CANTERBURY MUSEUM DRAFT ANNUAL PLAN 2008-09
9.	LOCAL GOVERNANCE STATEMENT 2008: INCLUSION OF PRINCIPLES FOR GOVERNANCE AND DECISION-MAKING
10.	GRUBB COTTAGE, LYTTELTON
11.	APPOINTMENT OF COUNCIL REPRESENTATIVE TO MUSIC CENTRE OF CHRISTCHURCH TRUST
12.	APPOINTMENT OF ADDITIONAL MEMBER TO REGULATORY & PLANNING COMMITTEE
13.	MAYOR'S WELFARE FUND CHARITABLE TRUST
14.	HEARING PANEL REPORT ON THE PROPOSED PUBLIC PLACES BYLAW
15.	HEARINGS PANEL REPORT ON THE REVOCATION OF THE BANKS PENINSULA DISTRICT COUNCIL NUISANCES BYLAW 1996
16.	HEARINGS PANEL REPORT ON THE PROPOSED WATER RELATED SERVICES BYLAW
17.	REPORT OF THE REGULATORY AND PLANNING COMMITTEE: MEETING OF 8 MAY 2008
18.	NOTICES OF MOTION
19.	QUESTIONS
20.	RESOLUTION TO EXCLUDE THE PUBLIC

1. APOLOGIES

Councillor Sally Buck.

2. CONFIRMATION OF MINUTES

(a) **MEETINGS OF 24.4.2008, 28.4.2008**

Attached.

(b) **MEETING OF 15.5.2008**

Separately circulated.

3. DEPUTATIONS BY APPOINTMENT

MALVERN HILLS PROTECTION SOCIETY

Speaking rights have been granted to the Malvern Hills Protection Society to address the Council on matters relating to clauses 5 and 6 on the agenda regarding Central Plains Water.

4. PRESENTATION OF PETITIONS

5. CENTRAL PLAINS WATER TRUST ISSUES

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:
 - (a) Receive the Annual Report of the Central Plains Waters Trust for the year ending 30 June 2007.
 - (b) Receive the Trust Financial Statement for the half year ending 31 December 2007.
 - (c) Receive the report by the Chair of the Trust for the quarter ending 31 December 2007.
 - (d) Receive the report by the Chair of the Trust for the quarter ending 31 March 2008.
 - (e) Receive the Trustees Draft Statement of Intent for the 2008/09 year.

FINANCIAL IMPLICATIONS

2. There are no financial implications regarding (a)-(e) above.

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

3. Yes.

LEGAL CONSIDERATIONS

4. There are no new legal considerations regarding (a)-(e) above.

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

5. Yes.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

6. Yes.

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

7. N/A

ALIGNMENT WITH STRATEGIES

8. No specific strategies involved.

Do the recommendations align with the Council's strategies?

9. Yes.

CONSULTATION FULFILMENT

10. This is a report where the Central Plains Water Trust is reporting back to the Christchurch City Council as one of the settlors of the trust. There is no requirement to consult the public with regards to the recommendations to the Council in this report.

5 Cont'd

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Receive the Trust's Annual Report for the year ending 30 June 2007.
- (b) Receive the Trust's Financial Statements for the half year ending 31 December 2007.
- (c) Receive the report by the Chair of the Trust for the quarter ending 31 December 2007.
- (d) Receive the report by the Chair of the Trust for the quarter ending 31 March 2008.
- (e) Receive the Trustees Draft Statement of Intent for the 2008/09 year and consider whether or note to make comments on that Draft Statement of Intent.

5 Cont'd

BACKGROUND

Trust Annual Report

11. A copy of the Trust's Annual Report for the year ending 31 June 2007 is **attached** as Attachment A.

Financial Statements for the half year ending 31 December 2007

12. A copy of the Trust's Financial Statements for the half year ending 31 December 2007 is **attached** as Attachment B.

Chairs report for the quarter ending 31 December 2007

13. A copy of the Chair's report for the quarter ending 31 December 2007 (Attachment C) and quarter ending 31 March 2008 (Attachment D) are **attached**.

Draft Statement of Intent for the 2008/09 year

14. A copy of the Draft Statement of Intent for the year 2008/09 is **attached** as Attachment E. Additions from the current 2007/08 Statement of Intent are underlined.

15. With regard to the 2007/08 SOI, at its meeting on 4 October 2007 the Council had passed the following resolutions in commenting on the SOI. Those resolutions were:

(c) *To make the following comments to the Trust on the draft 2008 Statement of Intent.*

- (i) *That in the implementation of Objective 3 the Trust promotes a good balance between diverse farming activities including agricultural and horticultural activities.*
- (ii) *That in respect to the other performance measures, on page 6 of the draft SOI, the achievement indicator be amended from "Consents obtained" to read "Consents and all necessary reports obtained".*
- (iii) *That CPWT will ensure the application of "a no surprises" policy whereby early notice will be given to the Selwyn District Council and the Christchurch City Council of issues that arise requiring the consent of the two Councils.*
- (iv) *In respect to "Other information to meet the needs of the Councils" on page 7 of the SOI that the following additions be made:*
 - *CPWT will meet quarterly with the Christchurch City Council to discuss any questions that may arise.*
 - *CPWT and Selwyn District Council will meet at least six monthly with the Christchurch City Council to discuss the Trust's activities.*

16. The Trustees have incorporated resolutions (ii) and (iii) into this year's SOI. (iv) has been scheduled. The Trustees advise that the reference in resolution (i) to "*That in the implementation of Objective 3 the Trust promote a good balance between diverse farming activities including agricultural and horticultural activities*" has not been included in the draft 2008/09 SOI for technical reasons relating to discussions the Trust has had with the Charities Commission.

17. The Local Government Act provides that the Council, as one of the settlors to the Trust, has an opportunity to make comments on the draft Statement of Intent to the Trustees.

18. The Trustees are then required to consider those Council comments before completing the final version of the Statement of Intent and to deliver it to the Council by 30 June 2008.

19. If the Council does not wish to make any comments on the draft 2008/09 Statement of Intent then it could resolve:

The Central Plains Water Trust be advised that the Council has no comments to make on its 2008/09 Statement of Intent.

29. 5. 2008

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6. CENTRAL PLAINS WATER TRUST - REQUEST FOR INDEPENDENT REVIEW

To be separately circulated.

7. CCC PERFORMANCE REPORT AS AT 30 APRIL 2008

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officers responsible:	Peter Ryan, Corporate Performance Manager Diane Brandish, Corporate Finance Manager
Author:	Paul Anderson – General Manager Corporate Services

PURPOSE OF REPORT

1. The purpose of this report is to update the Council on service delivery and financial performance results for the first ten months of the 2007/08 financial year.

EXECUTIVE SUMMARY

2. **Attached** are appendices showing summaries of:
 - Service and capital project performance as at 30 April 2008 (Appendix 1)
 - Financial performance as at 30 April 2008 (Appendix 2)
 - Capital project results to 30 April 2008 (Appendix 3).

Service and Project Delivery Performance

3. Appendix 1 shows the Council's most recent year end forecast for its key organisational targets:

Customer: (1) 85 per cent Levels of Service on target;
(2) capital programme financial carryover less than 15 per cent; and

Finance: (3) activities within 3 per cent of budget.
4. The Levels of Service are those resolved upon by the Council in the 2006-16 LTCCP, along with the performance targets set out in the Activity Management Plans supporting the LTCCP.
5. The Council operates a management reporting environment that ensures tight performance management across all measures and targets. This incorporates financial and non-financial reporting and highlights key risks to achieving levels of service with particular emphasis on forecasting year-end position as well as required corrective action to ensure on-target delivery.
6. This reporting forms an important part of our risk management processes by providing assurance of the Council's compliance with statutory obligations of significance and likelihood.
7. Apart from transactional areas (licensing etc), most Council levels of service cannot generate month-to-month statistical results. Traditionally this has meant that service performance was not monitored until final results came in at the end of financial year, by which time corrective action was impossible.
8. In order to stay focussed on the targets set by the Council, the **attached** performance results are forecasts made by the accountable managers. (The concept is just the same as the financial forecasts the Council also receives.) This means that the Council has the opportunity to see slippages and problem areas in advance. These forecasts proved accurate to final results in 2006-07. In summary the April 2008 report shows that:

Customer

Service Delivery: *Organisational target is 85 per cent of Levels of Service delivered to standard.* Service delivery is forecast to be close to target at 84.2 per cent for end of financial year. This is slightly ahead of the last CCC Performance Report which showed service delivery at 82 per cent. LTCCP levels of service flagged as exceptions (red – 'forecast to fail' 10.6 per cent and amber – 'requiring intervention' 5 per cent) are overleaf. Additional detail is set out in Appendix 1.

Capital Project Delivery: *Organisational target is no more than 15 per cent of capital programme funds carried into next financial year.* The forecast capital carry-forward for year end is 22.6 per cent of the programme, or \$54.6 million.

7 Cont'd

Finance

Target is all activities within 3 per cent of budget. In aggregate activities are forecast to fall within the 3 per cent target. Broken down, some 20 activities (48 per cent of all activities) are forecast to be underspent/over-recovered by more than 3 per cent at year end, and 14 activities (33 per cent) are forecast to be within the 3 per cent margin. Eight activities (19 per cent) are forecast to be overspent/under-recovered by more than 3 per cent at year end. Note that the target and these results exclude depreciation.

LTCCP Levels of Service Forecast to Fail

9. The bullet-points below summarise key areas where managers are not expecting to deliver Levels of Service for the year to June 2008:
- Democracy and Governance: Percentage of agendas and reports from the Council two clear working days prior to each meeting.
 - Refuse Transfer and Disposal: Zero breaches of resource consents by the Council's solid waste facilities.
 - Enforcement and Inspection Activities – Animal Control: Percentage of priority 2 complaints (all other complaints about dogs) commenced within 24 hours.
 - Enforcing Legislation and Investigating Nuisances: Percentage of responses to complaints or requests for investigations completed within 10 working days (simple request); 60 working days (complex request).
 - Streets and Transport – Streets: Percentage of vehicle travel on smooth roads (using LTNZ Smooth Travel Exposure measure).
 - Water Supply – Supply quality water to properties: Achieve the highest Ministry of Health water supply grade possible without treatment of water

LTCCP Levels of Service under Management Corrective Action

10. The bullet-points below summarise the key areas where managers are forecasting difficulty in delivering levels of service for the year to June 2008 but where corrective action may still achieve a positive result:
- Democracy and Governance – Decision Making: Percentage of residents satisfied that the Council makes decisions in the best interests of Christchurch. *Comment:* Unrealistic target to be addressed as part of next LTCCP. In the meantime, DSU is working with Public Affairs on low-level measures to raise awareness of decision-making processes.
 - Percentage of residents satisfied with the way the Council involves the public in decision making.
 - Enforcement and Inspection Activities – Animal Control: Percentage of priority 1 complaints (wandering stock and aggressive behaviour by dogs) responded to within two hours. *Comment:* A review of this KPI in February reveals that the team has been interpreting the KPI wrongly. Action underway.
 - Streets and Transport – Streets Kerb and Dish Channel Renewal (remove dished channels by 2023). *Comment:* Contractor performance to complete KPI dependant on weather.
 - Wastewater Collection – Collecting Wastewater from Properties: Number of wet weather sewer overflows into rivers and waterways, per year (10 year rolling average). *Comment:* Unlikely the Avon Works required under the Major Sewer Upgrade will be completed on time (31-12-2010). Project manager being appointed in May to get design and procurement underway.

7 Cont'd

Financial Performance

11. A new table has been included in Appendix 2 to more clearly show the operational and capital funding flows for the year to date and full year. The key financials are summarised in the table below:

\$000's	Act/YTD	Plan/YTD	Var\$/YTD	Forecast/Year	Plan/Year	Var\$
Financial Summary						
Operational Funding	-343,317	-340,611	-2,706	-388,833	-385,278	-3,555
Operations Costs	312,475	317,816	-5,341	383,262	385,109	-1,846
Operational Surplus/Deficit	-30,842	-22,795	-8,047	-5,570	-169	-5,401
Capital Programme	150,775	216,665	-65,890	219,593	271,729	-52,136
Capital Revenue	-16,280	-34,804	18,524	-35,053	-41,686	6,633

12. The current operational result remains heavily distorted by LTNZ capital revenue shortfalls. These are further commented on in paragraph 21 below. The operational surplus to 30 April of \$30.8m is currently \$8.0m ahead of budget (see Appendix 2). Further details are shown in the revenue and operating costs sections below. This positive variance is forecast to reduce to \$5.4m by year end.

Operational Funding

13. Fees and charges currently exceed budget by \$3.1m and are forecast to further improve. Commercial rents exceed budget by \$0.9m due to rental increases over budget and extra properties with the new Bus Exchange sites, while housing rentals exceed budget by \$0.6m due to high occupancy levels and timing variances (fortnightly billing v monthly reporting).
14. Rates and penalties income currently exceeds budget by \$2.6m, driven by growth in the rating base due to subdivisions processed late in 2006/07 in preparation for the 2007 city-wide revaluation. Interest earnings are below budget due to the delay in on-lending funds to CBL for the Civic Offices. Settlement is now scheduled for June.
15. Transfers from funds are lower than planned due to the better than budget revenue above and higher interest earnings credited to special funds.

Operational Costs

16. Costs excluding depreciation are presently under budget by \$3.5m, being primarily timing variances for grants (\$2.1m) and contract/asset maintenance costs (\$4.0m). This is offset by staff and other costs being over budget by a net \$2.6m. Excluding debt servicing, costs are forecast to be \$2.0m over budget by year end with \$0.5m of this offset by increased revenue in the building and resource consents area.
17. While depreciation rated for matches budget, actual depreciation is forecast to be over budget by \$0.8m at year end, primarily due to the 2007 Rooding revaluation causing a \$3.0m increase in depreciation over that budgeted for. This impacts the Streets activity.
18. Debt servicing costs are forecast to be underspent at year end by \$3.9m. This is partly due to the delay in settlement for the Civic Offices as mentioned above, and partly due to later borrowing than planned for this year's capex programme.

