

5. REPORT OF THE HEARINGS PANEL APPOINTED TO HEAR SUBMISSIONS ON THE FUTURE FUNDING OF SOCIAL HOUSING

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PURPOSE OF REPORT

1. The purpose of this report is to present the findings of the Hearings Panel established to hear submissions received in respect of proposals for funding the Council's social housing portfolio.
2. The report also contains the recommendations of the Panel for resolutions to be passed by the Council.

EXECUTIVE SUMMARY

3. In recent years the Council has been grappling with the issue of the funding required to maintain and provide for the replacement of its social housing portfolio. Modest increases in rent have not generated sufficient income to enable the Council to properly maintain its units, nor has it been possible to accumulate funds for the purpose of rebuilding the portfolio when required.
4. As a result of court action taken against it, the Council was able to increase rents by only 2.3% for the 2008-09 year. This was insufficient to meet the demands of the service provided.
5. The proceedings highlighted the fact that in addition to rental increases there may be other ways in which to fund social housing. The result was that the Council resolved to seek the views of the community before making any further decisions on the matter.
6. A special consultative procedure was adopted. Two hundred and sixty-four submissions were received and of these 27 submitters wished to be heard. A Hearings Panel was established for this purpose and to consider all submissions received. The findings of the Hearings Panel are set out in this report.
7. Copies of written submissions have been previously circulated to all Councillors. A written record of oral submissions made where this has been provided by the submitter is **attached**. Also **attached** is an analysis of the consultation undertaken, together with the written responses to a number of questions asked by members of the Hearings Panel.
8. In summary, the Hearings Panel recommends that social housing rents increase by 14% for the year beginning 1 July 2009 and, if there are no alternative sources of funding the future replacement of the Council's housing units available and in place before 31 March 2010, by a further 16% for the year beginning 1 July 2010. The Panel also proposes that the Government be approached again for assistance and that the Council's Housing Working Party convene a meeting of elected members, Council staff and community representatives to further examine long-term options for funding.
9. The Hearings Panel makes it clear that should one or more of these options be adopted then the recommended increases in rent must be reduced to take account of any additional funds secured. This includes assistance from the Government.
10. The consultation process did not identify any "magic solutions" to the issues faced by the Council with regard to its provision of social housing.

ANALYSIS OF CONSULTATION

11. At its meeting on 18 December 2008 the Council resolved to obtain the views and preferences of tenants and the wider community with regard to proposals for funding social housing. This was undertaken through a special consultative procedure that provided the opportunity for all reasonably practicable options to be considered as well as the Council's preferred option.

12. On 19 December 2008 the Council approved a Statement of Proposal for distribution as part of the consultation process. A Summary of Information was also prepared and distributed.
13. A Hearings Panel comprising the Mayor and all Councillors was appointed to hear oral submissions made in respect of the proposal and to consider and report on the outcome of the consultation process. In the event, the Mayor was unable to participate in the hearings and took no part in the consideration of submissions. Although three Councillors left meetings of the Hearings Panel for short periods of time a quorum was maintained and the absence of these Councillors did not affect the Panel's hearing of submissions and its deliberations.
14. The period for consultation began on 26 January 2009 and ended on 2 March 2009.
15. The Statement of Proposal and Summary of Information were available to the public at the Civic Offices, Libraries, Service Centres and on the Council's website. Copies of the Summary of Information were sent to people and organisations that Council staff had identified as having a particular interest in the provision of social housing. In addition, nine public drop-in sessions were held. Council staff wrote to social housing tenants enclosing a copy of the Summary of Information and advising them of the opportunities available for consultation. They were invited to attend the drop-in sessions.
16. Opportunities were available on the website for questions to be answered and information provided when requested.
17. As noted in the attached analysis of the consultation process, 264 submissions were received. The Council's social housing tenants comprised the largest group of submitters (154). Thirty-two organisations responded with the remainder being mainly ratepayers and those identifying themselves as individuals.
18. The Hearings Panel heard oral submissions on 16 and 17 March 2009. The Panel then considered all submissions received and the recommendations that the Panel wished to make.

