

**CHRISTCHURCH CITY COUNCIL
2006 LONG TERM COUNCIL - COMMUNITY PLAN (LTCCP)**

SUBMISSION BY CHRISTCHURCH CIVIC TRUST INC.

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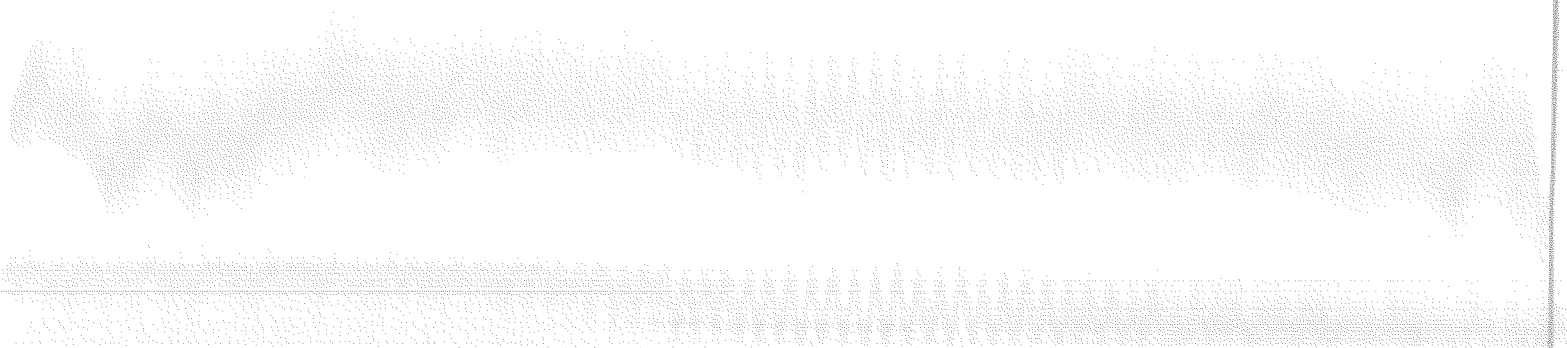
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The Civic Trust wishes to speak on the main points in this written submission at the hearings to be held between Thursday 25 May and Wednesday 7 June 2006.

The Civic Trust also requests that the Council Officers report on the submission, be sent to the Civic Trust in advance of the hearings.

Peter Dyhrberg
Chairperson
Christchurch Civic Trust



CHRISTCHURCH CITY COUNCIL
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SUBMISSION BY CHRISTCHURCH CIVIC TRUST INC.

The Christchurch Civic Trust Incorporated, (the "Trust") has serious concerns regarding the recent Christchurch City Council (the "Council") decisions and policies regarding:

- (a) the amendments to "Definition of Strategic Assets"; and
- (b) Policy on Significance; and
- (c) the sale of part of the equity in the Lyttelton Port Company; and
- (d) the removal of City Care Limited and Red Bus Limited from the list of strategic assets; and
- (e) the use of a single asset company, a Council Controlled Trading Organisation (the "CCTO") to purchase the land, construct and lease the new civic offices to the Council; and
- (f) the removal of all the Council's land and buildings, used for its public rental housing provision, from the list of strategic assets; and
- (g) the Central Plains Water Trust; and
- (h) the Selwyn Plantation Board Ltd.

(a) Definition of Strategic Assets

At the Council meeting of 2nd February 2006, the Council resolved that the definition relating to strategic assets owned by the Council as companies, be changed from "its equity in ..." to "controlling interest".

Section 5 of the Local Government Act 2002 (the "Act") defines **strategic asset** for a port company as:

- (c) *any equity securities held by the local authority in-*
 - (i) *a port company within the meaning of the Port Companies Act 1988:*

The Trust considers that the Council, in respect of the Lyttelton Port Company (the LPC), did not have the statutory power to alter the definition of the Council's holding of the Lyttelton Port Company as a strategic asset since it is already defined within the Act.

