

REGULATORY AND PLANNING COMMITTEE AGENDA

THURSDAY 3 JUNE 2010

AT 9AM

IN THE NO 3 COMMITTEE ROOM, CIVIC OFFICES

Committee: Councillor Sue Wells (Chairperson),
Councillors Helen Broughton, Sally Buck, Ngaire Button, Yani Johanson, Claudia Reid,
Bob Shearing, Mike Wall and Chrissie Williams.

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PART A - MATTERS REQUIRING A COUNCIL DECISION
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1. APOLOGIES

2. DEPUTATIONS BY APPOINTMENT

A request for speaking rights have been Shane Gloury, Chief Executive Officer, Addington Raceway in respect of item 3 on the agenda.

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3. APPLICATION IN RELATION TO THE GAMBLING POLICY BY NEW ZEALAND METROPOLITAN TROTTHING CLUB INC

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Legal Services Manager
Author:	Judith Cheyne, Solicitor Paul Rogers, Liquor Licensing Team Leader

PURPOSE OF REPORT

1. The purpose of this report is to advise on a letter from the New Zealand Metropolitan Trotting Club Inc (NZMTC) (**Attachment 1**) seeking Council approval for a variation or exception to the Council's Gambling Venue and Totalisator Agency Board (TAB) Venue Policy (Gambling Policy) (**Attachment 2**) to allow NZMTC to obtain a territorial authority consent under the Gambling Act 2003. If it obtains that consent NZMTC can then apply to the Department of Internal Affairs (DIA) for a venue licence to have gaming machines on site at Addington Raceway.
2. This report advises the Committee that it recommend to the Council to refuse this request to make an exception or to amend its policy.

EXECUTIVE SUMMARY/BACKGROUND*Approving an exception to the Gambling Policy*

3. The Council's current Gambling Policy (adopted in 2006 and reviewed without change in August 2009) does not provide for a territorial authority consent to be granted in this situation to NZMTC. The Council's Gambling Policy is a "sinking lid" policy, and its purpose is to prevent any increase in the numbers of gambling venues or machine numbers in the city.
4. The Council has previously granted to both the Christchurch Working Men's Club (CWMC) and the Sumner RSA a territorial authority consent, when the respective policy applying in each situation did not allow for it, by applying section 80 of the Local Government Act 2002, and making a decision that was inconsistent with its policy. The situation applying to both these clubs was unusual, and arose, in part, out of the original territorial authority consents they had been given under section 98(d), not long after the Gambling Act 2003 came into force.
5. A relevant factor in both the Sumner RSA and CWMC situations is that they are clubs. In the Gambling Act 2003, clubs (which are by definition bodies that are "not for pecuniary gain") are treated differently from other corporate societies, by being given "special" treatment in sections 95 and 96, which allow for clubs to have a larger number of gaming machines at their venues than other "non-club" venues, whether as a result of a merger of clubs or not. Racing clubs are not a "club" as defined in the Gambling Act (as they generally do operate for pecuniary gain). They are defined in the Racing Act 2003 as "any club, association, or other body of persons (whether incorporated or not) that is established for the purpose of promoting, conducting, and controlling races, and that is registered with a racing code in accordance with the constitution of that code...", but they are also treated slightly differently under the Gambling Act. However, it is only to the extent that they (and the New Zealand Racing Board) are given status as corporate societies for the purpose of licensing under the Act. A venue licence may only be issued at a race course or a venue "used mainly for racing betting or sports betting".
6. In the report on the consent for the Sumner RSA, it was noted that a review of other consents issued by the Council under section 98(d) of the Gambling Act 2003 has been carried out. There was only one other consent that the Council had issued in respect of a club (besides the RSA and CWMC consents). That was for the Hoon Hay Club (consent was granted in January 2005) but that club is now no longer in operation. All the other consents were issued in respect of licensed premises which were not clubs, and were all issued in 2004.
7. It was reported to the Council that the same type of situation, where the Council had granted consent to a club under its former Gambling Policy, that may have been under the wrong provision of the Gambling Act, giving rise to problems for the club with the DIA, could not occur again. Since the new policy came into force in November 2006 there is no provision for the

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Council to grant any consents except where there is a merger of clubs under section 95. Staff advised that there should not be any similar issues that would arise in relation to the current Gambling Policy.

8. The request by NZMTC does not arise out of a similar issue as the CWMC or Sumner RSA situations, but relates to the financial viability of the NZMTC. NZMTC would require a consent under section 98(c) of the Gambling Act 2003 because this is a situation where *"a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any society for the venue within the last 6 months"*. In 2004, the NZMTC had a venue licence for 18 machines. They also had 18 machines, but never used them, because they needed further funds to make them operational. When the Gambling Act 2005 came into force the NZMTC decided not to renew the licence. Their licence was cancelled in October 2004.
9. The NZMTC letter (**Attachment 1**) states they seek the positive support of the Council to ensure that Addington Raceway remains a viable world class racing venue, and "to preserve thousands of jobs and millions of dollars of economic activity in Christchurch". NZMTC employs 700 staff throughout the year, pays salaries and wages of \$2.8 million per annum, buys \$8 million in goods and services each year, but to the year ending 31 July 2009 they suffered a substantial trading loss of \$1.25 million. Harness racing creates 5,000 jobs and contributes \$143 million in GDP to the Canterbury economy, and is a large contributor to economic activity in Christchurch, as well as providing benefits to the community.
10. Other factors noted in their letter include that Government funding of feature races will almost certainly cease, other funding from NZ Racing Clubs and the NZ Racing Board has reduced by 28 per cent, but other racing clubs have gaming machines that assist their revenue streams, and allow them to provide high stakes for races. The differences between NZMTC and Auckland Trotting Club, may see owners and trainers turn away from Canterbury to Auckland. Addington is the only major harness venue in New Zealand that does not have gaming machines on site, compared to Auckland, Dunedin and Cambridge.
11. NZMTC suggest that approval by the Council to enable the club to obtain a venue licence for Addington would not set a precedent as there is only one other racecourse in Christchurch and the hotel opposite that racecourse has machines. NZMTC note that section 33 of the Gambling Act 2003 specifically provides for societies that are racing clubs under the Racing Act 2003. They also suggest that a venue licence allowing them to have gaming machines will preserve thousands of jobs and millions of dollars in economic activity for Christchurch, and to provide for a restaurant providing low to medium priced meals that will be of community benefit in this area. It will also assist in discussions with the Riccarton Club for a possible relocation of the club to the Addington Raceway premises.
12. If the Council decided to allow a consent that was inconsistent with its policy, in this case in accordance with section 80, then it needs to clearly identify the inconsistency, the reasons for the inconsistency and also identify any intention to amend the policy to accommodate the decision. Further information on these requirements is set out in the legal considerations section below.
13. At the Council meeting when the Sumner RSA consent was considered there was a deputation from Laurie Siegel-Woodward of Problem Gambling. He noted their concerns about the Council breaching its Gambling Policy if the Council agreed to the request from the Sumner RSA. The resolution of the Council on 19 December 2008 stated as follows:

"That the Council grant the Sumner-Redcliffs RSA (Inc.) territorial authority consent application under section 98(c) of the Gambling Act 2003 and that the Council resolve (in order to comply with section 80 of the Local Government Act 2003) that:

- (a) A territorial authority consent is granted to the Sumner-Redcliffs RSA (Inc.) under sections 98(c) and 100 of the Gambling Act 2003 and by applying section 80 of the Local Government Act 2002, for the Sumner-Redcliffs RSA (Inc.) to operate four gaming machines from its premises at 34 Wakefield Avenue, Sumner, Christchurch.

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- (b) This decision is made in the knowledge that it is inconsistent with the Council's Gambling Venue and Totalisator Agency Board Venue Policy¹.
- (c) The reasons for the inconsistency are that when the Council adopted the Gambling Venue and Totalisator Agency Board Venue Policy in 2006 the situation which the Sumner-Redcliffs RSA (Inc) is in, was not a matter that was directly contemplated by the Council in developing the Policy. That is, where a not-for-profit club needs a section 98(c) consent to allow it to recommence operation of the same number of machines that were in operation at the premises when the Council adopted its first Gambling policy, because, although the Department of Internal Affairs granted a licence to the club on the basis of a section 98(d) consent issued by the Council it then cancelled the licence, so the club has no other options that would allow it to continue to operate its machines.
- (d) The Council does not intend to amend the Gambling Venue and Totalisator Agency Board Venue Policy to accommodate the decision at this time, however, when the Council reviews the Policy in 2009, the matter of section 98(c) consents for clubs, and for the purposes of section 96 (in addition to section 95), will be considered as part of that review.
- (e) That it be noted that staff advice is that this decision does not trigger the Significance Policy."