ANALYSIS OF SUBMISSIONS

19. The Statement of Proposal for funding the Council's social housing portfolio identified a number of options that were available to the Council. These were:
 - (a) External Funding. If funds were available from the Government to assist with the cost of providing the Council's social housing then the level of increase in rents would be significantly reduced.
 - (b) Joint Working Group. It was proposed that this comprise representatives of the Council, Maori groups, community trusts and community and voluntary organisations. The purpose of the group would be to support the Council in its efforts to define solutions to the funding challenges that it faces.
 - (c) Review of Strategies and Policies. This could include considering options such as using rates income to subsidise social housing, borrowing to meet capital costs, the sale of part of the Council's social housing portfolio with the reinvestment of proceeds, and the involvement of Housing New Zealand or other similar agencies.
 - (d) Review Current Projections of Cost. Council staff have used a "cost of consumption" model to calculate the future costs required to maintain and replace the Council's social housing portfolio. A review would determine whether or not there should be any change to the underpinning assumptions, the results the model produces and the impact on funding requirements that it generates.
 - (e) Increase Rentals. A number of options were identified that would increase rents to meet some or all of the funding issues. Details of these were provided in the Statement of Proposal.

20. An analysis of submissions reveals that:
- (a) 76% of submitters supported the Council approaching the Government for assistance.
 - (b) 75% supported the Council forming a Joint Working Group.
 - (c) 59% of tenants and 73% of individuals supported the Council reviewing its strategies and policies. Organisations were less than enthusiastic, with 41% not supporting this option.
 - (d) 61% of submitters supported a review of the “cost of consumption” model, with the highest level of support again coming from tenants and individuals.
 - (e) Of the options for rent increases put out for consultation, 38% of submitters supported an increase of 14% for the 2009-10 year then annually in accordance with the Capital Goods Price Index (CGPI). 47% of tenants supported this option, whilst 53% of the organisations that submitted did not favour any of the options at all.
21. From comments made by submitters who were either tenants or ratepayers, the following themes were identified:
- (a) The Council needed financial assistance to provide social housing that was affordable and which included allowing for the replacement of units in the future. There was also a sense that such assistance was the Government’s responsibility.
 - (b) Submitters noted a need for a broad input into addressing funding challenges, including the involvement of tenants.
 - (c) The review of the Council’s strategies and policies was seen as providing an opportunity for more ideas to be considered in the face of changing circumstances, rather than any marked deficiency within them.
 - (d) Comments from submitters indicated a need to improve the “cost of consumption” model so that rents remained affordable and took into account changing economic and social circumstances.
 - (e) So far as the various options for increasing rents were concerned, submitters noted that rents should be affordable for tenants. This included keeping increases to the level of inflation and introducing income related rents.
 - (f) Those indicating a preference for a mix of ratepayer funding and the use of rental income to replace housing units were similar in number to those opposed to this.
 - (g) There was a view expressed that the Council’s overall maintenance programme could be better targeted, with more focus on warmth and upgrading insulation.
22. A number of general observations can be made with regard to the submissions received from organisations. These are:
- (a) Community Boards did not favour the use of ratepayer funds for social housing, although the residents’ associations that submitted had mixed views on this option. The associations were mainly in favour of a review of the “cost of consumption” model.
 - (d) Several of the larger non-Government organisations suggested that affordable thresholds should be established for the purpose of setting rents, based on income.
 - (c) Some of these organisations sought a review of the housing maintenance schedule and thought that any profits from contracts let for maintenance should be reinvested in the social housing portfolio.
 - (d) A review of the “cost of consumption” model for clarity and flexibility was supported.