Recommendation:

That the Council replace the words "Controlling interest" with "Its equity" or where appropriate, "Its equity holding" in the list of strategic assets.

(b) Policy on Significance

The Council amended the Policy on Significance at a Council meeting of 2nd February 2006, where it increased the operating expenditure criterion from \$500,000 to \$1,000,000.

Although the 2006 LTCCP records the change, "Changes to the Policy", refer Pg. 291, the Trust considers that the requirements of Section 77, 84 and 90 have not been followed.

Recommendation:

That the Council abide by the statutory requirements of the Local Government Act 2002 as and when required in order to conduct its business in an open, transparent and democratically accountable way. Specifically, (pursuant to the requirements of Sec. 90(4)(b)) submit the proposal via the Special Consultative procedure set out in the Act under Sec. 83.

(c) The proposed sale of part of the equity in the Lyttelton Port Company

At the Council meeting of 9th February 2006, the Council resolved to sell part of its shareholding in the LPC, and upon acquiring 100% of the shares, Christchurch City Holdings Limited (the "LCCHL") would sell 49.9% of the shares to Hutchison Port Holdings Ltd.

However Section 97 states, **Certain decisions to be taken only if provided for in long-term council community plan**

- (1) *This section applies to the following decisions of a local authority:*
- (b) *a decision to transfer the ownership or control of a strategic asset to or from the local authority:*
- (2) *A local authority must not make a decision to which this section relates unless-*
- (a) *the decision is explicitly provided for in the council's long-term council community plan; and*
- (b) *the proposal to provide for the decision was included in a statement of proposal under section 84.*

The Trust is concerned that the Council appears to have failed to comply with Section 97 of the Act with its proposal to sell part of the equity securities in the LPC. The decision by Council to sell part of the equity securities in the LPC was not contained in the LTCCP 2004 and appears to be ultra vires.

Recommendation:

That the Council abide by the statutory requirements of the Local Government Act 2002 as and when required in order to conduct its business in an open, transparent and democratically accountable way. Specifically the Council should include the proposal in a future LTCCP together with the reasons for the proposed sale and an analysis and otherwise as required by Sec. 84 of the Act.

(d) The removal of City Care Limited and Red Bus Limited from the list of strategic assets

The decision to remove City Care Limited and Red Bus Limited from the list of strategic assets at the Council meeting of 2nd February 2006.

A reading of **Section 90, Policy on significance**, provides that

- (1) *Every local authority must adopt a policy setting out-*
- (a) *that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and*
 - (b) *any thresholds, criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions, or other matters are significant.*
- (2) *The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.*
- (3) *A policy adopted under subsection (1) may be amended from time to time.*
- (4) *A local authority must use the special consultative procedure both in relation to-*
- (a) *the adoption of a policy under subsection (1); and*
 - (b) *the amendment, under subsection (3), of a policy adopted under subsection (1).*

The Trust considers that the strategic assets listed under subsection (2) form part of the policy and that any amendment to the list triggers subsection (4).

There are other reasons why these two entities should remain as strategic assets. For instance, City Care Limited operates and maintains many of the strategic assets owned by the Council, eg the Reserve lands. Also, City Care ensures that there is capacity in the market to meet the Council's emergency obligations. Refer Pg 232 20006 LTCCP.

Removal of Red Bus Limited and City Care Limited from the list of Strategic Assets is a decision with a high degree of significance which requires the Special Consultative procedure to be undertaken. In adopting the recommendations from CCHL at the Council meeting of 2nd February 2006, without considering Section 83 or Section 84, it would appear that the Council has not complied with its statutory obligations.

Recommendation:

That the Council reinstate Red Bus Limited and City Care Limited in the list of Strategic Assets. Alternatively, as this proposal constitutes an amendment of the existing Policy on determining significance (the list of assets considered **Strategic** by the Council, by reference to that Policy, is an integral part of the Policy) submit the proposal (pursuant to Sec. 90(4)(b) of the Act) via the Special Consultation procedure set out in the Act under Sec. 83.