Granting an amendment to the Gambling Policy to allow NZMTC to get a consent

- 14. NZMTC seeks Council approval for a variation or exception to the Gambling Policy. A variation to the policy would require that there be an amendment of the policy. The Gambling Act 2003 provides that every three years the Council's policy must be reviewed.
- 15. The Council last reviewed its policy in 2009. The process started in February 2009 when the Gambling Venue Policy Review 2009 Working Party (the Working Party) was formed by the Regulatory and Planning Committee. The Working Party met on 22 April, 7 May and 12 June 2009. The Working Party considered a detailed background paper on gambling generally and a Social Impact Assessment prepared by staff and an Economic Impact Assessment prepared by Covec Ltd. There was also information that major stakeholders provided in discussions with staff.
- 16. The stakeholders were:
 - The Charity Gaming Association, and the following charitable trusts: Mainland Foundation, Eureka
 - Trust, Lion Foundation
 - ClubsNZ representing the Chartered Clubs
 - The Problem Gambling Foundation of New Zealand
 - Problem Gambling Service Providers: Oasis, He Waka Tapu
 - He Oranga Pounamu
 - Community and Public Health
 - The Department of Internal Affairs.
- 17. Neither NZMTC, nor any other Racing Club were contacted, but comments from the Charity Gaming Association and ClubsNZ are set out below:

"2 Charitable Trusts and the Charity Gaming Association (CGA)
All these stakeholders agreed that the main problem is government regulation and associated compliance costs. The economic downturn means fewer people are gambling and are spending less and this has had an impact on the amount of funds able to be distributed as grants to the community. These stakeholders would like to see the sinking lid policy replaced with a cap at existing machines and venue numbers and allow existing venues to move their businesses if they so desire and to relocate machines.

¹ Board venue is defined in the Racing Act 2003 as: *Board venue means premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under this Act.*

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- 3 ClubsNZ
ClubsNZ also agreed that the main problem is government regulation and associated compliance costs and they fear some clubs may have to close. They argued that clubs have a family atmosphere, provide a safe environment for gambling and provide many other activities apart from gambling. Clubs NZ are comfortable with the current number of machines although they would like to see the number of machines allowed under mergers to be 30. ClubsNZ have an Memorandum of Understanding with the Problem Gambling Foundation of New Zealand (PGFNZ). PGFNZ provides high class harm minimisation training for all club staff and clubs have very few (less than 2 per cent) problem gamblers. Any exclusion orders are sent to PGFNZ so people can be contacted and help offered.”

Council staff did not have contact with NZMTC during the 2009 review.

18. The options considered by the Working Party were:

- (i) Maintain the status quo.
- (ii) Replace the sinking lid policy with a cap on venues and numbers at the present levels, allowing the relocation of machines if a venue closes or relocates.
- (iii) Amend Clause 2 of the status quo to accommodate section 96 consent applications, as follows:

“2. The Christchurch City Council will grant a consent for up to 18 machines where two or more corporate societies are merging and require Ministerial approval to operate in accordance with section 95(4) of the Gambling Act 2003. The Christchurch City Council will grant a consent for up to 18 machines pursuant to section 98(c) and 100 of the Gambling Act 2003 to a corporate society which is a club which requires Ministerial approval to operate more than 9 gaming machines in accordance with section 96 of the gambling Act 2003. The total number of machines that may operate at the venue, whether section 95 or 96 applies, must not exceed 18 machines.”

- (iv) Have no restrictions on either the numbers of venues or machines apart from the legislated number.
 - (v) Replace the sinking lid policy with area-specific caps on venues and machine numbers.
 - (vi) Allow the numbers of machines under mergers to be 30.
19. The Working Party considered all the options but (i), (ii), (iii) and (iv) were the main options considered, with (i) and(ii) discussed in greater detail. The Working Party debated the possibility of amending the current policy to allow the relocation of machines if a business changes location, as members considered this could be advantageous from a business perspective. However they felt that this argument was not compelling enough to make any change to the current policy.
20. The Council agreed with the recommendations of the Working Party and the Regulatory and Planning Committee, and resolved on 27 August 2009 that it would “retain, without amendment, the current Gambling Venue Policy of 2006 as the Gambling Venue Policy 2009, as a result of the Gambling Venue Policy Review 2009 Working Party review”. The following amendment proposed at the Council meeting was lost by 3 votes to 10:

“(a) That the Council adopt as the preferred option, Option (ii) to replace the sinking lid policy with a cap on venues and numbers at the present levels, allowing the relocation of machines if a venue closes or relocates. (b) That staff prepare a draft summary of information and statement of proposal for consideration by the Council.”

The next review of the policy is due in another three years - 2012.

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21. If the Council were not prepared to amend the policy to allow the relocation of machines when a business that already has machines moves to a new premises, then it is not likely to want to make an exception to its policy or consider an amendment to its policy less than a year later, to allow a business to get a consent to establish new machines at a new venue.

Options

22. The Council only has two practicable options in this case: to approve one of the requests by NZMTC, or refuse both.
23. If the Council decides to approve the request to amend the policy then a further report to Council will be required so that the Council can approve the documentation for the special consultative procedure.
24. If it decides to consider granting a consent to NZMTC that is inconsistent with its policy, then Council should request a formal application for consent from NZMTC. That application may need to be discussed with various stakeholders, in light of the deputation that was made to the Council on the Sumner RSA application. That would enable the Council to have further information on the views and preferences of various groups, besides NZMTC, on that specific decision before it grants the consent.
25. The recommendation is that the Council not approve an exception in this case or a further review and amendment of the Gambling Policy, for the following reasons:
- Although the application is by a club it is a racing club which is different from CWMC or the Sumner RSA which were "not for pecuniary gain" clubs. Unlike the CWMC and Sumner RSA applications this is also not a venue that has previously had gaming machines on its premises. That would be a significant inconsistency with the Gambling Policy.
 - There are many businesses in Christchurch that might benefit from the additional income stream that comes from gaming machines, and that would also be able to preserve jobs and/or provide benefits for the Christchurch economy. If the Council grants the request in this case it could be faced with other applications for exceptions to the policy or further reviews of the policy ahead of the three-year cycle (even though this may not create a precedent for racecourse venues as such).
 - The Council has, within the past year, reviewed its policy and decided there was no need to amend it and provide for any other situations in which it would grant a territorial authority consent. Although there was no formal public consultation involved the Council sought the views of various bodies and obtained reports, as discussed above.
 - If the Council did decide that it would consider amending its policy to allow NZMTC to obtain a consent, it could only do so by carrying out a special consultative procedure on the proposed amendment. It would need to receive and listen to submissions from the public on the amendments. Ultimately, the policy might not be amended as NZMTC seek².
 - The Council will incur the cost of a further review/special consultative procedure earlier than it would otherwise need to (the next review of the policy required under the Gambling Act 2003 will be in 2012). Although different proposals consulted on through the special consultative procedure will cost different amounts depending on how many submissions are received and hearings requested etc, \$30,000 for a special consultative procedure is a figure that has previously been suggested as the average cost of this process for Councils.

FINANCIAL IMPLICATIONS

26. There are no financial implications unless the Council decides to approve a further review of the policy.

² This happened when the Council adopted its policy in 2006. The policy adopted by the Council for consultation was quite different than the policy that was finally adopted, as a result of submissions from the public.