7 Cont'd

Capital Expenditure

19. Capital expenditure is currently behind plan by \$65.9m. Some catch-up is expected during June leading to a year-end shortfall of \$52.1m. Project managers have forecast carry forwards to 2008/09 of \$47.9m. Key amongst these are the Ocean Outfall, 5th and 6th digesters, various Kerb and Channel projects, and book purchases. A full list will be brought to the Council for approval as part of the 2008/09 Annual Plan process.
20. Details of the status of significant capital projects (budget over \$0.25m) are detailed in Appendix 3.

Capital Funding Sources

21. Capital grants and subsidies are significantly behind budget principally due to an unfavourable LTNZ subsidy revenue variance of \$21.7m. \$9.7m is a timing variation relating to the new Bus Exchange which is forecast to be resolved by year end. The balance of the unfavourable variance (\$12m) results largely from a change in the interpretation of qualifying expenditure by LTNZ. This is forecast to improve by only \$1.7m by year end.
22. Cash reserves development contributions are \$4.1m over budget. Vesting of assets as shown in the capital by Group of Activities table is behind budget by \$12.5m, \$4.9m of which relates to land contributions.
23. We have utilised reserves to fund the balance of capital expenditure. The remaining \$14.7m in the debt repayment reserve is expected to be drawn in May/June after which the borrowing as approved by the Council in April will commence. It is forecast only \$8.8m of the \$53.7m planned borrowing will occur in June with the balance occurring in 2008/09 in line with capital carry forwards.

Activities

24. Several Activities have, and/or are forecast to have, significant variances to budget. These are shown in Appendix 2 and commented on below.
 - City Development – Central City Revitalisation, City and Community Forward Planning, and Heritage Protection: Market related staff shortages have been experienced over the last year. In recent times many of these roles have managed to be recruited. However, there are still several key roles remaining vacant. The full variance is attributed to these vacancies as some work is not able to be conducted without these staff.
 - Parks and Open Spaces – Capital Revenues: Cash reserve development contributions are well ahead of budget and forecast to remain so at year end. Offsetting this, vested land contributions are below budget by a similar amount.
 - Regulatory Services – Maintaining and reviewing the City Plan: We have experienced some legal challenges around Variation 86 and Bank Peninsula Variation 2 which has resulted in some increased legal and consultation costs. The overspend is not seen as recoverable across the balance of the year and will remain as an unfavourable variance at year end.
 - Regulatory Services – Regulatory Approvals: Building Consents and Review are the major focus of attention within the EPA Unit. Currently processes are being reviewed, which include invoicing, timesheet recording and expenditure across the board.
 - Streets and Transport – Capital Revenues: The current and forecast shortfall relates to LTNZ subsidies.

7 Cont'd

FINANCIAL IMPLICATIONS

25. As above.

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

26. The report is for information, not a recommendation.

LEGAL CONSIDERATIONS

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

27. Yes – there are none.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

28. Both service delivery and financial results are in direct alignment with the LTCCP and Activity Management Plans.

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

29. As above.

ALIGNMENT WITH STRATEGIES

30. Not applicable.

CONSULTATION FULFILMENT

31. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council receive the report.

8. CANTERBURY MUSEUM – DRAFT ANNUAL PLAN 2008-09

General Manager responsible:	General Manager Regulation & Democracy Services, DDI 941-8462
Officer responsible:	General Manager Regulation & Democracy Services
Author:	Peter Mitchell

PURPOSE OF REPORT

1. The purpose of this report is to submit to the Council the Draft Annual Plan of the Canterbury Museum Trust Board (**Attachment 1**) for the year ending 30 June 2009 to enable the Council to consider the plan to make, if it wishes to do so:
 - (a) Submissions on the draft annual plan.
 - (b) An objection to the levies proposed in the draft plan.

EXECUTIVE SUMMARY

2. The increase in the levies proposed to be made in the 2008/09 Draft Annual Plan from contributing local authorities are the same increases as those forecast in the 2007/08 Annual Plan. Christchurch City Council's share of the increase in levies is \$240,801, and this has been factored into the 2008/09 Draft Council Annual Plan. The increase will bring the Council's levy to \$5,181,042.

FINANCIAL AND LEGAL CONSIDERATIONS

3. The Canterbury Museum Trust Board Act 1993 requires the Canterbury Museum Trust's Board ("the Board") to prepare and adopt an annual plan for each financial year. The plan includes the levies to be paid by the contributing local authorities.
4. The draft annual plan is referred to the four contributing local authorities (Christchurch City Council, Selwyn District Council, Hurunui District Council and Waimakariri District Council) for a period of consultation which concludes on 31 May of each year.
5. The levies proposed in the draft Annual Plan may be objected to by the Christchurch City Council or two or more of the remaining contributing authorities and if an objection is received the Board must convene a meeting. The Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount which is not less than the total levy made in respect of the previous year. The proposed levies are binding on the four contributing authorities, unless the Council or three of the other contributing authorities resolve to hold the levies. (Section 16 of Canterbury Museum Trust Board Act 1993)
6. Submissions may be made to the Museum requesting them to amend the plan.
7. Given that the operating levies are the same as forecast in the 2007/08 year it is recommended that the Council advise the Canterbury Museum Trust Board that it does not wish to make an objection to the Trust Board's 2008/09 Annual Plan.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Consider what submissions it wishes to make on the Board's draft 2008/09 Annual Plan.
- (b) Authorise a Councillor to represent the Council at a meeting of contributing authorities to be held on 9 June 2008.
- (c) That the Councillor representative to support the Museum's 2008/09 operating levies at the meeting to be held on 9 June 2008.

8 Cont'd

BACKGROUND ON CANTERBURY MUSEUM 2008/09 DRAFT ANNUAL PLAN

8. The draft Annual Plan sets out in broad outline the mission, vision and core values of the Museum together with detail on the organisation structure, performance objectives, financial summaries and an outline of the proposed operating, capital and revitalisation budgets.
9. The plan is available for consideration by the contributing local authorities until 31 May 2008.

OPERATING BUDGET

10. This Council considered the Board's financial forecasts at its 2008 Annual Plan workshop in March 2008 and at the workshop supported the Museum's proposed 2008/09 operating levies for inclusion in the Council's draft 2008/09 Annual Plan.
11. While there are rights of objection if the levies have increased, it is considered inappropriate to object as those levies are the same as those in the Council's Annual Plan.

ANNUAL LEVY AND GRANTS

12. The annual levy on local authorities is distributed according to an agreed formula based primarily on population. The share of the total operating levy for this Council is estimated at \$5,181,042.
13. As part of this Council's contribution to the Museum's revitalisation project, the following amounts have been previously approved by Council. Due to the delay in the revitalisation project the Council still holds these funds. The funds held separately for the Museum are as follows:
 - Grants of \$732,500 (2006/07) and \$250,000 (2007/08) were due to be paid from the Capital Endowment Fund. These have not been paid to the Museum.
 - A special capital grant was agreed to by this Council in 2003 for a finite period to 2007/08. Levies of \$337,000 (2006/07) and \$305,773 (2007/08) have not been paid to the Museum.
14. These funds are all held separately for the Museum and will be reprogrammed to 2009/10 for the Museum's revitalisation programme.

OTHER CONTENT OF THE PLAN

15. The general content of the 2008/09 annual plan is largely the same as the previous year's plan.

THE OBJECTION PROCESS

16. The Canterbury Museum Trust Board Act (Section 16) provides that either the Christchurch City Council or two or more of the remaining contributing local authorities may give notice objecting to the proposed levies. If this happens the Board must convene a meeting of the contributing authorities within a month. At that meeting the Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount no less than the previous year.
17. Waimakariri District Council and the Hurunui District Council have both formally lodged objections to the levies proposed in the Museum's 2008/09 draft Annual Plan.
18. Selwyn District Council has already resolved to support the Board's proposed 2008/09 levies.
19. As required under the Museum's 1993 Act the Museum Trust Board has resolved to convene a meeting of the four contributing authorities to be held on 9 June 2008.

8 Cont'd

20. It is clear that Waimakariri District Council and Hurunui District Council can trigger the requirement for the Board to hold a meeting of the four contributing authorities for the Board to hear these two objections. However, given Selwyn District Council's already resolved position and the Act's requirement for Christchurch City Council or Hurunui District Council, Waimakariri District Council and Selwyn District Council to agree to hold the levy to the 2007/08 level, then unless the Council agrees, Waimakariri District Council's and Hurunui District Council's objections cannot succeed.
21. **Attachment 2** contains explanations forwarded by the Museum Trust Board to the Waimakariri District Council and the Hurunui District Council in response to the specific queries raised in the objections from those two District Councils.
22. The Council needs to resolve to appoint a delegate to attend the 9 June 2008 meeting and needs to resolve what position the delegate should take at that meeting.

9. LOCAL GOVERNANCE STATEMENT 2008: INCLUSION OF PRINCIPLES FOR GOVERNANCE AND DECISION-MAKING

General Manager responsible:	General Manager Regulation & Democracy Services, DDI 941-8462
Officer responsible:	Democracy Services Manager
Author:	Lisa Goodman, Democracy Services Manager

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to include proposed "Principles for Governance and Decision-making by Elected Members of the Christchurch City Council" in the Council's revised Local Governance Statement.

EXECUTIVE SUMMARY

2. Section 40 of the Local Government Act 2002 requires local authorities to prepare and make publicly available, following the triennial general election of members, a Local Governance Statement that brings together information about how the Council works; its structure and processes, key policies, and how information can be accessed.
3. This Governance Statement is to be provided within six months of each triennial general election, and should be updated as appropriate. Staff are currently updating the 2005 version of the Governance Statement, and to ensure the requirements of the Act are met, the 2008 version will continue to include information on:
 - (a) the functions, responsibilities and activities of the council
 - (b) governance structures and processes
 - (c) electoral arrangements
 - (d) management structure of the organisation
 - (e) key Council policies
 - (f) contacting the Council and how information can be accessed.
5. All of the above information is already available in various forms, the Governance Statement simply draws it together in one source. One key difference proposed for the 2008 version, however, is the inclusion of a set of "Principles for Governance and Decision-making by Elected Members of the Christchurch City Council". These principles, a draft of which has been previously discussed with Councillors at a workshop, are outlined in the **attached** appendix to this report.
6. The focus of these principles is the *processes* that support achievement of good governance and decision-making. They reflect key themes of legislation (eg the Local Government Act) and of standards/practices advocated by agencies that effectively "set the standards" for local government and central government sectors in New Zealand, Australia and the United Kingdom.
7. These principles are not binding in a legal sense, and there will be no formal measurement of adherence to them. They are intended to indicate to the public a broadly based approach to the way that the Council's elected members carry out their role. The principles are intended to be a mix of both reality and aspiration; to reflect what is currently the practice within the Christchurch City Council, and what is also being striven for. Scenarios for when these principles would be applied include: during consideration of new structures or processes for governance or decision-making; making decisions on delegations to community boards or staff; staff preparation of advice to elected members; incorporating in Council information and documentation as appropriate (such as the Governance Statement).

FINANCIAL IMPLICATIONS

8. There are no direct financial implications arising from the staff recommendations. Production of the revised Local Governance Statement and its distribution will be met from existing budgets.

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

9. See para 8 above.

9 Cont'd

LEGAL CONSIDERATIONS

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

10. There are no legal implications with the inclusion of these principles in the Governance Statement. The principles are not binding on elected members; as indicated in paragraph 7 above, the principles are more of an expression or indication to the public as to how elected members carry out their governance and decision-making roles.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. Not applicable.

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

12. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

13. Not applicable.

CONSULTATION FULFILMENT

14. No consultation is required.

STAFF RECOMMENDATION

It is recommended that the Council adopt the **attached** Principles for Governance and Decision-making by Elected Members for inclusion in the Council's 2008 Governance Statement.

10. GRUBB COTTAGE, LYTTTELTON

General Manager responsible:	General Manager, Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager, Liveable City
Author:	Victoria Bliss, Heritage Conservation Projects Planner

PURPOSE OF REPORT

1. The purpose of this report is to consider the heritage significance of Grubb Cottage, 62 London Street, Lyttelton, a cottage listed in the Schedule of Protected Buildings in Appendix IV of the Banks Peninsula District Plan, and recommend to the Council a proposal regarding the ownership, conservation and ongoing management of the dwelling.

EXECUTIVE SUMMARY**The Purchase**

2. On 30 March 2006, the Council resolved to purchase Grubb Cottage, Lyttelton, for the sum of \$260,000 to ensure the future preservation of this heritage dwelling. The purchase was funded from the Council's Historic Places Fund, which is a capital fund used to facilitate the interim acquisition of a heritage building pending its on sale to a trust or other permanent owner. Initially the Lyttelton Information Centre Trust signalled an intention to purchase the property from the Council. However, they were ultimately unable or unwilling to pursue this option. The Grubb Cottage Heritage Trust has since been formed to deal with the continuing responsibility for the future of the Cottage. The purchase by the Council was agreed on the basis of the need to ensure the protection of Grubb Cottage ("the Cottage") because of its considerable heritage significance to both the town of Lyttelton and in the wider context of the early settlement of Canterbury.
3. The Council resolution stated that:
 - (a) *The Council agree to the purchase of the Grubb Cottage property subject to satisfactory title being obtained.*
 - (b) *The Council grant delegated authority jointly to the General Manager Strategic Development and the General Manager Strategy and Planning to:*
 - (i) *finalise the purchase of the heritage property at 62 London Street, on behalf of the Council;*
 - (ii) *negotiate and agree the terms and conditions of the proposed on-sale agreement between the Council as vendor and the Lyttelton Information Centre Trust (or such other Trust or entity that may be established to purchase, conserve and manage Grubb Cottage) as purchaser at the full purchase price paid by the Council;*
 - (iii) *negotiate and agree the terms and conditions of any management agreement with the Trust (or such other Trust or entity that may be established to purchase, conserve and manage Grubb Cottage) as part of the arrangements related to the on-sale of the Grubb Cottage Property to the Trust (or such other Trust or entity that may be established to purchase, conserve and manage Grubb Cottage), and until the purchase price has been repaid in full and title transferred.*
 - (c) *Subsequent to acquisition of the Grubb Cottage property by the Council a heritage covenant be registered against the Certificate of Title to the property.*

Refer **Attachments 1 and 2** for the Report to Council and Council resolution from 30 March 2006.