- (e) Several of the organisations supported the establishment of a Joint Working Group as well as an approach to the Government for funding.
 - (f) Whilst some supported separating maintenance costs from the cost of replacement, it was generally felt by the non-Government organisations that the future replacement of units should not be overlooked.
 - (g) The Canterbury District Health Board saw a need for affordable, healthy housing with universal design principles. It noted that large rental increases had negative health outcomes for tenants.
 - (h) Other themes identified were the need to keep housing affordable for tenants, to have an accurate "cost of consumption" model that did not have an impact on tenants and to review the maintenance schedule, including the City Care maintenance contract.
23. Two submissions were received from the private rental housing sector. These suggested that ownership of the Council's social housing portfolio be transferred to a separate asset holding company so that debt can be managed independently of elected members.
24. Generally speaking, there was support for the Council continuing to provide social housing but without using rates income to do so. However, there were no innovative solutions put forward by submitters that would enable the Council to achieve this, without including an increase in rents.
25. Of the 27 oral submissions heard, 15 were presented by organisations or agencies and 12 by individuals, including nine social housing tenants. Key issues arising from the hearings included:
- (a) A desire for income related rents.
 - (b) Exploring all possible funding options through an approach to the Government and/or a Joint Working Group for the maintenance and/or replacement of social housing units.
 - (c) Ensuring that social housing was kept at a healthy standard.
 - (d) The Council should take the opportunity, through a Joint Working Group, to include other groups and types of housing provision (Youth and Cultural Development Society, Christchurch Women's Refuge, for example).
 - (e) Any Joint Working Group should be independent and should carry out a social as well as financial audit of the Council's provision of social housing.
 - (f) Most submitters wanted rent levels that were affordable for tenants and did not want them to rise substantially.
 - (g) The Council should not put its provision of social housing at risk by not increasing rents enough in order to allow for the replacement of units.
 - (h) One submitter sought higher rents in the long term on the basis that they should be set in relation to market rents rather than operating expenses.
 - (i) Several submitters questioned whether the levels of service in the Council's funding model and asset management plan were set too high and therefore impacting too severely on tenants.
 - (j) Whether or not the Council was getting value for money from its maintenance contract with City Care and this was having an impact on rent increases.

- (k) The Council should draw up a tenants charter.
- (l) Views were diverse on whether or not to use rates as a means to fund housing replacement, sell high value units to free up capital and seek additional funds through borrowing.

HEARINGS PANEL DELIBERATIONS

- 26. Once the oral submissions had been presented to the Hearings Panel, members then turned their minds to the consideration of all submissions received, written and oral. The panel agreed to accept and include a small number of anonymous and late submissions in their deliberations.
- 27. Individual submissions and issues raised were discussed, along with a summary document prepared by staff ("social housing portfolio funding options – consultation analysis"). The submissions were assessed against the options put out for consultation, with discussion around what each of the options meant and its potential impact on rental income, the Council and its social housing tenants.
- 28. The matter of the consultation process was also discussed. In particular the following concerns were expressed:
 - (a) Four submitters noted that people using the website were required to choose a preferred option before being able to go on and complete the online form. It was acknowledged by staff that this could have been a problem, although it was pointed out that once submitters had indicated a preference for one of the options for increasing rent this did not preclude them from commenting on any other options, not included in the proposal. Also, this issue arose only with regard to the online document.
 - (b) It was suggested that submitters did not understand the "cost of consumption" model. This is understandable given that there are a number of calculations and projections of cost that are involved. However, the ability to predict future income and expenditure is important when assessing rent levels and provided that the information produced by the model is accurate, its complexity should not affect the end result.
 - (c) There was some concern expressed by members that not all submitters understood each of the options or the process being used. Once again, it is acknowledged that it may have been a problem for some submitters, or people who may have wished to submit, notwithstanding that efforts were made to present the required information in an easily understood format. Graphs were used where appropriate and these should have been of assistance.
- 29. The Hearings Panel noted that a number of the issues raised in the submissions were either matters relating to the management of the social housing portfolio or were outside the scope of the consultation. Where appropriate, comments of this nature were passed on to Council staff to deal with.
- 30. As a general observation, the questions set out in the submission form accompanying the Statement of Proposal and Summary of Information may have given prospective submitters the impression that they were restricted to providing answers to them. There is a fine line between encouraging submitters to focus on options put out for consultation and not restricting the opportunity to express alternative views. On this occasion, the advice from staff was that the questions fairly reflected the Council's proposals for dealing with its social housing. The submission form allowed submitters to comment on options not included in the Statement of Proposal.
- 31. The fact that there were no immediately sustainable alternatives offered as a result of the consultative process more than likely means that the options identified by the Council are the only practicable options that are able to be considered. As indicated earlier, there were no "magic solutions" resulting from the process of obtaining the views and preferences of those people affected by or who have an interest in the provision of social housing.