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Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

27. Not relevant to this matter.

LEGAL CONSIDERATIONS

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

28. Section 100 of the Gambling Act 2003 requires that a Council must "*consider an application for a Territorial Authority Consent in accordance with its class 4 venue policy*". The Council's Gambling Venue And Totalisator Agency Board (TAB) Venue Policy (Gambling Policy) adopted on 23 November 2006 (and confirmed on 27 August 2009) provides:

- "1. *The Christchurch City Council will not grant consent under section 98 of the Gambling Act 2003 to allow any increase in class 4 gaming venues or class 4 machine numbers except in the circumstance set out below.*
2. *The Christchurch City Council will grant a consent where two or more corporate societies are merging and require Ministerial approval to operate up to the statutory limit in accordance with section 95(4) of the Gambling Act 2003. The total number of machines that may operate at the venue **must not** exceed 18 machines.*

Totalisator Agency Board (TAB)

3. *The Christchurch City Council will grant a Totalisator Agency Board (TAB) venue consent to the New Zealand Racing Board to establish a Board venue (the Board must meet all other statutory requirements, including the City Plan requirements, in respect of such proposed venue). ...*
7. *If the Council amends or replaces this policy, it is required to do so in accordance with the special consultative procedure outlined in the Local Government Act 2002.*
8. *In accordance with the Gambling Act 2003, the Council will complete a review of the policy within three years of its adoption and then every three years thereafter."*
29. The only consent the Council can grant is where two or more corporate societies are merging and seeking Ministerial approval under section 95, and the resulting number of machines will not exceed 18. The Gambling Policy does not provide for a territorial authority consent to be granted to NZMTC to establish a new gaming venue (which would require a consent under section 98(b) of the Gambling Act 2003).
30. The Council is able to make a decision that is inconsistent with its Gambling Policy provided it complies with section 80 of the Local Government Act 2002:
- "(1) *If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify —*
- (a) *the inconsistency; and*
- (b) *the reasons for the inconsistency; and*
- (c) *any intention of the local authority to amend the policy or plan to accommodate the decision.*
- (2) *Subsection (1) does not derogate from any other provision of this Act or of any other enactment."*

Alignment with LTCCP and Activity Management Plans

31. Supports the level of service under democracy and governance.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

32. As above.

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ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

33. Declining this request will align with some principles in the Council's Strong Communities strategy, but possibly not others. There is a necessary balance to be found between the community at large and business interests in the community. Declining this request will align with the Gambling Policy. Relevant Community Outcomes include:
- (a) A Prosperous City: We have a strong economy that is based on a range of successful and innovative businesses. Christchurch has a strong, healthy economy.
 - (b) A Healthy City: We live long, healthy and happy lives. Our city environment supports the health of the community.

CONSULTATION FULFILMENT

34. The Council has sufficient information regarding community views generally in relation to gambling, although not in relation to this specific matter, as a result of submissions on the Gambling Policy in late 2006, and its more recent work in 2009. In relation to internal consultation there has been liaison between LSU and the Inspections and Enforcement Unit who administer consents under the Gambling Policy. In the report from the Working Party in 2009 the following was noted:

“When the Council reviewed its policy in 2006 it undertook a special consultative procedure. The Council received a total of 2,062 submissions, with 138 groups/organisations or individuals requesting to make a verbal submission to a Council hearing panel. Of the former, 2,030 of submitters (98 per cent) indicated they did not support the proposed changes to the Gambling Venue and TAB Policy. Of these, 1,923 (95 per cent) said they would prefer to retain the current policy.”

It is the view of the Working Party that the situation has not changed significantly since 2006 and that the consultation carried out then and the recent consultation with key stakeholders provides sufficient understanding of the views of interested and affected parties.”

STAFF RECOMMENDATION

That the Committee recommend to the Council that it refuse the New Zealand Metropolitan Trotting Club request to vary or make an exception to its Gambling Venue and Totalisator Agency Board (TAB) Venue Policy.

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4. INFRASTRUCTURE DESIGN STANDARD

General Manager responsible:	General Manager City Environment DDI 941-8608, General Manager Capital Programme DDI 941-8235 General Manager Regulation and Democracy Services, DDI: 941-8462
Officer responsible:	Resource Manager Capital Delivery
Author:	Mike Gillooly, Consultant Project Manager

PURPOSE OF REPORT

1. This report recommends the adoption of the Infrastructure Design Standard (IDS) May 2009 as the core document to be used for the design of all Council infrastructure. The document to be adopted includes a list of minor amendments relating to urban design. Those amendments are included as **Appendix 1** to this report.

EXECUTIVE SUMMARY

2. The report gives a brief history of the project.
3. The IDS replaces the existing "Subdivision Code" used by the Council which is inadequate and obsolete. The IDS creates common standards for Council funded works (ie the Capital Programme) and for works that the Council will acquire from subdivisions (ie vested assets). (The IDS document is separately circulated).

BACKGROUND

4. The IDS affects those involved in the creation or enhancement of infrastructural assets. For Council staff that means our own internal designers, asset managers, and contract auditors. It will also apply to developers and their advisers designing and constructing assets created through subdivision which will pass to Council ownership as a consequence of subdividing. The IDS creates minimum standards for works that the Council will takeover through the subdivision process. The imposition of a compliance regime through conditions of consent on all subdivisions will ensure high quality assets are taken over by Council. The IDS creates a legal framework whereby the Council can insist on a certification from a professional adviser that the assets transferring have been designed, built and will operate in compliance with the IDS and approved standards, (flow rates, gradients, etc). The Council has experience of poor quality assets being transferred to Council ownership through subdivisions with the cost of remedial work being borne by the ratepayer. The IDS process will reduce these problems and create an enforceable obligation on the developer and their professional advisers.
5. The IDS is a revision of the Christchurch Metropolitan Code of Urban Subdivision (the "Code"), which was written in 1987 and approved by the Council under a separate resolution at that time. This revision is also intended to apply to the former Banks Peninsula District which to now has been using NZS 4404:1981 as their Code of Urban Subdivision.

The IDS is aligned to the Council's organisational structure and other key Council documents. The development of a specific set of design standards is a common approach to asset management for large metropolitan Councils that tend to have the resources to develop a set of standards suited to their particular needs. Smaller local authorities tend to adopt, either wholly or with amendments, the New Zealand Standard for Land Development and Subdivision Engineering (NZS 4404).

6. Consultation with the surveying profession in 2001 showed that the code of practice was still the principal document used in the design of subdivisional works. However, a large number of uncoordinated and informal amendments had started to erode the document's integrity. The code was also seen by many as failing to recognise technological advances in the construction industry. It did not relate to the many Council publications, both planning and engineering related, which were intended to directly impact on land and asset developments. It was due for revision.

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7. In April 2005 the terms of reference for the IDS project were rewritten to include provision for a chapter on quality assurance. The chapter on quality assurance with its emphasis on a systems based approach to quality management is perhaps the most significant change to come out of this review. The benefits of adopting a systems based approach to managing for quality will result in fewer costs to the organisation by reducing the amount of rework and repair of built assets and will drive certainty and consistency into the contract management process by clarifying procedures and responsibilities, standardising documentation and more clearly defined processes for correcting non-conformances.
8. The purpose of the update is therefore to incorporate those structural changes in the way that Council accepts assets and to update the technical engineering aspects of the standard to current practice. The opportunity has also been taken to incorporate the application of quality assurance to ensure that Council assets are well designed and constructed and to align the Standard with Council's various planning and engineering related publications, including the Construction Standard Specifications (CSS).
9. The Standard will fulfil two functions. It details the Council's minimum requirements or expands on requirements laid out in the City Plan, which a development must meet to achieve compliance with a subdivision consent or a Capital Works project brief. It achieves this by setting out clear processes for designing assets to aid the designer in achieving and demonstrating compliance with those requirements. It also sets out the relationship between urban design and the IDS with emphasis on broader strategic objectives including:

- *Greater Christchurch Urban Development Strategy*
- *Christchurch City Council Surface Water Strategy*
- *Christchurch City Council Safer Christchurch Strategy*
- *Christchurch City Council Central City Revitalisation Strategy Stage II*
- *A City for People Action Plan*

The standard also identifies a number of place-based plans that recognise that some areas have their own particular character which may require a different approach to infrastructure design.

10. A team, comprising designers from the Capital Program Group (CPG) and asset managers from the asset groups, wrote each part of the Standard. Each of the twelve parts can therefore be aligned with the relevant asset group but is particularly related to the type of infrastructure. The parts are summarised below:
 - Part 1: Introduction introduces the major changes and includes those definitions specific to the Standard.
 - Part 2: General Requirements covers a number of regulatory details including requirements for documentation and sets out the process from design to acceptance by Council of land developments. It also provides an overview of urban design and identifies key strategies and plans to aid designers.
 - Part 3: Quality Assurance is another new part, which sets out the requirements for the application of quality assurance to the construction of all assets. This has incorporated two major shifts: each project will require the implementation of a project quality system, with documentation and certification presented to the Council at both the design and construction stages. The traditional Council role of Clerk of Work-type inspections will be replaced with a structured audit based system.