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The Significance and Heritage Assessment of Grubb Cottage

4. Grubb Cottage is the most significant colonial domestic dwelling in Lyttelton. It remains in very original condition, including its original outbuildings. There are few examples of 1840s, 1850s and 1860s built dwellings still extant in Christchurch and Lyttelton, and no others exist in such an original condition as the front section of Grubb Cottage. As such the Cottage presents a record of built archaeology which is unique in Canterbury, and provides tangible evidence of the way of life of the early settlers during the first two decades of organised European settlement. Grubb Cottage is listed as a protected building under the Banks Peninsula District Plan and registered as a Category II Historic Place under the Historic Places Act. Category II places are deemed to be places of historical or cultural heritage significance or value.
5. Particular heritage significance is attached to Grubb Cottage as the original construction on the first piece of land to be sold in New Zealand by the Canterbury Association which had not been pre-purchased in England. Grubb Cottage also has heritage significance to the community of Lyttelton because of its association with the early settlement of the town. The Grubbs were a key family in the development of Lyttelton and its port, and in turn associated with the development of Christchurch and the Canterbury region. See **Attachment 3** for the Heritage Assessment of Grubb Cottage.
6. The initial assessment of the Conservation Plan and Heritage Assessment prepared for the Council acknowledges the heritage significance of the dwelling and recommends minimum intervention to stabilise the building. This approach would ensure the preservation and conservation of the evidence of earlier technologies and construction techniques and the significant original fabric, architecture and social historic values they contain. No viable public or private use has been identified for the Cottage at this time: in its present state the dwelling does not comply with current codes for either private residence or public access, and the interventions required to achieve code compliance would destroy much of the heritage fabric and significance of the Cottage. This places constraints around the long term future uses of the building, and severely limits any potential for commercial return from the dwelling. Consequently the most appropriate use for Grubb Cottage would be as a conserved record of built archaeology with opportunities for interpretation of the architectural and social history of the building and grounds with limited public access to the building itself.

Options Considered

7. Consideration was given during the writing of this report to a number of other options. Broadly these included:
 - (a) Continuing to pursue the transfer of the building and land to another owner.
 - (b) Christchurch City Council accepting permanent ownership and responsibility for the retention and conservation of the building.
 - (c) Selling the site (potentially for redevelopment).

The initial decision to purchase the building was based on the heritage significance and value of Grubb Cottage, and its ongoing protection and enhancement is of paramount consideration. The outcome of the Conservation Plan carried out for the building highlighted both its significance, and its limited adaptability for a wide range of active, or revenue generating uses. Accordingly the viability of on-selling the building to a willing trust is doubtful. This has been confirmed by the discussions held to date.

Therefore the options discussed in this report involve the Council retaining ownership of the Cottage in various different scenarios.

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The Trust

8. The Grubb Cottage Heritage Trust ("the Trust") was incorporated as a registered charitable trust under the Charitable Trusts Act 1957 on 20 September 2007. The Trust deed states the purpose of the Trust includes the intention:

- "(i) To restore, preserve, maintain and manage the property situated at 62 London Street, Lyttelton being all that piece of land containing 584m2 part T.S. 45-46 Town of Lyttelton contained in Certificate of Title 398/210 known as the Grubb Cottage ("the Cottage").*
- (ii) To enter into negotiations to request ownership of the Cottage in such terms and conditions as the Trustees shall think fit."*

See **Attachment 4** for a copy of the Trust Deed.

9. The Grubb Cottage Heritage Trust has stated that it is not able to undertake the purchase of Grubb Cottage for the full price paid by the Council, nor given the limited options for and constraints on future uses imposed by the heritage value and significance of the built archaeology contained within the dwelling, will it have any means of funding the building's conservation.
10. The Trust has however indicated they are willing and able to take responsibility for the ongoing management of the site. They are in the process of preparing a proposal for the potential role of the Trust in the ongoing management of the Cottage, and working with Project Port Lyttelton, the Lyttelton Business Association and the Lyttelton community to identify and address the issue of potential uses for the dwelling.
11. A limited management mandate for the Trust is appropriate given the constraints around the potential uses of the Cottage, and would allow them to seek funding in order to complement the key restoration needed to be undertaken, which may include ongoing maintenance and development of the garden and the site features.
12. Initial discussions in 2006 had included suggestion of contribution in kind to assist with the building's restoration. Following the conservation plan it is evident that the requirements of such a significant heritage dwelling mean that the stabilisation and conservation works should only be undertaken by qualified and experienced professional trades people and are beyond the scope of the Trust members.

Conclusions

13. The Council already has ownership of Grubb Cottage, having purchased it through the Historic Places Fund with settlement having been completed on 13 April 2006.
14. The heritage significance and value of the Cottage, constraints around future use, lack of any potential purchaser and opportunities for heritage conservation, education and advocacy are such that the Council should retain ownership, and fund, manage and monitor the restoration, stabilisation, conservation and ongoing maintenance of the dwelling.
15. If Council does not retain ownership and fund, manage and monitor the immediate and ongoing works on the dwelling, there are a number of risks to the future conservation and protection of Grubb Cottage which require consideration. These include:
- (i) That until such time as a trust or other entity is able to undertake to purchase of the Cottage it will remain in Council ownership with only urgent remedial maintenance issues being addressed. This would result in the deterioration of the heritage fabric of the dwelling and the potential for the loss of heritage significance as well as a failure to deliver community and heritage outcomes.
 - (ii) That no trust may be able to raise the necessary funds for the conservation or sustain funding for the ongoing maintenance of the Cottage. This would result in a loss of heritage fabric and significance and could necessitate Council financial assistance or Council assuming responsibility for the Cottage at a future date.

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16. The Grubb Cottage Heritage Trust has stated that they are not able to purchase the Cottage for the \$260,000 purchase price as per the Council resolution of 30 March 2006. See **Attachment 5**. They are unable to raise the necessary funds to undertake the conservation work required to preserve the dwelling without either ownership or a significant lease, and have stated that they consider the lack of commercially viable options for future uses places too onerous a burden on the Lyttelton community for the Trust to support fund raising for this purpose.
17. The Trust has stated that they wish to undertake, and are able to support, the ongoing management of the Cottage and are in the process of preparing a proposal for the potential role of the Trust in the ongoing management of the Cottage.
18. With the Trust unable to raise the purchase price, there is no identified buyer for the Cottage. Without a commercially viable and sustainable use for the Cottage it is unlikely a buyer will be found.

FINANCIAL IMPLICATIONS

19. There are two aspects to the financial implications:
 - (a) If the Council resolves to become the permanent owner of Grubb Cottage, consideration of the replenishment of the purchase price of \$260,000, which was paid from the Historic Places Fund; and
 - (b) Funding initial conservation work, estimated at in excess of \$250,000 staged over two years, and ongoing annual operating costs, estimated at \$20,000 per annum.
20. The Historic Places Fund currently stands at \$1,682,500, after the drawdown of \$260,000 to purchase Grubb Cottage. There is no provision in the 2007/08 Annual Plan or 2006-16 LTCCP for the replenishment of the Historic Places Fund.
21. It should be noted that the Council's practice in relation to this Fund is that it is used for the purchase of heritage buildings or heritage places at risk in circumstances where it is intended to on-sell the property to an external party subject to a registered Heritage Conservation Covenant. This Fund is therefore intended to be used in circumstances where the Council's ownership is to be short term in order to provide a third party the opportunity of raising sufficient funds to take responsibility for the ownership, restoration and maintenance of the property.
22. The current circumstances are that the Cottage has already been purchased through the Fund, but there is no other party at present with which the Council could expect to on-sell, covenant with and recover the purchase funds from. Given that the Conservation Plan for Grubb Cottage recommends minimum intervention in terms of stabilisation and conservation in order to retain the significant heritage fabric of the dwelling, very little opportunity exists for an adaptive re-use with a sound commercial future.
23. If the Council decides to retain ownership of the Cottage and add it to the heritage vested assets list, the funding options for the purchase price are:
 - (a) Accept a permanent loss of \$260,000 from the Historic Places Fund, leaving it with net funds of \$1,682,500;
 - (b) Replenish the Fund through the Council committing \$260,000 of the anticipated 2007/08 operating surplus to the Fund for that purpose;
 - (c) That an additional \$260,000 be added to the 2008/09 Annual Plan to fund the replenishment of the Fund.

Option b is the preferred option.
24. There is no provision in the 2008/09 Annual Plan or the 2006-16 LTCCP for the cost of the stabilisation, repair and conservation of the Cottage, and the annual maintenance costs of the land and buildings.

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25. Under the Heritage Incentive Grant Policy, grant funding cannot be used for either the acquisition of heritage properties by the Council, nor for the purpose of providing heritage grants for the conservation of Council owned heritage assets.
26. With regard to the conservation and stabilisation works and ongoing maintenance and operating costs, if the Council retains ownership of the Cottage and does not on sell it to the Trust, the Council will be liable for the initial conservation work costs and the ongoing maintenance and operational costs.
27. Without a future use identified it is not possible to accurately estimate costs. The condition and structural reports have identified and prioritised the necessary stabilisation and conservation works, and these are estimated to be in excess of \$250,000. Of this, urgent work estimated at \$100,000 would be required in the 2008/09 year, with the balance of approximately \$150,000 occurring in the 2009/10 year.
28. Normal annual operating costs are estimated to be approximately \$20,000 per year and, assuming an initial deferred maintenance programme is completed, provision for ongoing future cyclical maintenance such as painting should be made within the 2009-2019 LTCCP.

If the preferred option is adopted, the anticipated costs are as follows:

	Year	\$
Replenishment of Historic Places Fund from operating surplus	2007/08	260,000
Conservation work – urgent	2008/09	100,000
Balance of initial conservation work*	2009/10	150,000
Ongoing operating costs*	annual	20,000

* to be included in the 2009/19 LTCCP

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

29. No.

LEGAL CONSIDERATIONS

30. If the Council should wish to retain ownership of the Cottage, given the terms of the Council resolution of 30 March 2006 when the Cottage was originally acquired, it will be necessary for the Council to expressly resolve to so retain ownership on such new terms as it considers appropriate.
31. Under the legal structure proposed in the staff recommendations section of this report ownership of the land and Cottage would remain with the Council. However, the proposed tenant would be granted, subject to the outcome of negotiations, a lease or management agreement for a fixed term. It would be expected that the terms of that lease or management agreement would effectively define the relationship between the Council and the Trust as tenant in relation to the Cottage, control the use of the Cottage by the tenant and impose certain obligations around usage and management. However, the final terms of the Lease or Management Agreement will need to be negotiated between Council staff and the proposed tenant Trust.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

32. 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".
33. 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).

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34. 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.
35. 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?

36. No

ALIGNMENT WITH STRATEGIES

Greater Christchurch Urban Development Strategy (UDS)

37. 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.

Banks Peninsula District Plan

38. Heritage protection is consistent with the Cultural Heritage provisions of the Banks Peninsular District Plan. These are detailed in chapter 14, Cultural Heritage, Objective 1, and Policies 1A and 1B, p.74.

New Zealand Urban Design Protocol

39. Heritage redevelopment 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.

Heritage Conservation Policy

40. Heritage Conservation Policy 9.1 promotes appreciation of listed heritage, and the importance of its conservation; 7.1 promotes working with community groups to find compatible new uses for under-utilized heritage buildings and 1.1 requires the promotion of the conservation principles set out in the ICOMOS New Zealand Charter.

Do the recommendations align with the Council's strategies?

41. Yes. Heritage retention is supported by these strategies and policies and is consistent with the recommendations.

CONSULTATION FULFILMENT

Consultation

42. Council staff met with the Trust in November 2007, and March, April and May 2008 as part of an ongoing consultation process. The Lyttelton community, Project Port Lyttelton Incorporated, the Lyttelton Information Centre Trust, Canterbury Kilwinning Lodge and the Lyttelton Historical Museum Society Incorporated are represented on the Trust. Consultation between Council staff and the NZHPT has been ongoing since October 2007.

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STAFF RECOMMENDATION

It is recommended that:

- (a) The Council rescind that part of the resolution of the Council meeting of 30 March 2006:

“(ii) negotiate and agree the terms and conditions of the proposed on-sale agreement between the Council as vendor and the Lyttelton Information Centre Trust (or such trust or entity that may be established to purchase, conserve and manage Grubb Cottage) as purchaser at the full purchase price paid by the Council”.

And further resolve that:

- (b) That the Christchurch City Council retain ownership of Grubb Cottage situated at 62 London Street, Lyttelton.
- (c) \$260,000 from the Council's anticipated 2007/08 operating surplus be applied to replenish the Historic Places Fund and to finance the purchase of Grubb Cottage under established operating procedures.
- (d) The provision of \$250,000 be made, with \$100,000 in the 2008/09 Annual Plan and \$150,000 in 2009/10 financial year, to fund the necessary conservation and stabilisation work to the buildings in line with the recommendations of the Conservation Plan prepared for the Council.
- (e) The future ongoing operating costs estimated at \$20,000 per annum also be developed and included within the 2009-19 LTCCP.
- (f) The Corporate Support Manager be granted delegated authority to negotiate with and enter into on behalf of the Council a formal Deed of Lease or a management agreement or such other arrangement as he shall consider appropriate in relation to Grubb Cottage with the Grubb Cottage Heritage Trust, on terms and conditions acceptable to him (including but not limited to such matters as the nature and extent of any use or activity to be undertaken to the Cottage and the ongoing management and use of the Cottage).