32. This is reflected by the fact that most of the recommendations made by the Hearings Panel reflect the Council's preferred option. Although a number of submitters suggested income related rents, members of the Panel considered that a funding mechanism based on the "cost of consumption" model and asset management plans was the preferred option, provided that both were the subject of regular reviews. The advice from staff was that income related rents would not cover the cost of providing social housing and that although this is the basis for Housing NZ rents, the Government makes up any shortfall.
33. The Council's proposal that it establishes a Joint Working Group to investigate whether or not other funding options may be available was clearly supported by submitters. The Panel recommends that the Council's Housing Working Party be the catalyst for this initiative and that it convenes a meeting with key stakeholders as soon as possible.
34. The Hearings Panel accepted the view of some submitters that it was not necessary to review the Council's Social Housing Strategy just yet, given that it was adopted only a matter of two years ago. However, it recommends that the policies relating to housing currently recorded on the Council's policy register are reviewed, mainly to ensure that they are up to date on key matters such as tenants eligibility.
35. The Council included in its Statement of Proposal a number of options for increasing rents to meet some or all of the issues that the Council faced. Its preferred option was to increase rents by 14% in the 2009-10 year and thereafter by an amount equal to the annual increase of the Capital Goods Price Index (CGPI). This would have the effect of covering maintenance and operational costs but would not enable the Council to fund the future replacement of its portfolio.
36. It is clear that submitters want the Council to pursue an application to the Government for financial assistance. The Hearings Panel's view is that this should be directed to the replacement costs not covered by the rent increase referred to in the previous paragraph rather than the maintenance of the existing units. Submitters wanted the Council to take replacement into account and not just provide for maintenance and operational costs.
37. If the approach to the Government is unsuccessful, or if no other alternative sources of funding for replacement costs have been secured, then in addition to an increase of 14% in 2009 the Hearings Panel recommends that the Council resolve to increase rents by a further 16% in the year beginning 1 July 2010. If that is the case, it is proposed that from 1 July 2011 rents be increased each year by an amount equivalent to the CGPI.
38. The Panel wishes to reiterate however that if the Government agrees to assist the Council in providing social housing then this must be reflected in a reduction of the rents set from 2010 onwards. Depending on the level of assistance received, it is possible that the rate of increase could be held to the annual CGPI with effect from 1 July 2010.
39. Likewise, if the meeting to be convened by the Housing Working Party was to identify and secure funds from any other source the effect may also be to reduce rent levels.
40. So far as the approach to the Government is concerned, the Council notes that in July 2008 Council staff worked with the Government MPs representing Christchurch constituencies to present a case for assistance to the Ministers of Housing and Finance. A detailed "Council Social Housing Information Memorandum" was prepared by staff and this formed the basis for the application.
41. The Hearings Panel understands that the matter went to a Cabinet meeting and was referred to the Treasury Department for a report. This did not recommend that financial assistance be given.
42. The Council has also been advised by the Chief Executive of Housing New Zealand that she has not received any instructions from the Government to pursue the possible purchase or leasing of the Council's social housing portfolio.
43. Nevertheless, Council staff will follow up the approach made last year in the hope that the new Government may take a different view.