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- Part 4: Geotechnical Requirements sets out the requirement for geotechnical input in land development and what must be considered by the geotechnical engineer. It emphasises the Council's desire to work with the landforms and preserve natural features. It also details issues to be considered under erosion, sediment and dust control.
 - Part 5: Stormwater and Land Drainage builds on the Waterways and Wetlands Drainage Guide, which sits behind the Standard as a supporting document. This part provides more prescriptive design and compliance criteria than is found in the WWDG but reinforces the change of emphasis to include water quality and ecological protection. It also discusses resource consents.
 - Part 6: Wastewater incorporates both an explanation of Christchurch's reticulation system and how the Council's philosophy has changed. It provides the design and compliance criteria for wastewater systems and has been modified to include modern materials. The requirements for private drains have been tied to the New Zealand Building Code and the private pump station specifications have been included as an appendix, recognising that these particular assets fall outside the general subdivision and capital works process.
 - Part 7: Water Supply covers the design and compliance criteria of the water reticulation. It references the Water Supply Wells, Pumping Station and Reservoir Design Specification for larger infrastructure and has been updated for modern materials.
 - Part 8: Roading sets out both the design and compliance criteria for street layouts e.g classification and the streets themselves e.g. footpaths, construction depths. It incorporates the fundamental changes due to the National Roads Board specifications for the design and construction of roads being replaced with Austroads specifications. It contains a section on creating good urban structure and identifies key Council documents to aid designers.
 - Part 9: Utilities covers Council's compliance requirements for telephone, electricity and gas. It excludes the utility design itself, as this must be to the network operator's requirements.
 - Part 10: Parks Streets and Open Spaces is a new section on landscaping and reserves, based on NZS 4404: 2004 Land development and subdivision engineering, modified to suit the Christchurch context. It sets criteria for reserves, including layout, facilities, structures and furniture. It also applies to landscaping in legal roads. It includes the establishment of landscape areas.
 - Part 11: Lighting sets the Council requirements in an environment in which private companies can carry out street lighting design and construction. It builds on AS/NZS 1158: 2005 Lighting for roads and public spaces.
 - Part 12: As-Builts sets Council's requirements for as-built information on completion of the development.
11. The first draft was published in August 2006. Internal consultation was carried out over a six week period to gain feedback on the technical elements of the Standard.

Internal stakeholders were identified as follows:

- Asset Managers (including business unit managers, asset planners).
- Subdivision Officers and associated staff reporting to their process.
- City Solutions (now CPG) design staff.
- City Solutions contract supervision staff.
- Legal Services Manager.

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12. A Council seminar was held on the IDS in March 2007 followed by a report to Council on 7 June 2007. The resolution from that meeting was:
 - (a) (i) That the Council approve the IDS for consultation with the targeted stakeholders identified in Appendix I.
 - (ii) That the results and an analysis of consultation outcomes be reported back to the Council by late November 2007.
 - (b) That a further report be submitted on a recommended method of addressing the issue of urban design guidelines.
13. The second draft for external consultation was published in August 2007. Responses from industry stakeholders was slow despite a high profile launch and direct engagement with industry groups and professional institutes at branch level. Ultimately feedback was obtained from early to mid 2008 through a series of targeted workshops on each chapter. This resulted in 968 submissions across the standard on a clause by clause basis.
14. In 2007 individual community boards were given a presentation on the IDS and invited to make submissions. Particular attention was given to advising the boards on those matters over which they exercise some delegation. This related to the design of reserves, streetscapes and open spaces. No submissions were received from community boards.
15. All submissions were reviewed by a cross-council panel of asset managers and capital program group designers and the decisions, with reasons for accepting or rejecting have been recorded.
16. While consideration was given to including a whole section on urban design in the draft IDS it was felt that this was not the most appropriate place to give effect to urban design, and that the Council might be perceived negatively by approving subdivision consents and subsequently imposing further conditions on the design of new subdivisions through the IDS. The Council requested further advice on a recommended method of addressing the issue of urban design guidelines.
17. Subsequent to the June 2007 resolution a number of further actions have been taken addressing the issue of urban design guidelines including:
 - Identifying the application of good urban design principles as a priority action in the Greater Christchurch Urban Development Strategy.
 - Including urban design guidance in both the South-West and Belfast Area Plans.
 - Adopting an urban design plan change for the Living 3 and 4 Zones.
 - Completing an Issues and Options paper for urban design controls in the Central City and Business 2 Zones.
 - Establishing an Urban Design Panel to provide urban design advice for significant resource consent applications.
 - Including urban design criteria in the subdivision assessment matters for the draft Awatea and Wigram Plan Changes.
 - Completing the *Public Space Public Life Study* for central Christchurch with Gehl Architects with an associated draft Action Plan for Council approval, and
 - Developing a draft Central City Streetscape Plan and Central City Street Trees and Gardens Master Plan.

The standard recognises the various strategies, plans and documents aimed at creating good urban design outcomes and provides guidance to designers as to where these documents are located.

18. The IDS creates minimum standards for works that the Council will takeover through the subdivision process. The imposition of a compliance regime on all subdivisions will ensure high quality assets are taken over by Council. The challenge is to create a legal framework whereby the Council can insist on a certification from a professional adviser that the assets transferring

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4 Cont'd

have been designed, built and will operate in compliance with the IDS and approved standards, (flow rates, gradients, etc). The Council has experience of poor quality assets being transferred to Council ownership through subdivisions with the cost of remedial work being borne by the ratepayer. The IDS process will reduce these problems and create an enforceable obligation on the developer and its professional advisers.

Communication and Implementation

19. The project is now complete. The IDS is now ready for publication subject to Council resolving to adopt the document. Communication will be similar to the preceding project phases for internal and external stakeholders.

IDS Review Process

20. The IDS is recognised as a living document and will be subject to an annual review for typing and grammatical errors, changes to format and any other minor amendments of a non-contentious nature. A comprehensive review of the IDS will be undertaken at a time period no greater than five years.

Document Control

21. The latest version of the IDS including updates, amendments and a change log will be available in electronic format on the Council website. A register of document users will be maintained to communicate changes to stakeholders. Hard copies will be available for sale.

Integration with Existing Policies and Plans

22. The IDS gives priority to existing plans and policies, e.g. the City Plan and Bus Stop Location Policy either as direct references or as referenced documents. The IDS does not override policy and nor is it to be used to circumvent deficiencies in either plans or policies. In this respect the plans and policies must be addressed themselves.

FINANCIAL IMPLICATIONS

23. There is no new expenditure required. This project will continue to be funded out of existing operational budgets. Implementation of the IDS is already accounted for as this replaces existing standards that are part of our standard operating procedures. There is no change in expenditure therefore this project aligns with 2009-16 LTCCP budgets.

LEGAL CONSIDERATIONS

24. The IDS has been reviewed by an external provider and approved. The review confirmed that the standard is not a document identified under the Local Government Act 2002 as requiring consultation and accordingly there is no need to adopt the special consultative procedure under that Act.
25. However the review stated that consultation is desirable to reduce the risk of subsequent formal challenge and to produce a more robust document. Consultation with targeted stakeholders has been carried out in accordance with the 2007 resolution of Council. The review also confirmed that formal Council approval is desirable to ensure that the document is in fact a document having formal status appropriate to be incorporated in conditions of a subdivision consent.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

26. The document is consistent with Activity Management Plans and LTCCP objectives and will assist with achieving the same by providing a holistic expression of Council design standards

3. 6. 2010**4 Cont'd****Do the recommendations of this report support a level of service or project in the 2009-16 LTCCP?**

27. This project will enable delivery of LTCCP projects in a consistent and transparent manner.

ALIGNMENT WITH STRATEGIES

28. The IDS creates and adopts as standard practice a best practice regime.

CONSULTATION FULFILMENT

29. Consultation is not formally required under the LGA 2002 but targeted consultation with external stakeholders was carried out to achieve acceptance and recognition by providers of Council's own capital works program and those involved in the construction of assets to be vested through subdivision.

STAFF RECOMMENDATION

That the Committee recommends to the Council that it:

- (a) Adopt the Infrastructure Design Standard 2009 as the Council's design standards for both Council funded assets and assets that will be vested on subdivision.
- (b) Replace the existing 1987 Metropolitan Code of Urban Subdivision with Infrastructure Design Standard.
- (c) Replace the use of New Zealand Standard NZS 4404:2004 "*Code of Practice for Subdivision and Land Development Engineering*" (in use for the former Banks Peninsula District) with the Infrastructure Design Standard 2009.
- (d) Resolve that the use of the standard is effective immediately.