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BACKGROUND

43. On 30 March 2006, the Council resolved to purchase Grubb Cottage, Lyttelton, for the sum of \$260,000 to ensure the future preservation of this significant heritage dwelling. The purchase was made from the Historic Places Fund. The Council's resolution of 30 March 2006 approving the purchase contemplated the subsequent on sale to a Trust for the full purchase price paid by the Council.
44. Staff are dealing with the urgent reactive maintenance: City Care have a contract for garden maintenance; new locks have been fitted, the windows have been boarded up and a large fence erected to the street for security; temporary spouting has been fitted and the chimney wrapped to prevent further water penetration and ongoing damage to the heritage fabric of the dwelling.
45. Neither the Grubb Cottage Heritage Trust nor any other trust or entity has come forward with the capital to purchase Grubb Cottage for the full purchase price paid by the Council as per the Council's resolution of 30 March 2006.

HERITAGE IMPORTANCE

46. Grubb Cottage is listed as a Protected Building in Appendix IV, Schedule of Protected buildings, objects and sites of the Banks Peninsula District Plan and as a Category II Historic Place on the New Zealand Historic Places Trust Register of Historic Places.
47. Grubb Cottage is arguably the most significant colonial domestic dwelling in Lyttelton. It remains in very original condition, including its original outbuildings. There are few examples of 1840s, 1850s and 1860s built dwellings still extant in Christchurch and Lyttelton, and no others exist in such an original state. As such the Cottage presents a record of built archaeology which is unique in Canterbury, and provides significant tangible evidence of the way of life of the early settlers during the first two decades of organised European settlement.
48. By means of comparison, the oldest surviving European dwelling on the Canterbury plains, Deans Cottage (1843-4), was relocated and fully restored in 1950: much of its original heritage fabric was replicated and replaced at this time, and the dwelling was removed from the context of its original site. Grubb Cottage (1851) is significant in the near original condition of most of its heritage fabric, which has been preserved for over 150 years, and remains on its original site.
49. Particular heritage significance is attached to the Cottage as the original construction on the first piece of land to be sold in New Zealand by the Canterbury Association which had not been pre-purchased in England. Also, the 1851 portion of Grubb Cottage is possibly the oldest remaining dwelling of the Canterbury Settlement which was not of pre-fabricated construction.
50. Grubb Cottage has heritage significance to the community of Lyttelton because of its association with the early settlement of the town. The Grubbs were a key family in the development of Lyttelton and its port, and in turn associated with the development of Christchurch and the Canterbury region. Mr John Grubb, one of the earliest residents of Lyttelton, arrived in 1849 and decided to settle in Lyttelton. His wife and family arrived in 1850 on the Charlotte Jane, the first of the Canterbury Association Ships. The Grubb family settled and stayed in Lyttelton: John became a Borough Councillor and their son James also entered local government and became Mayor of Lyttelton in 1902. Generations of the Grubb family lived in the house until 1961.
51. The Cottage is widely recognised by the Lyttelton community as an historic landmark identified with the early days of the settlement. The Lyttelton community had long expressed an interest to see the cottage restored and retained with a viable community use, but their attempts to purchase the building in the 1990's and 2004 failed through lack of funding.

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HERITAGE AND BUILDING CONDITION ASSESSMENT

52. The Council commissioned a structural survey and condition report in November 2006, a conservation plan in September 2007, measured drawings in February 2008 and are currently in the process of commissioning an archaeological survey.

Condition Report: Stewart Ross Team Architecture

53. The condition report finds the Cottage and outbuildings generally in a poor condition, with the exterior envelope in urgent need of maintenance and repair to protect the structure from the elements. The stairwell needs to be reinstated to provide first floor access; the chimney to be repaired; the front veranda rebuilding and the foundations require repiling. The existing wiring and plumbing do not comply to current codes and no services appear to be connected to the Public Utility. Fire protection and accessibility issues are identified as needing to be addressed if the future use of the building will open it to the public.

Structural Report: Endel Lust Civil Engineer Ltd

54. The report identifies the need for excavations to provide better sub floor ventilation and the rebuilding of the sub floor; structural issues with the fireplace and chimney, and that lack of compliance to current code in the first floor joists. It concludes that most of the basic structural members of the Cottage are in a relatively sound condition. However, the existing first floor structure is such that access should be limited to no more than six persons at a time and no more than two persons in any first floor room at any time.

Conservation Plan and Heritage Assessment: Heritage Management Services

55. The Conservation Plan has been prepared to guide the management of any future work or change to the Cottage. It is currently at a working draft stage for comment. A Conservation Plan is a document that sets out the heritage value of a place and develops policies to guide its conservation, future use and development – essentially to deal with the management of change. The Plan is designed to help prioritize and resolve any differences in balancing the old with the new. It provides the basic information necessary for decision making and to assist in the overall planning and management of the heritage values of the place. The Structural and Condition Reports are contained within the Conservation Plan. The Conservation Plan identifies that:
- (a) There are no agreed identified uses for the Cottage. Options that have been discussed in the past have included a tea room, a residential dwelling, a museum and an information centre. In its present state the Cottage does not comply with current codes for either private residence or public access, and the interventions required to achieve code compliance would destroy much of the heritage fabric and significance of the place. To undertake this action would, in general, be contrary to the principles of heritage conservation outlined in the working draft Conservation Plan or the ICOMOS (NZ) Charter.
 - (b) As the property remained in the Grubb family for some 110 years, and has been empty since the 1960s, a considerable amount of heritage fabric and archaeological material has remained at the site. Therefore Grubb Cottage presents an outstanding and rare example in Canterbury of early colonial, built archaeology; in its current state it offers the opportunity to understand the technology, materials and social history of a particular period in time and way of life. The recommendation of the working draft Conservation Plan is that of minimum intervention and to stabilise the building with the aim of preserving and conserving at Grubb Cottage the evidence of earlier technologies and construction techniques and the original fabric, architecture and social historic values they contain.
 - (c) The 1851 section of the Cottage to the rear, although the oldest section, has been the most altered over time and is considered to present the most appropriate area for adaptation. This part of the Cottage could be considered for use as an interpretation area for the architectural and social history of the building and as well as the early history of Lyttelton and its surviving heritage.

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COSTS OF RETENTION

56. Until a future use has been identified and the extent and nature of the conservation, repair and reinstatement works has been determined, it is not possible to accurately estimate costs. The condition and structural reports have identified and prioritised the necessary stabilisation and conservation works, and these are considered to be in excess of \$250,000. These works could be staged over a two year period commencing in 2008/09.
57. Normal annual operating costs such as rates, insurance, planned and reactive building maintenance, grounds maintenance and heritage advice from external consultants are likely to exceed \$20,000 per year. Assuming significant deferred maintenance (as identified by the condition and structural reports) is undertaken over the next two years, some further cyclical maintenance such as painting may not be required for 8-10 years. However, provision for such ongoing future cyclical maintenance should be made within the 2009-2019 LTCCP.
58. Costs for initial conservation and ongoing maintenance have not been allowed for in any current budgets. Annual operating costs and cyclical maintenance would need to be made within the 2009-2019 LTCCP.

THE OBJECTIVES

59. To ensure the retention of Grubb Cottage and preservation of its heritage significance, and settle the issue of ownership, conservation and ongoing management.

THE OPTIONS

60. There are three options for consideration:
 - (i) Grubb Cottage is retained in Council ownership, with Council funding the necessary conservation and stabilisation work to the buildings and all future ongoing maintenance costs, in line with the recommendations of the Conservation Plan prepared for the Council. The Trust is granted either a lease or management agreement or other similar arrangement with negotiated and agreed terms and conditions relating to the nature and extent of the ongoing management and use of the Cottage.
 - (ii) Grubb Cottage is retained in Council ownership, with Council funding the necessary conservation and stabilisation work to the buildings and all future ongoing maintenance costs, in line with the recommendations of the Conservation Plan. Council to assume responsibility for the ongoing management of the Cottage.
 - (iii) The Council retain ownership of the Cottage and maintain the status quo until a buyer is identified.
61. Consideration was also given during the writing of this report to two further options, namely:
 - (a) That the Council retain ownership of the Cottage, lease the asset to the Trust and enter into a contractual agreement with the Trust relating to the nature and extent of any maintenance, stabilisation, repair and reconstruction work undertaken at the property, and the ongoing management of the Cottage. The Trust would be liable for raising the capital required to fund all agreed conservation and stabilisation works and all future ongoing maintenance; and
 - (b) That the Council on-sells the Cottage to the Trust as per the Council resolution of 30 March 2006, and negotiate and agree the terms and conditions of a contractual agreement relating to the nature and extent of any maintenance, conservation and reconstruction work undertaken at the property. The Trust would be liable for raising the capital required to fund the purchase, all agreed conservation and stabilisation works and all future ongoing maintenance.

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62. However, following a number of meetings between Council staff and the Trust between November 2007 and May 2008 it became clear that these were not realistic options. The Grubb Cottage Heritage Trust has stated that it is not able to undertake the purchase of Grubb Cottage for the full purchase price paid by Council, nor is it able to fund raise the necessary monies for the conservation work and ongoing cyclical maintenance given the limited options for and constraints on future uses imposed by the heritage value and significance of the built archaeology contained within the dwelling. The Trust is unable to support any options for the future of the Cottage which require them to meet the costs of funding either the purchase or stabilisation and conservation of the Cottage at this time. There is no other identified trust or entity with the funding to support this option at this time.

ASSESSMENT OF OPTIONS**The Preferred Option**

- (a) Grubb Cottage is retained in Council ownership.
- (b) The Council agree to fund the necessary conservation and stabilisation work to the buildings and all future ongoing maintenance costs, in line with the recommendations of the Conservation Plan.
- (c) The Trust is granted either a lease or management agreement with negotiate and agreed terms and conditions relating to the nature and extent of the ongoing management and use of the Cottage.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> • Council and Community recognition of early Lyttelton history and opportunities for Council to work in partnership with the Trust and Community. • Opportunities for community access to a tangible record of their early history. • Education and advocacy opportunities for the promotion of heritage retention and conservation. • Opportunity for the Council to make a strong and positive statement about the Council's commitment to heritage conservation and retention. 	None
Cultural	<ul style="list-style-type: none"> • Council protection of an outstanding and unique example of built archaeology. • Council Heritage staff able to monitor and manage ongoing conservation and maintenance. • Council preservation of an important record of the development and early settlement of Lyttelton and Canterbury. • Council protection of an historic site linked to a prominent early settler. • Retention of a significant listed heritage asset in Council ownership and care. • Council protection of links to the past activities on the historic site. 	None

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	Benefits (current and future)	Costs (current and future)
Environmental	<ul style="list-style-type: none"> • Preservation and enhancement of the street scene and a local landmark. • Potential to restore the setting. 	None
Economic	<ul style="list-style-type: none"> • Some limited potential income from lease. • Future economic potential – e.g. literature sales: conservation guide book, history guide book, publication of conservation plan; picture and post card sales; education and conservation workshops and tours; inclusion on heritage trails; recreation of a heritage garden and heritage seed/plant sales; re-enactments; performances in the grounds, etc. • The Trust assume responsibility for the day to day management of the Cottage. 	<ul style="list-style-type: none"> • Conservation costs and ongoing maintenance costs will need to be met by Council. • An appropriate business unit and activity would need to be identified for ownership and management. • There are no dedicated budget funds available for the identified business unit to undertake the conservation works or ongoing maintenance.
<p>Extent to which community outcomes are achieved: Heritage comes under An Attractive and Well Designed City. The success indicator is stated as being that “our heritage is protected for future generations” and progress will be measured by the number of heritage buildings, sites and objects. This measure would be maintained by the retention of this heritage building.</p> <p>Impact on the Council’s capacity and responsibilities: Unbudgeted financial costs for the replenishment of the Historic Places Fund would impact on the Council’s capacity to carry out other activities. Unbudgeted costs for conservation works and ongoing maintenance and management would impact on the Council’s capacity to carry out other activities. Would meet Council responsibilities for Community Outcomes and heritage retention objectives and policies.</p> <p>Effects on Maori: Nil</p> <p>Consistency with existing Council policies: Is consistent with Council Heritage objectives and policies. Is consistent with current fiscal practice.</p> <p>Views and preferences of persons affected or likely to have an interest: Civic Trust, The Trust, the Community Board, Lyttelton community and NZHPT likely to approve Council action.</p> <p>Other relevant matters: NZHPT have expressed an interest in a partnership Council-NZHPT-Trust education and advocacy initiative based around the Cottage. An appropriate business unit and activity would need to be identified, as Heritage Protection does not presently hold assets in its own rights. Opportunity to make a strong, positive statement locally, regionally and nationally about Christchurch City Council’s commitment to heritage protection and retention. It offers huge potential for heritage education and advocacy as well as media, cultural tourism and promotional opportunities.</p>		

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The Second Option

- (a) Grubb Cottage is retained in Council ownership.
- (b) Council fund the necessary conservation and stabilisation work to the buildings and all future ongoing maintenance costs, in line with the recommendations of the Conservation Plan.
- (c) Council remain responsible for the ongoing management and use of the Cottage.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> • Council recognition of early Lyttelton history and • Opportunities for community access to a tangible record of their early history. • Education and advocacy opportunities for the promotion of heritage retention and conservation. • Opportunity for the Council to make a strong and positive statement about the Council's commitment to heritage conservation and retention. 	<ul style="list-style-type: none"> • Opportunities for Council to work in partnership with the Trust and Community are lost. • Opportunity for Lyttelton community to have a sense of ownership of the Cottage is lost. • Council management likely to result in reduced levels of service. • Community outcomes are not achieved.
Cultural	<ul style="list-style-type: none"> • Council protection of an outstanding and unique example of built archaeology. • Council Heritage staff able to monitor and manage ongoing conservation and maintenance works. • Council preservation of an important record of the development and early settlement of Lyttelton and Canterbury. • Council protection of an historic site linked to a prominent early settler. • Retention of significant listed heritage buildings in Council ownership and care. • Council protection of links to the past activities on the historic site. 	<ul style="list-style-type: none"> • Opportunities for the Lyttelton community to develop cultural tourism initiatives around the Cottage are loss.
Environmental	<ul style="list-style-type: none"> • Preservation and enhancement of the street scene and a local landmark. • Potential to restore the setting. 	None
Economic	<ul style="list-style-type: none"> • Future economic potential – e.g. literature sales; conservation guide book, history guide book, publication of conservation plan; picture and post card sales; education and conservation workshops and tours; inclusion on heritage trails; recreation of a heritage garden and heritage seed/plant sales; re-enactments; performances in the grounds, etc. 	<ul style="list-style-type: none"> • Conservation costs and ongoing maintenance and management costs will need to be met by Council. • An appropriate business unit and activity would need to be identified for ownership and management. • There are no dedicated budget funds available for the identified business unit to undertake the conservation works or ongoing maintenance or management.