RENTAL INCREASES

44. As indicated earlier, the Hearings Panel recommends that social housing rents increase by 14% for the year beginning 1 July 2009 and if no alternative sources of funding for replacement costs have been secured in the meantime, by 16% for the year beginning 1 July 2010. Thereafter, rents will be linked to the annual increase in the CGPI.
45. The panel also asked staff to provide it with figures that reflected lower levels of increase over periods of up to five years. As the attached tables indicate, if rents were increased by 14% and 16% in 2009 and 2010, and then by the annual increase in the CGPI, tenants would be paying less in 2014 than if the rate of increase was more gradual over the previous five years.
46. The matter of affordability is relevant to any increase in rents. At present the Council uses the model adopted by the Ministry of Social Development, which measures the proportion of the population spending more than 30% of their disposable income on housing. Under this model, a rent increase of 14% in 2009 would result in an estimated maximum of 39% of social housing tenants being above the 30% threshold. Nationally in 2007, 26% of all New Zealand households exceeded this same threshold.
47. If rents were to increase by a further 16% in 2010 then the proportion of tenants above the MSD threshold would be determined by the movements in benefit levels from April 1 2010.
48. Calculating affordability is not an exact science. It is difficult to define and there is no consensus on the best method of measuring it. The Council does not at present know how many of the Council's tenants are in receipt of benefits as their only income. In considering affordability the Council must also have regard to its ability to continue to provide the current level of social housing.
49. The Hearings Panel notes however that the financial cost of the recommended rental increases is heavily subsidised by way of the accommodation supplement paid by the Government to eligible beneficiaries.

LEGAL CONSIDERATIONS

50. Notwithstanding the observations made by the Hearings Panel in respect of the consultation process, the Legal Services Unit is of the view that the Council has complied with the statutory obligations imposed on it by the Local Government Act 2003. There is no evidence that potential submitters were not able to make their views and preferences known to the Council as a result of the steps required before access could be gained to the online submission form, a perceived lack of clarity and understanding of the "cost of consumption" model and a concern that not all submitters understood the options contained in the Council's Statement of Proposal. Given that 264 submissions were received indicates that people and organisations that wanted to could, and did, respond.
51. The fact that submitters were unable to suggest new and innovative options not previously considered by the Council is more likely to be an indication that there aren't any that are readily identifiable than a difficulty with understanding either the process or the information contained in the Statement of Proposal.
52. The recommendation that the Council increase rents by 14% and 16% in the next two years is not an option that was included in the Statement of Proposal distributed for consultation. There was a concern raised during discussions that if the recommendation was adopted by the Council it might have to undertake further consultation.
53. The Legal Services Unit's advice is that this is not the case, for the following reasons:
 - (a) Section 82 of the Local Government Act 2003 states that the Council should receive the views of others with an open mind and give those views due consideration. In the present case, given the need to fund both maintenance and future replacement costs without a clear and certain source of finance from other sources it is reasonable for the Council to adopt a solution that will ensure the ongoing sustainability of its social housing portfolio.

- (b) It is clear that the majority of submitters wish the Council to continue to provide social housing without using rates income for that purpose. This can be achieved if the option recommended by the Hearings Panel is adopted.
- (c) One of the Council's external legal advisers, Simpson Grierson, has advised on a previous occasion that it is a logical component of consultation that proposals may change in response to submissions, provided that the magnitude of the change must not be so great that it would warrant a new consultation (because people who might have wanted to submit did not get an opportunity).
- (d) The Hearings Panel's response to the submissions received and the issues faced by the Council is reasonable in the circumstances. The Panel has made it quite clear that if alternative sources of funds develop from the efforts of the Council's Housing Working Party, key stakeholders and/or the Government then the funds will be reflected in reduced rent increases.