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5. ADOPTION OF BELFAST AREA PLAN

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager, Healthy Environment
Author:	Belfast Area Plan Hearings Panel

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's adoption of the Belfast Area Plan (the Area Plan) following Hearings on submissions.

PANEL RECOMMENDATION

2. It is recommended that the Council:

- | |
|--|
| (a) Approve for adoption the Belfast Area Plan as shown in Attachment A ; and consequent to those recommendations outlined in Attachment B . |
|--|

EXECUTIVE SUMMARY

3. The Area Plan sets goals and objectives for land use in the Belfast area. It is a non-statutory document prepared by the Council to guide the future development of the area. It will have implications for district planning (resource consenting and plan change processes), and the Council's future LTCCPs. The document contains significant detail in regard to how urban growth can be managed over the next 35 years.
4. The Area Plan was prepared following four years of investigations and assessments. Community and organisations have been consulted throughout the development of the Area Plan. The consultation process has not been required to follow any legislative requirements, however meaningful consultation has occurred in a manner consistent with the requirements of Section 82 of the Local Government Act 2002 (LGA).
5. The Area Plan was approved by the Council for release for public consultation and submissions on 24 September 2009. Public consultation commenced on 27 October 2009, and closed 4 December 2009. 111 submissions were received and key themes from those submissions were identified by staff.
6. Submissions to the Area Plan were largely supportive, although there were submissions seeking either site specific relief in relation to development opportunities, or where specific local characteristics should be acknowledged within the Area Plan.
7. On 1 February 2010 officers tabled a summary of submissions report with the Hearings Panel comprising Councillors Sue Wells (Chairperson), Ngaire Button, David Cox and Mike Wall. The Hearings Panel convened on 8 and 9 February 2010 to consider that report and also to hear from the 29 submitters that wished to be heard. Consequently the Panel sought information and analysis from officers in response to submissions and again met on 16 February and 30 March 2010 to make a number of amendments to the Area Plan in accordance with their decisions on the submissions received.
8. The Area Plan with amendments has been included in Attachment A, and the background section of this report outlines the specific amendments as a response to submissions. An annotated version is available on request.

FINANCIAL IMPLICATIONS

9. The Area Plan forms part of the agreed and current financial year district plan work programme in which internal officers and external consultant cost have been budgeted. Its implementation will be addressed through changes to the City Plan and through the 2009/19 LTCCP capital infrastructure programme through which service funding aligned with the Urban Development Strategy has already been placed.

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Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. Yes. Covered by existing unit budget.

LEGAL CONSIDERATIONS

11. The Area Plan will assist the Council in carrying out its functions under both the Resource Management Act 1991 (RMA) and LGA by:

- Ensuring sustainable management of the area's natural and physical resources
- Facilitating the integrated planning of Council-managed services
- Identifying opportunities for land development
- Providing direction for Council's acquisition of strategic land areas
- Providing a framework for the collection of development contributions.

12. The location of district parks, sports fields, schools and a library are either not specified in the Area Plan or if shown, the final locations are yet to be resolved and confirmed.

13. There are also a number of Regional and District Plan decisions that relate to the Belfast Area since the notification of the Draft Area Plan these include:

- *Change 1 to the Regional Policy Statement ('RPS')*

Decisions released in December 2009 identified Special Treatment Area 1 ('STA1') within the enlarged 50dBA Ldn noise contours associated with Christchurch International Airport. The City Council has appealed this decision.

The introduction of a Key Activity Centre ('KAC') within Belfast.

Amendments to the staging and sequencing of growth (Policy 6, Table 2). The City Council has appealed this decision.

- *Plan Change 22 (Styx Centre) to the Christchurch City Plan.*

The Council approved a 9.2 hectare Business 2 zoning to that area to the south of Radcliffe Road and Main North Road. Appeals have been lodged against this decision by KIWI Investments Ltd and Waimakariri District Council, amongst others.

- *Environment Court Directed Planning Process - Applefields (RMA section 293)*

The 'Applefields Block' covers 93 hectare of mixed-density between Main North Road and Johns Road. The land-use in this area is being decided through an Environment Court directed planning process under Section 293 of the Resource Management Act (RMA). Hearings are ongoing, with a further fixture yet to be set down.

- *Plan Change 43 (East Belfast) to the City Plan*

This Plan Change was notified at the end of January 2010, and relates to that area east of Main North rail corridor. The proposed land use is largely consistent with the Area Plan.

14. The adopted Belfast Area Plan will only reflect the current statutory position as of the date of this report. The Christchurch City Council disclaimer will apply which states:

"Please note:

With regard to Council spending, Council is not bound to proceed with any prospective project detailed in this document. Council spending priorities are reviewed annually. Decisions as to whether or not a project will commence remain with the Council.

3. 6. 2010

5 Cont'd

With regard to land use, at the time of adoption of the Belfast Area Plan there are a number of statutory processes relating to land use in the area underway. The Council will integrate any outcomes from these processes into the Area Plan."

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

15. Refer above, noting that the Area Plan identifies those processes and areas remain unresolved.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. Aligns with LTCCP 2009-2019.

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

17. Yes. The Area Plan and the draft Belfast Area Implementation Plan will assist in achieving a number of community and Council outcomes under the LTCCP, in particular planning for the future growth of the city.

ALIGNMENT WITH STRATEGIES

18. The relevant Council strategies are as follows:

- Greater Christchurch Urban Development Strategy. Belfast has been confirmed as a major Greenfield urban growth area under this strategy.
- Regional Policy Statement (RPS) and Proposed Plan Change 1. The Area Plan takes into account the wider regional objectives of the RPS and Proposed Plan Change 1 (as amended by Variation 4).
- Christchurch City Plan. The objectives and policies of the Area Plan have been influenced by the relevant objectives and policies of the City Plan, in particular those relating to urban growth, flood risk, open space and recreation, Tangata Whenua, European heritage, and natural values.
- The Styx Vision 2000 – 2040. The 'Vision' for the Styx Catchment and River Corridor has influenced the outcomes anticipated by the Area Plan. In particular the need to ensure the retention of increased natural character and ecological enhancement for the Styx River, Kaputone Stream and other spring fed tributaries.
- Surface Water Strategy. The Area Plan provides further grounding to the initiatives promoted in this strategy.
- Christchurch City Biodiversity Strategy. The Strategic Vision identifies the Styx River Corridor as "An outstanding example of riparian and estuarine wetlands..."
- Proposed Natural Resources Regional Plan and the Surface Water Management Protocol. Objective 1 contained of the Area Plan represents the anticipated principles of the Styx Integrated Catchment Management Plan currently being prepared.
- Canterbury Regional Land Transport Strategy (CRLTS, 2005-15). Objective 9.1 and 9.3 of the Area Plan is considered to meet the objectives and policies of the CRLTS.

Do the recommendations align with the Council's strategies?

19. Yes, in particular the Urban Development Strategy.

3. 6. 2010**5 Cont'd****CONSULTATION FULFILMENT**

20. Key stakeholders have been consulted throughout the development of the plan. Public consultation on the Belfast Area commenced on 27 October 2009 and closed 4 December 2009. Consultation mediums for the Area Plan included mail outs to all landowners and special interest groups, public notices and open days. 111 submissions were received and key themes from those submissions identified.
21. On 1 February 2010 officers tabled a summary of submissions report with the Hearings Panel. The Hearings Panel convened on 8 and 9 February 2010 to consider that report and also to hear from the 29 submitters that wished to be heard.
22. The Panel advised officers on 16 February and 30 March 2010 to make a number of amendments to the Area Plan in accordance with their decisions on the submissions received.

STAFF RECOMMENDATION

That the Regulatory and Planning Committee endorse the Hearing Panel's recommendations on the Draft Belfast Area Plan.