10 Cont'd

<p>Extent to which community outcomes are achieved: Heritage comes under An Attractive and Well Designed City. The success indicator is stated as being that “our heritage is protected for future generations” and progress will be measured by the number of heritage buildings, sites and objects. This measure would be maintained by the retention of this heritage building.</p> <p>Impact on the Council’s capacity and responsibilities: Unbudgeted financial costs for the replenishment of the Historic Places Fund would impact on the Council’s capacity to carry out other activities. Unbudgeted costs for conservation works and ongoing maintenance and management would impact on the Council’s capacity to carry out other activities. Would meet Council responsibilities for heritage retention objectives and policies.</p> <p>Effects on Maori: Nil</p> <p>Consistency with existing Council policies: Is consistent with Council Heritage objectives and policies. Is consistent with current fiscal practice.</p> <p>Views and preferences of persons affected or likely to have an interest: The Trust, the Community Board, and the Lyttelton community likely to oppose Council action.</p> <p>Other relevant matters: NZHPT have expressed an interest in a partnership Council-NZHPT education and advocacy initiative based around the Cottage. An appropriate business unit and activity would need to be identified, as Heritage Protection does not presently hold assets in its own rights. Opportunity to develop a partnership between the Council and the Lyttelton community is lost.</p>

The Third Option Maintain the Status Quo (if not preferred option)

The Council maintain the status quo and hold the Cottage until a buyer is identified.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> Limited, unless a Trust or other entity willing to purchase the Cottage can be found quickly. 	<ul style="list-style-type: none"> The opportunity for community recognition of early Lyttelton history is delayed/lost. The opportunity for the Lyttelton community to be able to contribute towards the protection of their heritage is delayed/lost. The opportunities for the community access to a tangible record of their early history are delayed/lost. The community feel that the Council are not giving appropriate support to the protection and retention of their heritage. Until the Historic Places Fund is replenished the Fund would be reduced by \$260,000 which could mean opportunities for future heritage retention are lost. The opportunity for the Council to make a strong and positive statement about their commitment to heritage conservation and retention is lost.

10 Cont'd

	Benefits (current and future)	Costs (current and future)
Cultural	<ul style="list-style-type: none"> Limited, unless a Trust or other entity willing to purchase the Cottage can be found quickly. 	<p>If only urgent remedial maintenance is undertaken, the Cottage will continue to deteriorate and consequently:</p> <ul style="list-style-type: none"> Protection of links to the past activities on the historic site will not occur. The opportunity for the preservation of an important record of the development and early settlement of Lyttelton will be lost. Protection of an historic site linked to a prominent early settler will not occur. Retention of significant listed heritage buildings will not be promoted. Protection of an outstanding piece of built archaeology will not occur.
Environmental	<ul style="list-style-type: none"> None, unless a Trust or other entity willing to purchase the Cottage can be found quickly. 	<ul style="list-style-type: none"> The street scene will be compromised as the Cottage deteriorates, and a local landmark will become derelict. Lost opportunity to restore the setting. Threats of vandalism and crime.
Economic		<ul style="list-style-type: none"> \$260,000 for the replenishment of the Historic Places Fund will not be achieved until the Cottage is sold. These funds will not be available for other potential purchases until repayment is made. Council will be required to meet the costs of ongoing and urgent maintenance work. Failure of any Trust or entity to ever raise the funding for either purchase or conservation must be considered as a possibility. Council Heritage staff required to monitor ongoing urgent remedial maintenance.

Extent to which community outcomes are achieved:

Heritage comes under An Attractive and Well Designed City. The success indicator is stated as being that "our heritage is protected for future generations" and progress will be measured by the number of heritage buildings, sites and objects. This measure would not be achieved by this option.

Impact on the Council's capacity and responsibilities:

Unbudgeted financial costs for loss of interest and delayed repayment to the Historic Places Fund would impact on the Council's capacity to carry out other activities. Unbudgeted costs for ongoing maintenance and management would impact on the Council's capacity to carry out other activities. Would not meet Council responsibilities for Community Outcomes and heritage retention objectives and policies.

Effects on Maori:

Nil

Consistency with existing Council policies:

This is consistent with the fiscal policy related to the Historic Places Fund, but not consistent with Council Heritage objectives and policies.

Views and preferences of persons affected or likely to have an interest:

Civic Trust, the Community Board, Grubb Cottage Heritage Trust, the Lyttelton community and the wider Christchurch community and NZHPT are unlikely to approve Council action. Public awareness of the Cottage is high, and there is the perception that it is Council owned and being allowed to deteriorate. Positive proactive action is needed to address these perceptions.

Other relevant matters:

This is not a realistic option. The heritage significance of the Cottage and the near original condition of much of its heritage fabric places constraints around an appropriate future use. The Conservation Plan has identified areas which might be considered for a new use; however, most appropriate uses would not provide the basis for any commercially viable reuse of the Cottage or its grounds. Other, more commercial options for reuse would result in a major loss of heritage fabric and significance. It is therefore extremely unlikely that any Trust will come forward with the funds to purchase and restore the Cottage.

11. APPOINTMENT OF COUNCIL REPRESENTATIVE TO MUSIC CENTRE OF CHRISTCHURCH TRUST

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Democracy Services Manager
Author:	Clare Sullivan, Council Secretary

PURPOSE OF REPORT

1. The purpose of this report is to seek the appointment of a Council representative to the Music Centre of Christchurch Trust.

EXECUTIVE SUMMARY

2. On 13 December 2007, the Council appointed Mr Phil Clearwater, Spreydon Heathcote Community Board member, as its representative on the Music Centre of Christchurch Trust. Mr Clearwater has since, however, notified the Mayor that due to pressures on his time, he is no longer available to give the role the time it deserves. Mr Clearwater has also submitted his resignation to the Chairperson of the Trust and the other trustees.

3. The Council's policy governing such an appointments is:

"That the Council appoint formal representatives on outside organisations only where the proposed requirement will be of clear public benefit, or benefit the Council, or if the appointment is required for statutory reasons, or under the provisions of the relevant trust deed or constitution, etc., of the organisation concerned."

4. As the Trust Deed of the Music Centre of Christchurch Trust provides for the appointment of one person by the Christchurch City Council from among its members or employees, the Trust now has a vacancy required to be filled by the Council.

FINANCIAL IMPLICATIONS

5. Where Councillors are appointed to outside organisations, their attendance to meetings will be covered by the elected members salary, and meeting fees do not apply. Thus, there are no substantial financial implications, apart from payment of mileage incurred in attending such meetings.
6. In the case of staff, attendance of such meetings are covered either by their salaries or in the case of meetings held outside of normal working hours remuneration will be in accordance with the provisions of the relevant industrial agreement or contract. The cost to the Council will not be significant. Private individuals representing the Council on outside bodies are not paid for their services.

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

7. Covered by existing unit budgets.

LEGAL CONSIDERATIONS

8. The Council has the authority to make appointments to outside bodies either as provided for by their constitutions or at their request.

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

9. Yes see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. Page 111 of the LTCCP, level of service under democracy and governance refers.

11 Cont'd

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

11. As above.

ALIGNMENT WITH STRATEGIES

12. Not applicable.

Do the recommendations align with the Council's strategies?

13. Not applicable.

CONSULTATION FULFILMENT

14. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council decide at this meeting on an appointment to the Music Centre of Christchurch Trust.

12. APPOINTMENT OF ADDITIONAL MEMBER TO REGULATORY & PLANNING COMMITTEE

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8177
Officer responsible:	Programme Manager Strong Communities
Author:	Warren Brixton, Committee Adviser

PURPOSE OF REPORT

1. The purpose of this report is to recommend the appointment of an additional member to the Regulatory and Planning Committee.

EXECUTIVE SUMMARY

2. The Regulatory and Planning Committee was established as a separate Standing Committee of the Council in November 2007 and was delegated a role including that of:
 - City Plan
 - Review of delegations to Planning Subcommittee and Planning Officer Subcommittee
 - Heritage Grant allocations
 - Bylaw Review programme
 - Urban Development Strategy
 - Cross Boundary RMA issues
3. Since its inception the workload of the Committee has been considerable as it deals with the planning issues of an expanding and developing city, as well as the varied legislative review processes. The Committee currently has a membership of seven members (Councillors Sue Wells, Helen Broughton, Sally Buck, Ngaire Button, Yani Johanson, Claudia Reid, and Chrissie Williams).
4. Councillor Mike Wall has attended a number of the Committee meetings and taken an active part in the discussion of the issues coming before the Committee. Because of his background and wide community experience his input has been appreciated by the Committee. It is considered that it would be useful to have an additional member on the Committee.

FINANCIAL IMPLICATIONS

5. Nil. The provision of remuneration to elected members attending Committee meetings is provided for as part of the overall elected member remuneration budget.

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

6. Yes. The provision of an additional Committee member has no impact on LTCCP budget.

LEGAL CONSIDERATIONS

7. There are no legal implications brought about by the proposal.

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

8. Yes

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

9. The proposal has no bearing on the LTCCP or Activity Management Plans.

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

10. N/A

12 Cont'd

ALIGNMENT WITH STRATEGIES

11. N/A

Do the recommendations align with the Council's strategies?

12. N/A

CONSULTATION FULFILMENT

13. N/A

STAFF RECOMMENDATION

It is recommended that the Council appoint Councillor Mike Wall as an additional member of the Regulatory and Planning Committee for the ensuing term.

13. MAYOR'S WELFARE FUND CHARITABLE TRUST

General Manager responsible:	General Manager Community Services, DDI 941-8986
Officer responsible:	Unit Manager – Community Support
Author:	Robyn Steel, Team Leader Safety, Community Support Unit

PURPOSE OF REPORT

1. The purpose of this report is to seek an appointment of a Chairperson of the Mayor's Welfare Fund Charitable Trust Committee.

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.
3. A number of amendments to the Deed of Trust were approved at the 24 April 2008 Council meeting. One of these amendments to the Deed of Trust being:

"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."

4. Earlier this year the Mayor approached Councillor Broughton to Chair the Mayor's Welfare Fund Committee, which was accepted. Councillor Broughton has subsequently chaired two Mayor's Welfare Fund Committee meetings on 5 March 2008 and 16 May 2008.
5. Councillor Button was nominated as the Council's representative on the Mayor's Welfare Fund Committee at the Council meeting on 13 December 2007.

Financial implications

6. There are no financial implications.

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

7. Not applicable.

LEGAL CONSIDERATIONS

8. The Trust Deed has been altered to allow the Christchurch City Council to nominate a representative onto the Mayor's Welfare Fund Committee who will hold office as Chairperson.

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

9. No.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. Not applicable.

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

11. Not applicable.

13 Cont'd

ALIGNMENT WITH STRATEGIES

12. Strengthening Communities Strategy.

Do the recommendations align with the Council's strategies?

13. Yes.

CONSULTATION FULFILMENT

14. Not applicable.

STAFF RECOMMENDATION

It is recommended Councillor Broughton be nominated as the Mayor's representative and Chairperson of the Mayor's Welfare Fund Committee.

14. HEARING PANEL REPORT ON THE PROPOSED PUBLIC PLACES BYLAW

General Manager responsible:	General Manager, Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager – Strong Communities
Author:	Public Places Bylaw Hearing Panel

PURPOSE OF REPORT

1. This is a report of the Public Places Bylaw Hearing Panel. It summarises the submissions received on the proposed Public Places Bylaw and contains recommendations from the Panel altering the proposed Bylaw in certain respects. The proposed bylaw (with the recommended changes highlighted) is **attached** to this report.
2. This report recommends the adoption of the Christchurch City Council Public Places Bylaw 2008, as **attached**.

EXECUTIVE SUMMARY

3. On 28 February 2008, the Council adopted the proposed Public Places Bylaw for consultation. Submissions on the proposed Bylaw were open between 15 March and 16 April. Sixteen submissions were received. Seven people requested to be heard by the Hearing Panel in support of their submissions.¹ The hearings were held on 28 April. The panel deliberated on 29 April. The panel was chaired by Councillor Sue Wells, and the panel members were Deputy Mayor Councillor Norm Withers, Councillor Ngaire Button and Councillor Mike Wall.
4. The proposed Bylaw's purpose was to balance the different needs and preferences of our community in relation to public places, in order to balance private use with public use. The Bylaw, as proposed:
 - required anyone wanting to undertake a commercial activity² or to create an obstruction in a public place to get permission from the Council
 - enabled the Council to declare Special Use Areas to prohibit or allow activities in specific areas
 - prevented people from temporarily residing or sleeping in public places, unless the area had been set aside for camping or parking a motorhome or caravan, and
 - prevented barbed, razor or electrified wire from being used in fencing in a way that could endanger public safety.
5. 16 submissions were received:
 - seven from individuals³
 - three from residents' associations/neighbourhood groups⁴
 - four from organisations⁵
 - two from community boards⁶.

¹ Seven requested to be heard, though two did not attend on the day of hearings. One person who appeared had not made a submission, but wanted to speak to the hearing panel, and did so. Overall, six people/groups addressed the hearing panel.