CONCLUSIONS

- 54. The outcome of the consultation process is that there have been no options suggested that would enable the Council to continue providing social housing, without increased rents contributing to the cost. Whilst one of the Panel's recommendations will be that the Council's Housing Working Party meets with key community representatives to continue the search for alternative sources of finance, there were no new or innovative ideas suggested by submitters.
- 55. There is no doubt that the community wants the Council to continue to provide social housing. Also, that it be self sustaining. The only way in which this can be achieved is for rents to increase to cover the cost of the service provided, or alternative sources of funding becoming available.
- 56. With this in mind, the hearings panel endorses the Council's preferred option of increasing rents by 14% for the year commencing 1 July 2009. This will be sufficient to ensure that an appropriate maintenance programme can continue.
- 57. If either a meeting of the Housing Working Party with key stakeholders comes up with another solution or the Government provides assistance then the rate of annual increases from 1 July 2010 may be restricted to CGPI levels.
- 58. If not, then in order to generate sufficient income to meet future replacement costs, the best way of achieving this is for social housing rents to increase by 16% in 2010 and thereafter at CGPI levels.
- 59. An approach has already been made to the Government for assistance and this has been unsuccessful. The Hearings Panel recommends that the detailed information provided by Council staff to local Government MPs last year be updated and sent to the new Ministers of Housing and Finance.
- 60. The brief to the proposed meeting of the Council's Housing Working Party and key stakeholders should be to explore all alternatives, including a sustainable borrowing programme, the sale of part of the social housing portfolio and joint venture opportunities. This will mean that such options, which have already been identified in the course of dealing with this matter, can be thoroughly evaluated.
- 61. The "cost of consumption" model and the asset management plan that is in place for the social housing portfolio should be reviewed by the Council's Housing Working Party.
- 62. The Housing Working Party should also undertake a review of current housing policies listed in the Council's policy register. This will include looking at whether or not the Council has the right to require tenants to provide evidence of their continued eligibility for social housing.
- 63. The Panel does not see a need at this stage to carry out a major review of the Social Housing Strategy. The consultation process focussed more on ways in which the Council's provision of social housing could be funded, rather than on any major concerns with regard to the strategy.

HEARINGS PANELS RECOMMENDATIONS

The Hearings Panel recommends that the Council resolves to:

- (a) Seek financial assistance from the Government for the future replacement of the Council's social housing portfolio.
- (b) Instruct the Council's Housing Working Party to convene a meeting with key stakeholders, for the purpose of exploring possible funding options.
- (c) Instruct the Housing Working Party to carry out the following reviews, to be completed by 30 November 2009:
 - (i) The social housing policies currently listed in the Council's policy register. This review is to include the criteria for determining the eligibility of social housing tenants, and the ability of the Council to obtain information about eligibility from tenants.
 - (ii) The "cost of consumption" model, the assumptions underpinning it, the results it produces and the impact on funding requirements that the model generates.
- (d) Provide for the ongoing maintenance of the Council's social housing portfolio by increasing rents for all existing housing tenants (except Whakahoa Village tenants) by 14% from the beginning of the first rental period in July 2009 and for all new tenancies (except Whakahoa Village tenancies) beginning on or after 1 May 2009.
- (e) Increase rents for Whakahoa Village tenants by an amount equal to the 2008 increase in the Capital Goods Price Index (CGPI) from the beginning of the first rental period in July 2009 and for all new tenancies beginning on or after 1 May 2009.
- (f) If there are no alternative sources of funding the future replacement of the Council's housing units available and in place before 31 March 2010, increase rents for all existing housing tenants (except Whakahoa Village tenants) by 16% from the beginning of the first rental period in July 2010 and for all new tenancies (except Whakahoa Village tenancies) beginning on or after 1 May 2010.
- (g) Increase rents for Whakahoa Village tenants by an amount equal to the 2009 increase in the Capital Goods Price Index (CGPI) from the beginning of the first rental period in July 2010 and for all new tenancies beginning on or after 1 May 2010.
- (h) Apply any alternative funding received to reducing the rental increases (except for Whakahoa Village) referred to above.
- (i) Where tenants choose to rent garages or carports at any of the Council's social housing complexes, increase rents for these facilities at the same levels referred to above.