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BACKGROUND

23. Belfast is identified in both the Greater Christchurch Urban Development Strategy, Plan Change 1 to the Regional Policy Statement and the Christchurch City Plan, as a major urban growth area. Over the next thirty five years the area is expected to accommodate over 2,900 new houses, and approximately 110 hectares of new industrial development. The sequencing of land development will be broadly as follows (in accordance with Decisions to Plan Change 1 of the Regional Policy Statement):
 - Applefields (Belfast RMA section 293) to be mostly developed in the short term (to 2020).
 - Styx District Centre at Radcliffe Road to be developed in the short term (to 2020).
 - Central and north eastern Belfast Industrial Areas developed and redeveloped in the short term (to 2020).
 - Residential development to the east of the Main North Rail corridor with 30 hectares released in the short term (to 2020), with the residual 50 hectares released in the medium / long term (2021 – 2041).
 - Small-scale residential development close to the Styx Mill Reserve developed in the medium / long term (2021 – 2041) in conjunction with a wide structure plan and connections to the Upper Styx area.
24. The Area Plan establishes a vision for the area, and objectives based on sustainable development and management principles. Page 25 of the Area Plan establishes a vision for the area and sets out the main goals and objectives to achieve the vision. A series of plans support the objectives and policies, representing: the proposed storm water management scheme (which will in time for part of the wider Styx Integrated Catchment Management Plan); public open space network; land-use pattern (including residential neighbourhoods; activity, neighbourhood and local centres; business land; and community facilities); roading hierarchy; and the public transport network.
25. The adopted Area Plan will in time be accompanied by an Implementation Plan which will provide a detailed programme of actions and key tasks to achieve the Area Plan objectives and policies; prioritisation of actions; timeframes for delivery; required resources; and performance measures.
26. As the Area Plan is not a statutory document, the method and timeframes for the associated consultation process has not been required to follow any legislative requirements. However, the process undertaken was considered to meet the guiding principles for meaningful consultation pursuant to Section 82 of the LGA.
27. The Area Plan was approved by the Council for release for public consultation and submissions on 24 September 2009. Public consultation commenced on 27 October 2009 and closed 4 December 2009. 111 submissions were received on the Area Plan and key themes from those submissions identified.
28. The key themes identified are:
 - Support for the development of new community facilities.
 - Support for reducing traffic volumes and encouraging non-motorised transport.
 - Concern over the amount of proposed industrial land and its interface with residential areas.
 - Support for public open space provision.
 - Concern over the loss of productive farmland.
 - Support for improving waterway health and flood management.
 - Opposition to the extent of storm water management.
 - Support for encouraging connections between neighbourhoods.
 - Concern over consistency with existing and proposed statutory procedures, for example, Plan Change 22, Change 1 to the Regional Policy Statement.

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5 Cont'd

- Opposition to whether the noise contours should limit development given existing residential development, for example Kaiapoi, within those contours, especially given the PC1 Decision which identified that area to the south of Johns Road (Independent Fisheries (Sub #88) and Hussey Road Group (Sub #109)).
 - A request for balance when promoting indigenous vegetation over exotic vegetation.
 - Clarification of the necessity for further schooling opportunities in the Belfast Area.
 - Mahaanui Kurataiao Limited sought the entire Area Plan be in drafted in Maori or entirely in English.
29. Following submissions and decisions on submissions the Hearings Panel recommends to Council those amendments as recommended on individual submissions as shown in **Attachment B. Attachment A** illustrates the altered final Area Plan as a consequence of amendments undertaken through the public submission process.
30. Reports drafted as a consequence of the submissions to the Belfast Area Plan can be found on the Council Website at:

<http://www.ccc.govt.nz/thecouncil/policiesreportsstrategies/areaplans/belfast/index.aspx>

These reports are as follows:

1. Reports dated BAP Hearings Panel 8 and 9 February - Meeting Agenda and Submission Summary.
2. Report dated 18 February – Officer Recommendations to the Panel.
3. Report dated 25 March – Officer Report outlining amendments to the Area Plan as a consequence of Panel recommendations.

Also available on this website is an annotated version of the Belfast Area Plan highlighting where the more substantial amendments to the Area Plan have been recommended by the Panel.

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6. DIRECT REFERRAL OF APPLICATIONS TO THE ENVIRONMENT COURT

At its 6 May 2010 meeting, the Regulatory and Planning Committee resolved that this item lie on the table until its 1 June 2010 meeting. Staff have advised that additional legal advice is being sought on this issue prior to further Committee consideration.

3. 6. 2010

7. PROPOSED PLAN CHANGE 32 – WAIMAKARIRI STOPBANK FLOODPLAIN LAND USE CONTROLS

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager District Planning
Author:	Glenda Dixon, Senior Planner

PURPOSE OF REPORT

1. This report discusses Christchurch City Council initiated Proposed Plan Change 32 – Waimakariri Stopbank Floodplain Land Use Controls and seeks that the plan change and the associated section 32 assessment be accepted by the Council for public notification.

EXECUTIVE SUMMARY

2. The purpose of the plan change is to prevent unnecessary risk to life and property within the Waimakariri Stopbank Floodplain in the event of a primary stopbank breach. A locality map is included as **Attachment A**.
3. Proposed Plan Change 32 (**Attachments B, C and D**) has been developed as a joint project with the Canterbury Regional Council (ECan). The plan change will introduce additional land use controls in the City Plan in respect of the Waimakariri Stopbank Floodplain (WSFP), the area between the primary and secondary stopbanks. The plan change is aimed at complementing ECan's Waimakariri Flood Protection Project, which includes construction of new sections of the secondary stopbank to the south of the river, and upgrading of existing sections of both the primary and secondary stopbanks.
4. The City Plan currently recognises a threat to the City from flooding of the Waimakariri River at a policy level, but does not include any specific rules to mitigate the flood hazard within this floodplain, despite Variation 48 – Management of the Flood Hazard in Christchurch. Variation 48 was proposed in 2003 and covers the Lower Styx, Avon and Heathcote floodplains and also some low lying coastal areas such as Redcliffs and Sumner. The Variation requires increased minimum floor levels in identified flood management areas.
5. ECan submitted on Variation 48 seeking that the City Plan show the proposed Waimakariri secondary stopbank on the Planning Maps and include land use controls on the floodplain. Council rejected that submission for reasons of scope and detail, but noted that when resource consents had been obtained by ECan for the secondary stopbank (as they were in July 2009), it saw merit in the proposal for flood management rules between the two Waimakariri stopbanks. ECan appealed this and other aspects of the Variation 48 decision. The rest of the Variation 48 appeals and appeal topics have been heard by the Environment Court and determined, and a consent order on outstanding rule matters is currently being processed by the Court.
6. The part of ECan's Variation 48 appeal relating to the Waimakariri floodplain was adjourned while this plan change was being developed. In discussion with Ecan as to process, Ecan has stated that they will hold their position on land use controls on the Waimakariri floodplain via their normal right of submission and appeal on Plan Change 32 once it is notified. This means that Ecan have now agreed that the remaining part of their appeal on Variation 48 will be withdrawn once Plan Change 32 is notified.
7. The plan change requires resource consents for new dwellings and other habitable buildings in "high risk" areas of the floodplain, as non-complying activities, and in the rest of the floodplain as restricted discretionary activities, with discretion limited to consideration of flooding issues including the setting of floor levels. It also restricts all new activities within specified stopbank setbacks.

FINANCIAL IMPLICATIONS

8. The plan change has been included in the work programme for the current and forthcoming financial years as a priority item to resolve Variation 48 appeals, but has a low net cost to Council as flood modelling and most of the mapping has been carried out by ECan. As with all plan changes, there will be hearing and possibly appeal costs.

3. 6. 2010

7 Cont'd

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. As above.

LEGAL CONSIDERATIONS

10. A full legal review of Plan Change 32 was not considered necessary by officers, as the approach and rules follow a similar format to the rules in Variation 48, which were confirmed by the Court in its 2009 decision on that Variation. A legal opinion was however requested because of uncertainty as to whether or not the words "protects or relates to water" in section 86B(3)(a) of the Resource Management Act 1991 (RMA) result in the rules in proposed Plan Change 32 having immediate legal effect. There is currently no case law on this point, but the opinion suggests that rather than relating to the water resource, the rules in the plan change relate to and are for the purpose of protecting people and property from the natural hazard of flooding, and therefore do not have immediate legal effect.
11. This means that in the ordinary course of events, the rules in the plan change would have effect at the point that a Council decision on submissions on the rules is publicly notified under clause 10(4) Schedule 1. Section 86B of the RMA also provides that Council can resolve that rules have legal effect only once the plan change becomes operative. This is the replacement provision for the pre-2009 section 20, which was used to defer the effect of Variation 48 until it becomes operative. In this case it is not considered that it is necessary to defer the effect of Proposed Plan Change 32 for this long. This is because the administrative implications of the plan change are considerably less than for Variation 48, as far fewer properties are affected. In addition, filling the gaps in the existing secondary stopbank at the eastern end of the stopbank near the State Highway One bridge back towards the airport, thereby slightly increasing the potential depth and duration of flooding in this area in the event of a breach scenario, is projected to occur within the next three years.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Aligns with Activity Management Plan for 2009-2019 LTCCP – Activity 1.3 District Plan: Prioritised programme of plan changes is prepared and approved by the Council on an annual basis.