² Commercial activities include: selling, hiring, or displaying for sale; advertising goods, services or events; busking and street performing; and any other activity undertaken for payment or reward

³ Stephen Luke, Chris Currie, Cliff Stevenson, Nigel Spence, Carole Stevens, Murray Allison and Brian Sandle

⁴ Cracroft, Ferrymead and Inner City West

⁵ New Zealand Motor Caravan Association, New Zealand Prostitutes Collective, Youth and Cultural Development, and the Advertising Standards Authority

⁶ Burwood Pegasus and Fendalton Waimairi

14 Cont'd

6. Overall, most written submissions (six) commented on the temporarily residing or sleeping in a public place clause. All were opposed to the clause. Five submissions commented on the commercial activities clause, two in relation to street prostitution, two in relation to the content of advertising signage, and one in relation to busking. Several submissions commented on minor aspects of the Bylaw, including one submitter in relation to the amenity aspects of barbed, razor and electrified wire, one submitter suggesting more specific information on penalties and fines, and another suggesting Special Use Areas being declared both for certain times, as well as certain places. A further submission suggested a new clause to control issues arising from party buses dropping patrons off in central city residential areas.
7. Five people appeared in support of their submissions at the hearings, all representing groups or organisations. One person appeared, though they had not made a submission.⁷ Those who appeared in support of their submissions largely reiterated their written submissions.
8. A summary of the written submissions received on the proposed Bylaw, followed by a summary of matters raised in oral submissions (not already covered by written submissions), and a detailed outline of the changes to the Bylaw recommended by the Hearing Panel can be found in the 'background' section of this report.

SUMMARY OF CHANGES TO THE BYLAW

9. The Hearing Panel deliberated on the issues raised in submissions, and as a result, made several changes to the Bylaw now being recommended to the Council. The most significant of these was removing the clause on temporarily residing or sleeping in a public place.
10. The panel, on the basis of information presented in submissions, is of the opinion that, rather than banning temporarily residing in public places, and allowing it in designated areas, a more appropriate approach is to allow it, unless a particular problem is identified. If a problem is identified, temporarily residing could then be prohibited in that particular problem area. The Bylaw already allows the Council to declare Special Use Areas, allowing or prohibiting an activity in a particular area, by Council resolution, so no further changes to the Bylaw were required to facilitate this new approach, other than deleting the temporarily residing clause.
11. A further change that has been made to the Bylaw, as proposed, is an administrative tidy-up to the revocations. The proposed Bylaw revoked part 3 of the Banks Peninsula District Council Public Places and Signs Bylaw 2004, which covers public places. However, part 4 of the Bylaw, which covers signs, also contains some clauses that can be covered by operational policies under the new Public Places Bylaw (particularly those relating to signboards). These parts of the BPDC Bylaw are now included in the revocations section of the revised Bylaw.⁸ The remaining clauses of part 4 of the Bylaw will continue in force, as the Banks Peninsula District Plan does not provide adequate coverage – these being remote and rural sign provisions.
12. A small number of other changes were recommended by the panel. These can be found in the background section of this report (under the heading "Changes to the Bylaw recommended by the Hearing Panel") and are highlighted in the **attached** bylaw.

LEGAL CONSIDERATIONS

13. The Special Consultative Procedure⁹ took place from 15 March to 16 April 2008. The consultation documents were sent directly to a range of groups, organisations and individuals, as well as public notices appearing in relevant newspapers, and the consultation documents being made available at service centres, Council libraries and on the internet. Additionally, information sessions were held around the district for interested people to drop-in and talk to staff. Submissions were open from 15 March to 16 April and hearings were held on 28 April, which were open to the public.

⁷ Sugra the Juggler

⁸ Clauses 4.2, 4.3, 4.4, 4.10, 4.11 and 4.12 of the BPDC Public Places and Signs Bylaw 2004

⁹ Section 83 of the Local Government Act 2002

14 Cont'd

14. A bylaw hearing panel has no decision-making powers, but can make recommendations to the Council, in accordance with its delegation for that purpose, after considering written and oral submissions.¹⁰ The Council can then accept or reject those recommendations, as it sees fit, bearing in mind that the Local Government Act requires views presented during consultation to be given “due consideration in decision-making”.¹¹ The Council, as final decision-maker, must be in as good a position as the hearing panel in terms of being fully aware of the content of the written submissions, and from the report on the oral submissions. As the Special Consultative Procedure was used for this consultation, the Council cannot introduce anything new into the bylaw that has not arisen out of a submission made during consultation.
15. Section 157 of the Local Government Act 2002 requires that the Council give public notice of the making of a bylaw as soon as practicable after the bylaw is made. A recommendations has been made to this effect.
16. It is appropriate to resolve that the Bylaw will come into effect on 1 July 2008, which is the date by which two of the bylaws being revoked by the new Bylaw would automatically expire.

HEARING PANEL RECOMMENDATIONS

The Hearing Panel recommends that the Council:

- (a) Resolve to adopt the Christchurch City Council Public Places Bylaw 2008, as amended **(attached)**.
- (b) Give public notice as soon as practicable, that the Christchurch City Council Public Places Bylaw has been adopted by Council, that it comes into effect on 1 July 2008, and that copies of the bylaw will be made available.
- (c) Send copies of the Bylaw to those people or organisations that made submissions, and sends a letter to those to whom the consultation notification was initially sent, advising them of the outcome.
- (d) Consider the inclusion of a requirement to comply with Advertising Standards Authority guidance and rulings in the revised operational policy on signboards.

¹⁰ Clause 32 of Schedule 7 of the Local Government Act 2002 expressly prohibits the power to make a bylaw from being delegated

¹¹ Section 82(1)(e). This is also supported by the Council’s Consultation Policy, which states: “we will receive presented views with an open mind and will give those views due consideration when making a decision”.

14 Cont'd

BACKGROUND

17. Below is a summary of the written submissions received on the proposed Bylaw, followed by a summary of matters raised in oral submissions (not already covered by written submissions), followed by a detailed outline of the changes to the Bylaw recommended by the Hearing Panel.

SUMMARY OF SUBMISSIONS

18. The submissions were largely focussed on:
- temporarily residing or sleeping in public places (6)
 - commercial activities and operational policies (street trading policy) - street prostitution (2)
 - commercial activities - content of advertising/signs (2)
 - commercial activities - busking (1)
 - barbed, razor and electrified wire (1)
 - offences and penalties - fines (1)
 - Special Use Areas (1)
 - a new clause proposal - party buses (1).

TEMPORARILY RESIDING OR SLEEPING IN PUBLIC PLACES

19. The submissions on this matter all argued that a blanket ban was excessive. Many commented on the positive aspects of motorhoming and caravanning – both as a holiday activity and as a contribution to the local economy. Many submitters did not see motorhoming and caravanning as a problem, and suggested that Banks Peninsula, in particular, had a lot to offer motorhome and caravan enthusiasts.
20. A number of submissions talked about certified self-contained vehicles, and that these create less of a problem than other vehicles. Many referred to the concept of “freedom camping” – which has different definitions, but is essentially the ability to freely stay overnight anywhere.
21. One submitter drew on his experience in Europe and suggested that the Council install coin-operated pillars where self-contained vehicles could dump their waste, pick up fresh water, and connect to electrical power, as well as providing a safe place to park overnight. These type of facilities are common in Europe and the submitter believed they could be valuable here, suggesting that Christchurch could lead the way in this area.
22. Some suggested alternative approaches to the clause in the proposed Bylaw, such as:
- allowing a stay of no more than 3 or 4 days in any one place
 - allowing a stay of up to two nights in any one location in any one month
 - limiting the ban to urban areas
 - only banning it where a particular issue is identified as a problem.
23. A number of submitters also raised concerns about how the existing proposal would be enforced, suggesting that it would be difficult and expensive to enforce, and that this might bring the bylaw into disrepute.
24. Chris Currie appeared at the hearing on behalf of the Cracroft Residents' Association and as an individual. He largely reiterated his written submissions, emphasising that three questions needed to be asked of the clause: is it necessary, is it enforceable, is it seen to be enforced? Mr Currie argued that the clause failed on all counts. He suggested that in order to ban the free use of campervans or motorhomes in public places, evidence was required to demonstrate that there was a problem that needed to be controlled, and if Council was to consider moving ahead with the ban, more consultation was needed.

Hearing Panel response

25. The Hearing Panel considered the issues raised in submissions, all of which opposed the clause, and recommends that Council remove the clause from the Bylaw. The suggestion that temporarily residing in a public place should only be banned where a problem is seen to exist was taken on board. The Special Use Areas clause in the Bylaw would allow temporarily residing to be prohibited from a specific area, by Council resolution.

14 Cont'd

COMMERCIAL ACTIVITIES AND OPERATIONAL POLICIES (STREET TRADING POLICY) - STREET PROSTITUTION

26. Two organisations raised concerns about the requirement for those undertaking commercial activities in a public places to seek permission from the Council. In particular, the provision of sexual services by street based sex workers (SBSWs), and the existing Street Trading Policy. The concerns were raised by the New Zealand Prostitutes' Collective (which advocates for the rights, health and wellbeing of sex workers) and Youth and Cultural Development (which is funded by the Ministry of Health and Child Youth and Family to work with people aged under 18 who are at risk of or actively involved in the sex industry in Christchurch).
27. Both submissions raised concerns at the concept of the Council requiring SBSWs to seek a permit for working on the streets (ie undertaking a commercial activity in a public place). They strongly argued that such a system should not be applied to SBSWs, and gave detailed information as to why this is the case, in their view.
28. The main concerns raised by the Prostitutes' Collective and Youth and Cultural Development were:
- inconsistencies between what the bylaw would require and what the Prostitution Reform Act covers – eg safeguarding the human rights of sex workers and promoting the welfare and occupational health and safety of sex workers
 - that SBSWs may not comply with any requirement to seek and hold a permit, for a variety of reasons including:
 - the record created by SBSWs applying for or holding a permit becoming a matter of public record
 - some SBSWs work as SBSWs because they are in a vulnerable position. Many may not be capable of applying for such a permit
 - that the current Street Trading Policy requires people to pay market rents for the land they use.
 - that enforcing such a requirement will be very difficult, for a number of reasons, including:
 - identifying SBSWs from other people in the street. Many SBSWs do not fit the stereotype of what a prostitute might look like. Many SBSWs, especially those under 18, hang around in groups for safety, and are more likely to be wearing a hoody, than wearing fishnets and a short skirt
 - proving that they are undertaking a commercial activity in a public place would be legally difficult.
 - the negative aspects of attempting to regulate this behaviour, including:
 - it may drive the SBSW industry underground, reducing the safety of those involved and increasing their vulnerability to exploitation, particularly those aged under 18.
 - requiring SBSWs to seek a permit could expose the Council to legal action under the Prostitution Reform Act, as:
 - the Act allows people under 18 to provide sexual services, but prohibits anyone from facilitating, assisting, receiving money or contracting people under 18 to engage in sexual services
 - denying a permit to those under 18 would be inconsistent with the Act; allowing permits for those under 18 could expose the Council to legal action for facilitating or receiving money in conjunction with sexual services offered or provided by those aged under 18.
 - the question of who would enforce such a requirement, namely:
 - if it were the Police, this would damage the relationships that have been developed since the Prostitution Reform Act came into force – changing the Police from protector to prosecutor. SBSWs have slowly been building trust in the Police, so that they can ask for help, should something happen to them on the street. If the Police were to enforce the requirement for a permit, this may push SBSWs into the shadows, reducing their safety and increasing their vulnerability.

14 Cont'd

29. The Prostitutes' Collective argued that the Council, under the Local Government Act, has to show that there is a significant problem, and that a bylaw is the most appropriate tool for dealing with any problems. They believe that the problems along Manchester Street can be dealt with in other ways, such as increased rubbish bins and re-opening the public toilets. They have asked the Council for more rubbish bins and to re-open the public toilets in the past, and ask that the Council reconsiders their request. They believe that if these nuisance-type issues are taken away, the only arguments that remain are moral, and they believe this is not sufficient grounds to regulate through the Local Government Act, and may be contrary to the Prostitution Reform Act.
30. Anni Watkin and Hannah appeared on behalf of Youth and Cultural Development. They largely reiterated their written submission, arguing that if the Council was proposing to require street based sex workers to seek or hold a permit, there were a wide range of issues this would create, all of which would contribute to reducing the safety of under 18 year old SBSWs. They argued that it needed to be made clear that SBSWs would not be covered by the new Bylaw or any operational policies made under it.
31. Anna Reed appeared on behalf of New Zealand Prostitutes Collective. She largely reiterated her written submission, arguing that a lot of the issues commonly attributed to SBSWs were caused by patrons of central city bars, and she reiterated concerns about the negative effect any attempt to regulate SBSWs would have on the workers' safety. She asked that the Council make it clear that SBSWs were exempt from the requirement to seek a permit for undertaking a commercial activity in a public place.

Hearing Panel response

32. The panel does not agree that it is necessary to explicitly exempt SBSWs from coverage under the commercial activity clause of the Bylaw. If SBSWs were to be covered by the Bylaw, an operational policy could be developed specifically outlining appropriate matters.

COMMERCIAL ACTIVITIES - CONTENT OF ADVERTISING/SIGNS

33. Two submissions (one from an individual and one from an organisation) made submissions on the content of advertising, asking that any approvals for advertising be considered in relation to Advertising Standards. Both submissions refer to controlling the content of billboards, referring to Auckland's bylaw, suggesting that the Christchurch City Council's Bylaw should require advertising to comply with the Advertising Standards Authority rulings.

Hearing Panel response

34. The proposed Bylaw does not cover billboards, or replicate anything already covered by the City Plan. It does not cover signage/advertising *per se*, but requires anyone undertaking a commercial activity in public places (eg advertising) or causing an obstruction in public places (eg via a signboard) to obtain the permission of the Council.
35. The issue of approving the content of signage, or compliance with Advertising Standards Authority rulings, could potentially be covered by an operational policy covering approvals or conditions for signboards on the street.
36. The panel has recommended that staff look into this as part of the upcoming review of the signboards policy.

COMMERCIAL ACTIVITIES – BUSKING

37. One individual submitter raised concerns about the current enforcement of busking conditions, in particular, the involvement of children and animals, and the requirement to move on after one hour.
38. The submitter believed the bylaw would require all buskers to seek permission from the Council and that this would provide an opportunity to reiterate these conditions.

