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Corporate Plan Output: Plans & Policy Statements	

Prior to the Bayley case in the Court of Appeal, the High Court had taken the view that construction effects were not effects to be considered under the Resource Management Act. The City Plan follows this view, and deems construction effects not to be effects. However, an *obiter dicta* in the Bayley case indicates that if the Appeal Court had been asked to consider whether construction effects were an effect, they would have replied in the affirmative. While this is not a decision, it shows which way the courts would be likely to rule.

It is also clear that some construction activities, even though largely complying with the relevant New Zealand Standard, can cause some community distress.

The Council needs to approach this situation with some caution. Clearly, it would be ridiculous to make all construction activity require a resource consent, and clearly some environments are not sensitive to construction noise (eg heavy industrial zones). Before the Council moves to introduce rules in this area, a careful Section 32 analysis is necessary to ascertain what types of construction may need to be regulated, and what areas are particularly sensitive. Such an analysis would need to include costs and benefits, and a consideration of the various options, including taking no action.

**Recommendation:** That a working party of the Chairman, one other Councillor and relevant officers consider the best way to proceed.