(e) The new Council Civic Office

The Council intends to use a single asset company, a Council Controlled Trading Organisation (the "CCTO"), to purchase the land and construct and lease the new Civic Offices to the Council. The CCTO would borrow to fund the acquisition and construction. The Council intends to use a dormant directly-owned company, Travis Finance Limited, for the purpose. The report prepared for the Council, the "Deloitte report", advises there would be no impact on the Council's LTCCP since the company would be owned "off-balance sheet" and that, based on Council advice, special consultation would not be required as long as the existing company was used.

However, the Trust believes that it is a matter that has a high degree of significance, in terms of the criteria set out in the Policy on determining significance in the 2004 LTCCP and proposed to be amended in the 2006 LTCCP. At the very least, the decision is likely to have a major impact on the council's credit rating.

The proposed new Council Civic Office should be stated as a proposal in the 2006 LTCCP.

Refer "Policy on determining Significance " Pg. 292 2006 LTCCP, "Significant Decisions".

Recommendation:

That for the Council to operate in an open, transparent and democratically accountable way and within the spirit of the Act, then the proposal to build a new Council Civic Office should be part of the 2006 LTCCP. Alternatively, as the proposal is one of significance, by reference to the Council's Policy on determining Significance, the Council is bound by the Act to submit this proposal via the Special Consultative procedure set out in the Act under Sec. 83.

(f) The removal of the public rental housing provision from the list of strategic assets

It is possible that the removal of Public rental housing provision from the list of strategic assets is a drafting error. However if this is not the case, then the Trust would be very concerned. Refer (c) above, but with the added rider that the Council has made no decision to remove the Public rental housing provision from the list of strategic assets.

Recommendation:

That it be confirmed by the Council that the absence of Public rental housing provision from the list of strategic assets was a drafting error. Alternatively, if this was not a drafting error, then as this proposal constitutes an amendment of the existing Policy on determining significance (the list of assets considered Strategic by the Council, by reference to that Policy, is an integral part of the Policy) submit the proposal (pursuant to Sec. 90(4)(b) of the Act) via the Special Consultative procedure set out in the Act under Sec. 83.

(g) The Central Plains Water Trust

The Trust is concerned that the "Policies and objectives relating to ownership and control" of the Central Plains Water Trust, state "**The Council, through its involvement with the Trust, (the Central Plains Water Trust) hopes to mitigate the adverse effects of any proposed scheme on its own water supply**", refer Pg. 235 2006 LTCCP. This is at variance with a Council objective for managing the City's water supply "To conserve and protect the long-term availability and quality of the City's water", refer Pg 164, 2006 LTCCP. This objective is to be achieved when "Quality water is available for the future needs of the City". The Council, with a core function of responsibility for the quality of Christchurch's water supply, appears to have a conflict of interest as a result of its involvement with the Central Plains Water Trust.

Recommendation:

That the Council resolve the conflict which it appears to have with its involvement with the Central Plains Water Trust.

The Council reaffirm its commitment "To conserve and protect the long-term availability and quality of the City's water" by taking every available step, in conjunction with Ecan, to conserve and protect the long term availability and present quantity and quality of the city's water.

(h) Selwyn Plantation Board Ltd

The Trust understands that CCHL is currently evaluating its shareholding in Selwyn Plantation Board Ltd and whether a disposal of its interest in this company would result in greater value to CCHL and the Council than continued retention. CCHL is yet to report to the Council over this matter.

However the Trust believes that this is a matter that has a high degree of significance in terms of the criteria set out in the 2004 LTCCP and proposed to be amended in the 2006 LTCCP. The proposal to dispose of its interest in this company should be stated as a proposal in the 2006 LTCCP.

Refer "Policy on determining Significance" Pg. 292 2006 LTCCP, "Significant Decisions".

Recommendation:

That for the Council to operate in an open, transparent and democratically accountable way and within the spirit of the Act, then the proposal by CCHL to sell Selwyn Plantation Board Ltd should be part of the 2006 LTCCP.