14 Cont'd

Hearing Panel response

39. The proposed Bylaw requires buskers to seek permission in all areas, except for the carried-over Special Use Areas, namely, parts of Cathedral Square, City Mall and Worcester Boulevard.¹² The operational policy for buskers contains conditions as described by the submitter, which apply even in the areas where no approval is required for busking, ie, the busking Special Use Areas. The concerns raised by the submitter will be brought to the attention of the Inspections and Enforcement Unit.

BARBED, RAZOR AND ELECTRIFIED WIRE

40. One individual submitter raised concerns about the clause covering barbed, razor and electrified wire, suggesting that the Bylaw be extended to have such wire out of sight (believing it to be unsightly or otherwise offensive), and that if a complaint is made, the Bylaw should require its removal.

Hearing Panel response

41. The bylaw-making power the proposed clause is made under allows a bylaw to be made to protect health and safety. There is a power to make a bylaw to avoid nuisance in a public place; however, concerns relating to amenity do not constitute a nuisance. Additionally, the bylaw covers activities or structures in public places, not on private land.

OFFENCES AND PENALTIES – FINES

42. One individual submitter raised concerns about the reference in the Bylaw for a breach of the Bylaw being a fine of up to \$20,000, suggesting that lower limits for breaches should be specified, with the fines increasing in relation to the seriousness of the offence.

Hearing Panel response

43. The penalty for a breach of a bylaw is specified in the Local Government Act 2002 and constitutes a maximum fine of \$20,000. The fine is not an instant fine, but is applicable on summary conviction, following a successful prosecution. The Judge would decide on the appropriate level of the fine – it is not a matter the Council can specify or control.

SPECIAL USE AREAS

44. One individual submitter suggested that Special Use Areas should be for both certain times, as well as certain places.

Hearing Panel response

45. The proposed Bylaw states that Special Use Areas may be set aside to allow or prohibit certain activities. It also states that the Council may declare a Special Use Area "on any conditions the Council thinks fit". The conditions could relate to the times during which an activity can or cannot take place.

A NEW CLAUSE PROPOSAL - PARTY BUSES

46. An inner-city neighbourhood group has suggested that a new clause should be added to the Bylaw to address the matter of "party buses" dropping off a bus-load of drunken people near their inner city residential area. The group has suggested that the clause be along the lines of:

"that after 9pm at night, any bus carrying passengers that have visited liquor outlets, shall only unload their passengers on Colombo Street outside the Bus Xchange."

¹² Refer to clause 13(3) and the Explanatory Note (Special Use Areas) of the proposed Bylaw.

14 Cont'd

47. Mr Bellis appeared at the hearing to represent the Inner City West Neighbourhood Association. He brought along a letter by a member of the Neighbourhood Association to the Police, and the subsequent reply from the local Police Area Commander (Gary Knowles). The letter reiterated concerns about the negative effects of party buses dropping people off in residential areas close to the CBD. The Police response indicated that this was a problem that the Police were investigating and trying to manage on an ongoing basis.

Hearing Panel response

48. The panel asked that the letter is referred to the Council's District Licensing Authority staff for consideration and action, as appropriate. Additionally, Mr Bellis was informed that a review of the Council's Alcohol Policy and Liquor Control Bylaw are scheduled for later this year, and that this would provide an opportunity to look for solutions to the problems faced by the residents he represented. It is not possible to include a new clause in the Bylaw at this time.¹³

OTHER MATTERS RAISED IN ORAL SUBMISSIONS (NOT COVERED ABOVE)

49. Sugra the Juggler did not make a written submission, but attended to hear others, and, due to several people failing to appear for their appointments, was given time to speak to the panel. He indicated that he had been a juggler and performer in Christchurch for over 20 years and had no specific concerns with the Bylaw, other than the clause on temporarily residing or sleeping in a public place, and that this was "restrictive thinking", and that we needed "a more expansive approach".
50. Mr WP Wright, a member of the Ferrymead Residents' Group, expanded on his very brief written submission, and went into some detail on the history of his dispute with Ferrymead Historic Park, in particular, the effect of the vibrations from the trams/trains in the Park on the structure of his house, referring to an agreement from 1973 that he believed had not been upheld by the Trust operating the Park.

Hearing Panel response

51. Mr Wright was informed that this was perhaps not the appropriate venue for addressing his concerns, and some documents he provided are to be forwarded on to the Chief Executive for consideration.

CHANGES TO THE BYLAW RECOMMENDED BY THE HEARING PANEL

Clause 2 – interpretation

52. The definitions for 'caravan' and 'motorhome' were removed due to the deletion of the clause they were contained in (temporarily residing in a public place – see comments below).

Clause 4 – exclusions

53. A new subclause was added – "All permits and other approvals issued under any of the bylaws revoked by this bylaw continue in force" – to make it clear that existing permits or approvals continue, and do not need to be reapplied for when the new bylaw comes into effect.

Clause 13 – Special Use Areas

54. The clause was simplified by deleting the examples it contained and modernising some of the wording. The effect of the clause has not altered to that consulted on.

¹³ This is because the Local Government Act requires a local council to undertake an analysis of the problem, identify whether it is a significant problem that requires regulation, and if so, that a bylaw is the most appropriate tool to manage the issues. As the concept of a clause on party buses was raised through submissions, none of this work has yet been done, additionally, no consultation on the proposal has been undertaken. Therefore, it is not possible at the this stage to add a new clause to the proposed Bylaw.

14 Cont'd

Clause 14 – temporarily residing or sleeping in a public place

55. The clause was deleted. The clause, as consulted on, prohibited temporarily residing in a public place in a motorhome, caravan or tent, unless the area had specifically be set aside as allowing such activity.
56. As a result of submissions received, Councillors were of the opinion that banning such activity everywhere and allowing it in designated areas was the opposite of the right approach. Instead, it was seen as more appropriate to allow it anywhere, and to ban it in designated areas where it was seen to create a problem.
57. To this end, the clause was removed. The ability to designate areas banning temporarily residing or sleeping in a public place in problem areas can be achieved through the existing clause on special use areas. Such an area can be declared by Council resolution.

Clause 17 – Revocations – and the Explanatory Note – section on Banks Peninsula District Council Public Places and Signs Bylaw

58. The Banks Peninsula District Council Public Places and Signs Bylaw 2004 covers bylaw administration (part 1), liquor control (part 2), public places (part 3) and signs (part 4).
59. When the proposed Public Places Bylaw 2008 was drafted, it revoked part 3 (public places), but left the remainder of the BPDC Bylaw intact. However, there is some overlap of clauses in part 4 (signs) with the proposed Public Places Bylaw 2008 (in particular, signs in public places).
60. Part 4 of the BPDC covers signs in public places (such as signboards) as well as signs on private land. In the Christchurch City area, matters relating to signage on private land are covered by the City Plan; however, the BPDC District Plan does not cover these matters, so those parts of the Bylaw must continue in force in order to ensure coverage.
61. To this end, the revocations clause of the proposed Bylaw has been altered, as has the explanation in the Explanatory Note. Now, all of part 3, as well as clauses 4.2, 4.3, 4.4, 4.10, 4.11 and 4.12 will be revoked. The rest of the BPDC Bylaw continues in force, until such time as it is reviewed.¹⁴

Explanatory Note – section on behavioural matters

62. The panel removed the section on behavioural matters, as it was relevant to the nuisance behaviour clauses that were removed as a result of the review of the bylaws and was no longer relevant.

OTHER MATTERS CONSIDERED BY THE HEARING PANEL

63. The matter raised by Mr Wright regarding Ferrymead (above) has been referred to the CEO.
64. The matter of party buses (above, raised by Bruce Bellis of the Inner City West Neighbourhood Association) will be referred to the Council's Liquor Licensing Inspectors for investigation and consideration, as well as to the Council's Nuisances in Public Places Working Party.
65. The comments relating to the enforcement of busking conditions (made by Nigel Spence) in Worcester Boulevard will be referred to the Inspections and Enforcement Unit of the Council.

¹⁴ The Bylaw must be reviewed by December 2009.

15. HEARINGS PANEL REPORT ON THE REVOCATION OF THE BANKS PENINSULA DISTRICT COUNCIL NUISANCES BYLAW 1996

General Manager Responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	General Manager Regulation & Democracy Services
Author:	Solicitor, Legal Services Unit

PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council that it confirm the revocation of the Banks Peninsula District Council Nuisances Bylaw 1996 (the "Bylaw") following the special consultative procedure on the proposal to revoke the Bylaw, for which no submissions were received.

EXECUTIVE SUMMARY

2. The purpose of the Bylaw was to control various nuisances in the Banks Peninsula district. Prior to the Banks Peninsula District joining the Christchurch City Council, the Council did not have a bylaw to cover these nuisances in the Christchurch district.
3. A review of the Bylaw was undertaken to ascertain whether the provisions of the Bylaw were still required. The Council agreed there was no need to continue or replace the Bylaw because the problems addressed in the Bylaw can be dealt with by the Council either under the enforcement powers of the Health Act 1956, the Resource Management Act 1991, or in other ways.
4. On 28 February 2008 the Council resolved:
 - (a) *To revoke the Banks Peninsula Nuisances Bylaw 1996 following a special consultative procedure.*
 - (b) *To adopt the statement of proposal and summary of information to be made available for public inspection at all Council Service Centres, Council Libraries and on the Council's website, from 17 March 2008.*
 - (c) *That public notice of the proposal be given as close as possible to 17 March 2008.*
 - (d) *That the period within which written submissions may be made to the Council be between 17 March and 16 April 2008.*
5. Public notice was given as required and the statement of proposal and summary of information made available to the public. There were no submissions received in respect of this consultation. Staff therefore recommended to the Hearings Panel that it recommend that the Council confirm its decision to revoke the Bylaw.

FINANCIAL IMPLICATIONS

6. None, unless the Council decides to incur the cost of giving public notice of the revocation of the Bylaw.

LEGAL CONSIDERATIONS

7. Sections 83 and 86 of the Local Government Act 2002 (LGA) set out the requirements in relation to the use of the special consultative procedure, which must be used when making, amending or revoking a bylaw. These sections do not specify what must happen in relation to the Council's decision to revoke a bylaw following that consultation.
8. Section 157, which requires public notice containing certain details to be given as soon as reasonably practicable after a bylaw is made, does not provide that the same must happen when a bylaw is to be revoked. No other sections of the LGA are applicable.

15 Cont'd

9. As it is an additional cost on Council to give public notice, and public notice is not required under the Act, the Legal Services Unit advice is not to give public notice of the final resolution to revoke the Bylaw. The Council can, however, update its bylaws review/bylaws pages on its website to state that the bylaw was revoked on the date resolved by Council.
10. It is appropriate to resolve to revoke the Bylaw immediately as no action has been taken under the bylaw since the reorganisation of the two councils, and there are no outstanding actions or other matters that will be affected by an immediate revocation.
11. A bylaw hearing panel has no decision-making powers, but can make recommendations to Council, in accordance with its delegation for that purpose, after considering written and oral submissions.¹⁵ The Council can then accept or reject those recommendations, as it sees fit, bearing in mind that the Local Government Act requires views presented during consultation to be given "due consideration in decision-making".¹⁶ The Council, as final decision-maker, must be in as good a position as the hearing panel in terms of being fully aware of the content of the written submissions, and from the report on the oral submissions. As the Special Consultative Procedure is used for this consultation, the Council cannot introduce anything new into the bylaw that has not arisen out of a submission made during consultation.

Do the recommendations align with the Council's strategies?

12. Aligns with the "Strong Communities" strategic direction as the public have had a chance to be consulted, and thereby be involved in the decision making process (even though no submissions were received), before this bylaw is revoked.

CONSULTATION FULFILMENT

14. As above for external consultation. Internal consultation had already taken place with the Inspections and Enforcement Unit, who do not consider this Bylaw to be necessary.

HEARINGS PANEL RECOMMENDATIONS

The Hearings Panel recommends that the Council resolve:

- (a) To revoke the Banks Peninsula Nuisances Bylaw 1996.
- (b) That the revocation takes effect from the date of the Council's resolution.

¹⁵ Clause 32 of Schedule 7 of the Local Government Act 2002 expressly prohibits the power to make a bylaw from being delegated.

¹⁶ Section 82(1)(e). This is also supported by the Council's Consultation Policy, which states: "we will receive presented views with an open mind and will give those views due consideration when making a decision".

16. HEARINGS PANEL REPORT ON THE PROPOSED WATER RELATED SERVICES BYLAW

General Manager Responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Senior Resource Planner, Asset and Network Planning Unit
Author:	Water Related Services Hearings Panel

PURPOSE OF REPORT

1. This is a report of the Water Related Services Bylaw Hearings Panel. It summarises the submissions received on the proposed Water Related Services Bylaw and contains recommendations from the Panel altering the proposed Bylaw in certain respects. The proposed bylaw (with the recommended changes highlighted) is attached to this report as **Attachment 3**.
2. This report includes the review of the Christchurch City Council Water Related Services Bylaw 2001, Banks Peninsula District Council Water Supply Bylaw 1998 and Banks Peninsula District Council Wastewater Drainage Bylaw 2000 and recommends the adoption of the Christchurch City Council Water Related Services Bylaw 2008, as **attached**.