ALIGNMENT WITH STRATEGIES

13. Aligns with the Surface Water Strategy and Draft Climate Change Strategy.

CONSULTATION FULFILMENT

14. Consultation has been undertaken with affected agencies and larger landowners. A consultation brochure was sent to all owners and occupiers and an information meeting held, and written and verbal feedback received.

STAFF RECOMMENDATION

It is recommended that the Committee recommends to the Council that it:

- (a) Adopt Proposed Plan Change 32 - Waimakariri Stopbank Floodplain Land Use Controls for the purposes of public notification pursuant to the First Schedule of the Resource Management Act 1991.
- (b) Adopt the related section 32 assessment for the purposes of public notification pursuant to the First Schedule of the Resource Management Act 1991.

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7 Cont'd

BACKGROUND (THE ISSUES)

15. Proposed Plan Change 32 is a Christchurch City Council led plan change which has been developed as a joint project with ECan. The plan change will introduce additional land use controls in the City Plan in respect of the Waimakariri Stopbank Floodplain (WSFP), which is the area located between the primary and secondary stopbanks.(see map at **Attachment A**). The plan change is aimed at complementing ECan's Waimakairiri Flood Protection Project, which includes construction of new sections of the secondary stopbank to the south of the river, and upgrading of existing sections of both the primary and secondary stopbanks, to improve the level of flood protection.
16. The City Plan does not currently include any specific rules to mitigate the flood hazard within this floodplain, despite Variation 48 – Management of the Flood Hazard in Christchurch. Variation 48 was proposed in 2003 and covers the Lower Styx, Avon and Heathcote floodplains and also some low lying coastal areas such as Redcliffs and Sumner. The Variation requires increased minimum floor levels in identified flood management areas. ECan submitted on that variation seeking that it be expanded so that the City Plan show the proposed Waimakariri secondary stopbank on the Planning Maps, and include controls on the circumstances where residential units and resort hotels could establish on the Waimakariri floodplain. This followed their 1995 withdrawal of the former Waimakariri River Flood Management Regional Plan because of local authority opposition to the land use controls contained within it.
17. The Council Panel in its decision on ECan's submission on Variation 48 in 2006, rejected that submission for reasons of scope and detail, but noted that when resource consents had been obtained for the secondary stopbank (as they were in July 2009), that they saw merit in the proposal for flood management rules between the two stopbanks. ECan appealed several matters in the Variation 48 decision. Most of the Variation 48 appeals were heard by the Environment Court in 2008, but the part of ECan's appeal relating to the Waimakariri floodplain was adjourned pending notification of a plan change to deal with the issue. A consent order relating to the other outstanding rule matters on Variation 48 is currently being processed by the Court, making the notification of Proposed Plan Change 32 one of the last steps in the lengthy process of making Variation 48 operative.
18. In discussion with Ecan as to process, Ecan have stated that they will hold their position on land use controls on the Waimakariri floodplain via their normal right of submission and appeal on Plan Change 32 once it is notified. This means that Ecan have now agreed that the remaining part of their appeal on Variation 48 will be withdrawn once Plan Change 32 is notified.
19. The effect of completing the secondary stopbank is to contain floodwaters within the land between the primary and secondary stopbanks and return them to the main river via the Otukaikino outlet near the Waimakariri River bridge, so as to prevent flows from entering urban Christchurch. The design standard for the primary stopbank is to contain a 1:500 year flood event, but breaches are possible in an event below this size, for example due to bank and berm erosion. The secondary stopbank is designed to ensure that floodwaters resulting from an up to 1:10,000 year flood event overwhelming the primary flood protection system, are contained within the floodplain.
20. In arriving at this design standard, ECan modelled two flood flow events, 5100m³/sec (500 year) and 6500m³ (10,000 year). The modelling indicated that even without any improvements to the stopbank systems, much of the WSFP is inundated under both flood flow events. However, improvements planned for the secondary stopbank increase the depth and duration of flood events in the stopbank floodplain, with these increases in depth and duration varying across the floodplain. Regardless of the presence or absence of the secondary stopbank, the WSFP is inundated to depths ranging from 0-1 metre in the Templars Island area (the western end of the floodplain) and up to 3 metres in the Lower Coutts Island area (the eastern end of the floodplain). This means that even without the completion of the Waimakariri Flood Protection Project, there is a significant risk to people and property within parts of the floodplain, but with the project, this risk is slightly increased. The greatest increases in depth are in the Lower Coutts Island area just upstream and downstream of Dickey's Road. In addition, the velocity of any floodwaters resulting from a breakout scenario within the stopbanks would typically be higher than in other flood hazard areas of the City.

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7 Cont'd

THE OBJECTIVE

21. The purpose of this plan change is to prevent unnecessary risk to human life and property within the Waimakariri Stopbank Floodplain in the event of a primary stopbank breach. A locality map is included as **Attachment A**.

THE OPTIONS

22. Three main options are considered in the section 32 assessment, as well as sub-options within these. The primary options are:
- (a) Do nothing;
 - (b) Non-regulatory methods; or
 - (c) Regulatory options.

Do Nothing

23. "Do nothing" would mean relying on current City Plan rules including open space and rural zoning, landownership patterns (a significant portion of the area is publicly owned e.g. by ECan) and the Council's ability to set minimum floor levels under the Building Act 2004. The existing City Plan provisions, which do not include any rules to mitigate the flood hazard within this floodplain, are not considered to effectively implement the City Plan natural hazard objective and policies. These include:

Objective 2.5: "To avoid or mitigate the actual or potential adverse effects of loss or damage to life, property, or other parts of the environment from natural hazards"; and

Policy 2.5.2: "To avoid any increased risk of adverse effects on property, wellbeing and safety from natural hazards by limiting the scale and density of development, which is within an area subject to moderate to high risk of damage from natural hazards..."

Further, this option does not resolve the outstanding ECan appeal against Variation 48.

Non-Regulatory Methods

24. Non-regulatory methods could include:
- Education, insurance and warning systems;
 - Increasing the river channel capacity by increased gravel extraction; and
 - Additional flood protection works.
25. Education, insurance as an economic instrument to signal the cost of development in particular locations, and warning systems vary in their effectiveness over time and there is a limit to the level of damages able to be prevented. Increased gravel extraction has been proposed by some people as a method of lowering the river bed level and increasing channel capacity, thereby avoiding the impact of land use controls. However ECan advise that while gravel extraction is important for channel maintenance, using it to lower the bed of the river would potentially have adverse effects on flood protection structures as it could increase the risk of scour, erosion and undermining of structures within the river bed such as bridge supports and power pylons. ECan have also advised that additional flood protection works over and above those consented (e.g. in the Dickeys Road area) do not appear to be an effective or economic option.

Regulatory Options

26. Regulatory options could include:
- Minimum floor levels for residential buildings;
 - Requiring resource consent for residential buildings in high hazard areas;
 - Stopbank setbacks; and
 - Earthwork controls.