EXECUTIVE SUMMARY

3. The above three bylaws are being reviewed and it is intended to replace them with one comprehensive bylaw. In terms of the provisions of the Local Government Act 2002, the two Banks Peninsula bylaws expire on 30 June 2008 while the Christchurch bylaw needs to be reviewed by 30 June 2010.
4. On 28 February 2008 the Council resolved:
 - (a) *That a bylaw is the most appropriate way to manage and regulate municipal water supply and wastewater and stormwater drainage.*
 - (b) *That there are no inconsistencies between the draft Christchurch City Council Water Related Services Bylaw 2008 and the New Zealand Bill of Rights Act 1990, and the draft bylaw is in the most appropriate form.*
 - (c) *That the Statement of Proposal (including the draft bylaw) and the Summary of Information be adopted for consultation.*
5. On 27 March 2008 the Council appointed a Hearings Panel to consider submissions on the draft bylaw. The Panel consisted of Councillors Button, Wall, Withers and Wells.
6. Nine written submissions were received, four of which were heard by the Hearings Panel on 28 April 2008.
7. Having considered all the submissions, as well as a submission from Council's Water and Waste Manager (**Attachment 2**), and responses from staff to the issues raised (**Attachment 1** to this report) the Hearings Panel resolved to recommend to Council that the draft bylaw as publicly notified be amended. Incorporating the proposed changes, the proposed new Christchurch City Council Water Related Services Bylaw (**Attachment 3**) is recommended for approval, to come into effect on 1 July 2008.

SUMMARY OF CHANGES TO THE BYLAW

8. The hearings panel deliberated on the issues raised in submissions, and as a result, made several changes to the Bylaw now being recommended to Council. A small number of editing changes were also recommended by the panel, and have been included. The Hearings Panel recommendations can be found in the background section of this report (under the heading "Changes to the Bylaw recommended by the Hearing Panel") and are highlighted in the **attached** proposed bylaw.

16 Cont'd

LEGAL CONSIDERATIONS

9. The Council has complied with the requirements of section 83 of the Local Government Act 2002 in relation to the hearing of submissions in relation to the special consultative procedure. The statutory special consultative procedure took place from 8 March 2008 to 9 April 2008.
10. Section 157 requires that the Council, as soon as practicable after a bylaw is made, give public notice of the making of the bylaw. The public notice must state the date on which the bylaw will come into operation and that copies of the bylaw may be inspected and obtained at the office of the local authority on payment of a specified amount.
11. It is appropriate to resolve that the Bylaw will come into effect on 1 July 2008, which is the date by which two of the bylaws being revoked by the new Bylaw would automatically expire anyway.
12. A bylaw hearing panel has no decision-making powers, but can make recommendations to Council, in accordance with its delegation for that purpose, after considering written and oral submissions.¹⁷ The Council can then accept or reject those recommendations, as it sees fit, bearing in mind that the Local Government Act requires views presented during consultation to be given "due consideration in decision-making".¹⁸ The Council, as final decision-maker, must be in as good a position as the hearing panel in terms of being fully aware of the content of the written submissions, and from the report on the oral submissions. As the Special Consultative Procedure is used for this consultation, the Council cannot introduce anything new into the bylaw that has not arisen out of a submission made during consultation.

ALIGNMENT WITH STRATEGIES

13. No existing strategies apply. A new water supply strategy and new surface water strategy are in preparation and will receive consideration by the Council during 2008/09. Should new initiatives arise from these strategies there might be a need to review the bylaw at that stage. Making of the bylaw cannot be delayed until that time due to the expiry of the Banks Peninsula bylaws in June 2008.

HEARINGS PANEL RECOMMENDATIONS

The Hearings Panel recommends that the Council:

- (a) Adopt the new Christchurch City Council Water Related Services Bylaw 2008, which will come into effect on 1 July 2008.
- (b) Give public notice as soon as practicable, that the Christchurch City Council Water Related Services Bylaw has been made by the Council, that it comes into effect on 1 July 2008 and that copies of the bylaw may be inspected and obtained at the Council's offices or on its website, without payment.

¹⁷ Clause 32 of Schedule 7 of the Local Government Act 2002 expressly prohibits the power to make a bylaw from being delegated.

¹⁸ Section 82(1)(e). This is also supported by the Council's Consultation Policy, which states: "we will receive presented views with an open mind and will give those views due consideration when making a decision".

16 Cont'd

BACKGROUND

14. This section provides a brief summary of the submissions received on the proposed Bylaw, followed by a detailed outline of the changes to the Bylaw recommended by the Hearings Panel.

SUMMARY OF SUBMISSIONS

15. Nine submissions were received with four indicating that they wished to be heard. A brief summary of the submissions is included below with those heard indicated in brackets. Full copies of all the submissions received are publicly available.

Warwick Taylor & Brandon Koolen (Heard)

The submission focused on the effects of a meter on the water supply to a fire sprinkler system, the restrictions on use of fire hose reels and the provision of appropriate connections from main supply for domestic systems.

Russell Gregory, Wormald (Heard)

The submission commented on the definitions of fire protection and services, the issue of water meters and their impacts on fire protection systems, proposed measures to restrict inappropriate water use and outlined recommendations for changes to section 26 (Water for Extinguishing Fires) in particular.

Ross Aitken, Chubb Fire and Services

The submission focused on water meter types for fire sprinkler systems and issues related to backflow prevention devices.

Sumner Residents' Association

The submission commented on the arbiter of imposing restricting or prohibition of water supply, the effects of free-running domestic irrigation systems and visible water infrastructure pipes.

Andrea Lobb for Mahaanui Kurataiao Ltd (Heard)

The submission from Nga Papatipu Runanga was supportive of the bylaw in principle, but commented that some matters addressed in the bylaw would be more appropriately addressed when the Water Supply Strategy and Surface Water Strategy are further through in their development. The submission made comment on prohibition of some activities in relation to waterways, consideration of waterways as not simply infrastructure but which are also naturally occurring waterways, issues around waterways being used for drainage and comments on run-off issues in relation to residential properties.

Federated Farmers (North Canterbury)

The submitter recommended changes to the explanatory note to better clarify the intent of the Bylaw.

Leslie Griffiths

The submission suggested a minimum pressure rate for water supply at the domestic Toby. It also raised concerns about excessive planting and the extraction of water at Kaputone Stream.

Fendalton/Waimairi Community Board

The Fendalton/Waimairi Community Board commented on the quality of water in the North-west area and expressed concerns with the effects of single-section developers removing all vegetation near streams and requested greater enforcement of this.

16 Cont'd

Brian Sandle (Heard)

The submission focused on the definition of sprinklers in the draft Bylaw, water conservation measures, the reading of meters and rendering of accounts and biodiversity issues.

OTHER MATTERS CONSIDERED BY THE HEARING PANEL

16. The Panel noted that Council staff would have further discussions with submitters Taylor and Koolen to explore future policy changes of mutual interest, outside the scope of this bylaw.
17. The Panel noted that issues raised in relation to clause 33 of the bylaw (Water Used for Cooling) would be tagged by staff to address in the next review.
18. The Panel acknowledged the excellent work that had been done on this bylaw review and expressed its thanks to all the staff involved.

CHANGES RECOMMENDED BY THE PANEL

19. Having considered all written and oral submissions, the submission from the Manager City Water and Waste and staff responses to the issues raised in the submissions, the Hearings Panel recommends that the following changes be made to the draft bylaw:

CHANGES TO THE BYLAW RECOMMENDED BY THE HEARING PANEL

A. Rename clause 1 to "Short title, Commencement and Purpose", and add a new sub-clause 3:

(3) The purpose of this bylaw is to manage and regulate the Council's water supply, wastewater and stormwater drainage. The Bylaw does not manage or regulate matters that are already provided for in the Local Government Act 2002, the Building Act 2004, or the Health (Drinking Water) Amendment Act 2007 or the Resource Management Act 1991 (RMA). Any person who has permission under any other bylaw, act, regulation, or resource consent to carry out any activity, that conflicts with any requirement of this bylaw, does not breach this bylaw when acting in accordance with that permission.

Reason: Two submitters requested that part of the "explanatory note" at the end of the consultation copy of the bylaw be included in the bylaw itself, which is achieved by creating this new sub-clause, and explains why certain water or drainage matters are not dealt with in the bylaw, when they are regulated elsewhere. The rationale for the reference to permissions under other legislation, such as the RMA, is that it clarifies the hierarchy of these as against the bylaw, and is in accord with the submissions of Federated Farmers, Mahaanui Kurataiao Ltd and the Fendalton/Waimairi Community Board, which focussed on the RMA/environmental issues in particular. It makes it clear that permission for an activity under the RMA/a resource consent, or any other legislation, constitutes permission under, and will not breach, the bylaw.

B. Clause 2 Interpretation

"Fire Protection System" means a fixed system of pipes, control valves, outlets and related fixed components used to control or extinguish fires. [Note: This does not include fire hose reels].

Reason: Based on a submission, the definition has been shortened which clarifies more clearly what is intended to be covered by the definition, i.e. any such fixed system.

"Restricted Supply" means water supplied via a Restrictor at a regulated flow rate as determined by the Council and charged on a per unit basis.

Reason: The underlined word clarifies the definition.

Delete "Sprinkler".

Reason: The definition referred to a mechanism for lawn sprinkling, which is not included in the bylaw.

16 Cont'd

C. Clause 3: Compliance

Delete the entire clause.

Reason: The requirement to comply with other Acts as well as the Bylaw is not required, and the addition of clause 1(3) also makes this clause redundant.

D. Clause 10: Shut-off Valves

Add the underlined words

(1) The Council does not guarantee that any Council shut-off valve will be operational at all times.

(2) Consumers or their agents must check that private shut-off valves are operational prior to carrying out any testing or maintenance on their Private Water Supply.

Reason: To clarify that a private water supply shut-off valve is required for private plumbing work .

E. Clause 11: One Point of Supply

Amend sub-clause (1) to read as follows:

(1) The Council may require one Point of Supply to each parcel of land for which a separate certificate of title is held, or to each dwelling or premises on that parcel of land.

Reason: Based on a submission during the hearing of submissions the amended clause will now also include separate dwelling units on a single title. Under the old bylaw, Council's position was passive in that it would permit a point of supply. It did not mean the owner had to have one if they had multiple dwellings. It now means that the Council has the ability to determine that EACH parcel has a separated point of supply which is a change. That is to enable each title to be separately metered should Council wish to do so. The panel recommends that it stops short of REQUIRING a separated point of supply because there may well be situations where that is not appropriate.

(2) The Council may approve and provide more than one Ordinary Supply at its discretion and on written application being made to the Council in accordance with clause 5.

It is recommended that sub-clause 11(2) becomes clause 6 (2) with the current clause 6 becoming clause 6 (1).

Reason: This sub-clause fits better with clause 6, and referring to "Ordinary Supply" instead of "Point of Supply" it clarifies that it does not refer to supplies for extinguishing fires, a point raised by one submitter.

F. Clause 15: Prohibition or restriction of supply in special circumstances

Delete sub-clause (5).

Reason: Clause 12 (1) covers the same situation as clause 15 (5).

G. Clause 22: Reading of meters and accounts

Add the underlined words

(1) Meters will be read, and where applicable, accounts rendered, at such intervals as the Chief Executive may determine.

Reason: To clarify that domestic water use is metered but not charged for. There are situations where it is not necessary or appropriate for an invoice to be issued. It is not a universal situation.

16 Cont'd

H. Clause 26: Water for extinguishing fires

Add the underlined words:

(1) All new connections for Fire Protection Systems must have a Meter of a type that has minimal pressure loss characteristics as specified by the Council.

Reason: This provides direction to stakeholders as to the type of meter Council will approve. The reason for this is to give effect to concerns raised by submitters that requiring a water meter on fire protection systems had the potential to undermine the flow. The submission sought no metering at all. The panel was quite certain that metering was absolutely essential to ensure there was less potential for "diversion" of water from those systems. It was also of the view that it was quite reasonable to ensure that such meters did not impede the flow of water. This clause satisfied the concerns of submitters about flow rate and the concerns of the panel about "diversion" of water.

I. Clause 31: Prevention of backflow

First sentence remains the same. Second sentence to read:

"Consumers with existing Connections that do not have a Backflow prevention system may be required by Council to install appropriate devices if required by the Council to prevent an unsanitary situation".

Reason: The underlined words correctly makes provision for, where required, more than one device - not just one device as referred to before.

J. Clause 34: Objective

Expand this clause to read

The objective of this part of the Bylaw is to define the Council's requirements and provide for the protection of the land, structures, and infrastructure associated with wastewater drainage and stormwater drainage.

Reason: To bring the wording of the clause in alignment with the words used in section 146 of the Local Government Act 2002.

K. Clause 37: Protection of stormwater system

Add the underlined words:

Unless authorised by the Council no person may:

(1) Conduct surface water or subsoil water into a Stormwater Drain, except through a master trap or silt traps, or similar devices, situated in an approved position within the premises;

Reason: To include other devices that perform the same functions as a master trap or silt device.

L. Clause 44: Maintenance of private drainage systems

Delete the underlined word "and" from sub-clause (4)

" Where there is failure to comply with a notice the Council may cause a blocked Private Drainage System to be cleared, and whether this action is taken or not, may recover the cost of the work from the owner(s) and/or occupier(s) of the premises served with the notice.

Reason: The rest of clause 44, where relevant, refers to "owner or occupier". This change aligns sub-clause 4 with the rest of the clause.

29. 5. 2008

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**17. REPORT OF THE REGULATORY AND PLANNING COMMITTEE:
MEETING OF 8 MAY 2008**

Attached.

29. 5. 2008

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18. NOTICES OF MOTION

19. QUESTIONS

20. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

THURSDAY 29 MAY 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 21, 22 and 23.

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
21. CONFIRMATION OF MINUTES - MEETING OF 24.4.2008))	
22. FESTIVAL AND EVENTS FUNDING RECOMMENDATIONS 2008/09))	
23. PRIVATELY REQUESTED PLAN CHANGE 9 TO CITY PLAN – REZONING OF 448 PRESTONS ROAD FROM RURAL 3 TO LIVING 1 F: REPORT AND RECOMMENDATION OF COMMISSIONER JOHN MILLIGAN)) GOOD REASON TO WITHHOLD EXISTS UNDER SECTION 7	SECTION 48(1)(a)

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 21	Protection of Privacy of Natural Persons	(Section 7(2)(a))
Item 21	Conduct of Negotiations	(Section 7(2)(i))
Item 21	Right of Appeal Exists	(Section 48(1)(d))
Item 21	Maintain Legal Professional Privilege	(Section 7(2)(g))
Item 22	Prejudice Commercial Position	(Section 7(2)(b)(ii))
Item 23	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.”