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7 Cont'd

27. Minimum floor levels for residential buildings:
An economic report (part of **Attachment D**) was commissioned to assess the economic effects of flood damage and to consider a range of potential floor level requirements for residential units within the stopbank floodplain. The report examined the implications of flood damage for several flood events, namely the 4300 cumec (200 year ARI), 4730 cumec (450 year ARI)³ and the 6500 cumec (10,000 year ARI) events, and compares these to the 'base case' – ie the cost and damages to a residential unit required to be built to the Building Act 2004 standard (50 year ARI) only.
28. The economic report demonstrated that for the area upstream of Dickeys Road, all scenarios are better than the base case Building Act 2004 50 year ARI standard, but in terms of overall net benefit, the use of a 200 year flood event in setting floor levels is the most efficient and would significantly reduce total damage, while not being unreasonably expensive to achieve. This is consistent with the floor level selected for other flood management areas within Christchurch, and has a degree of conservatism built in as the odds of a breakout occurring in combination with a 200 year flood are less than 1:200.
29. However for the area downstream of Dickeys Road, the base case 50 year ARI is the most efficient option for this area, as the high costs of preventing damage from such flooding due largely to the depth of such flooding make it "uneconomic" to require raised floor levels. The question then is how best to implement the City Plan's natural hazards objectives and policies in the Dickeys Road area. An alternative is to require consent for residential buildings in high hazard areas (see discussion below at paragraph 31).
30. Discussion of Regulatory Methods:
It is not possible to use a performance standard requiring a certain floor level (if the standard is met then consent is not required) because modelling by return period means the floor level is subject to change depending on the frequency of floods that do occur. Also floor levels required differ significantly from one part of this large floodplain to another. The Council does not at present hold the detailed modelling information of the various breakout scenarios and staff will still need to seek ECan advice on individual development proposals. For these reasons it is considered that the resource consent process (restricted discretionary activity status) is the most appropriate method to assess proposed sites and floor level conditions. Minimum floor levels are already set within this area under the Building Act 2004 at a 1:50 year standard, but this is not considered adequate for the level of hazard which exists here.
31. Resource Consent for Residential Buildings in High Hazard Areas:
For the area downstream of Dickeys Road where significantly higher floor levels would be required, it was considered important that the level of hazard be examined as well as the economic assessment. ECan produced "hazard category" maps for the floodplain. High hazard areas were defined. These are critical flood depths and velocities which can damage structures and harm people. These hazard maps show a reasonably large area of land south and east of the Groynes which is a high hazard area, including some of the Rural 4 land upstream of Dickeys Road as well as overflow channels/waterways across the whole floodplain. These are largely the same areas where it was uneconomic to construct dwellings, with the addition of some areas where dwellings should be avoided due to significant risk to human life during flood events.
32. The use of prohibited activity status in these areas was considered but rejected as there may be rare circumstances in which the construction of a building is appropriate on a particular site given particular mitigation measures. Prohibited activity status would prevent the ability to have such a proposal considered. The proposal is that residential buildings should be subject to non-complying activity status in the most "at risk" areas.
33. Non-residential buildings e.g. those for farming and recreation are not proposed to be covered by a resource consent requirement as the risk to these buildings is primarily an economic one rather than a matter of risk to human life, and it is considered that landowners should not be

³ This event can be referred to either the 450 year or 500 year event and these terms are effectively used interchangeably.

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unnecessarily constrained in making permitted rural use of their property. However the Planning Maps will show high hazard areas (see **Attachment C**).

Stopbank Setbacks and Earthwork Controls:

34. The City Plan currently contains a rule stating that any building within 100 metres of the primary stopbank centreline shall be a non-complying activity. This is to reduce the risk to life from deep and fast moving floodwaters close to the stopbank in the event of a breach. Given the level and type of risk, it is considered appropriate to extend the building setback from the primary stopbank to also cover earthworks and filling to protect the structural integrity of the stopbank and reduce diversionary effects.
35. Flooding could also result in high water depths and velocities against the secondary stopbank, but secondary stopbank failure is highly unlikely and additional development in high hazard areas which includes some areas close to the secondary stopbank, would in any case be restricted by the resource consent proposed above. As there is no breach scenario, a setback on the inner side of the secondary stopbank would be for purposes of ensuring that the structural integrity of the bank is not compromised by human activities. Advice from ECan engineers is that excavation too close to the stopbank could cause undermining of the stopbank foundations, stopbank slumping or erosion and structures or earthfill too close to the stopbank could cause local flood level increase and stopbank overtopping.
36. The risk of breach of the secondary stopbank is lower than for the primary stopbank. This means that a requirement for restricted discretionary resource consent for all buildings, earthworks and filling within 50 metres of the inner side of the secondary stopbank would represent a precautionary approach. In the remainder of the floodplain further away from the stopbanks, there appears to be little likelihood of displacement of floodwaters due to filling and excavation, because of the large size of the floodplain. The filling and excavation rules which already apply in the zones in question are seen as adequate here.
37. Exclusions from the Plan Change:
The Open Space 3D zone around Clearwater area is excluded from the plan change because specific flood mitigation provisions have already been included within the City Plan for this area through Variation 93. There is an exception in the City Plan rules from the secondary stopbank setback for the wraparound stopbank around the Isaacs quarry, as Isaacs have a resource consent for a lesser setback in respect of quarrying activity.

THE PREFERRED OPTION

38. The preferred option is option (c) Regulatory methods, with an approach which combines three of the regulatory sub-options discussed above. These are:
 - (a) New dwellings and other habitable buildings in "high risk" areas would require a non-complying activity resource consent.
 - (b) Elsewhere within the floodplain new dwellings and other habitable buildings would require a restricted discretionary activity resource consent, with conditions likely to be set requiring a floor level based on a 200-year flood event plus freeboard.
 - (c) Filling and excavation would become non-complying within 100 metres of the primary stopbank (buildings are already non-complying in this setback) and filling, excavation and all new buildings would become restricted discretionary within 50 metres of the inner side of the secondary stopbank.

CONSULTATION

39. Plan Change 32 and proposed rules have been discussed with the New Zealand Transport Agency (in respect of the Western Belfast bypass, which crosses the secondary stopbank and passes through part of the floodplain), Christchurch International Airport Limited and

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Isaacs Construction Ltd. The plan change was discussed in broad outline with the Fendalton/Waimairi and Shirley/Papanui Community Boards in December 2009. In late January 2010 a consultation brochure with a request for feedback was sent out to all the owners and occupiers in the floodplain. A consultation and information meeting was held for landowners and occupiers in mid February 2010, with 29 people attending, representing 18 properties. Written and verbal feedback was received from some of these people as well as from owners and occupiers of five other properties. This means that the owners or occupiers of 23 or a third of the 69 properties in the floodplain (excluding Clearwater) have actively participated in this consultation.

40. While all attempts have been made to distinguish between the secondary stopbank project being undertaken by ECan, and Proposed Plan Change 32 which introduces additional land use controls for the floodplain in respect of flood hazard, some landowners are still aggrieved by the secondary stopbank project itself, despite the fact that consents have now been granted for that project and there have been no appeals.
41. While there has been general support for raising floor levels and for keeping development out of high hazard areas, a few landowners are concerned that an additional constraint such as the identification of high hazard areas will further restrict their subdivision aspirations (in reality already restricted by the existing zoning). There has also been some concern about the prospect of additional resource consents being required, particularly in respect to the secondary stopbank setback, as this affects nearly all new activities in this setback, with only small scale exemptions. The original proposal taken out to consultation was for a 100 metre setback from the secondary stopbank and non-complying activity status, and the modification of this to a 50 metre setback and restricted discretionary status, based on further consideration of the level and types of risk, should go some way to reducing these concerns.

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8. PROPOSED PRIVATE PLAN CHANGE 19 ISLINGTON PARK

General Manager responsible:	General Manager Strategy and Planning DDI 941-8281
Officer responsible:	Programme Manager District Planning
Author:	Clare Revell Senior Planner Civic Planning Team

PURPOSE OF REPORT

1. The purpose of this report is to discuss Proposed Plan Change 19 (PPC19) Islington Park, lodged by Islington Park Limited (IPL) December 2008. The report seeks a decision, under clause 25 of the First Schedule of the Resource Management Act 1991 (RMA), by the Council as to whether it will accept, adopt, reject or treat as a resource consent application the private plan change application. It is the intention to publicly notify the private plan change, depending on the Council's decision.

EXECUTIVE SUMMARY

2. PPC19 seeks to rezone 114 hectares of a former freezing works site located at the corner of Waterloo and Pound Roads to Business 8 zone. The site is currently zoned Business 4 (2 hectares), Business 5 (33 hectares) and Rural (79 hectares). The site lies within the 50dBA air noise contour and is located over the Christchurch City water source known as Groundwater Recharge Area 1 and 1A identified in Variation 6 to the Natural Resources Regional Plan (NRRP). Environment Canterbury Regional Council (ECan) Proposed Change 1 (PC1) 10 December 2009 decisions, Map 1, shows the site to fall within the urban limits as a business greenfield area. Attachments are:

Attachment 1: Proposed Private Plan Change 19 Business 8 (Islington Park)

Attachment 2: Section 32 Assessment

Attachment 3: Site Locality Plan

3. The former Islington freezing works begun operation in 1869 and largely stopped functioning as a freezing works in 1988. The former use of the site has contaminated the land characterised by large refuse pits containing building rubble and organic animal waste. The built area of the site is currently occupied by a small deer processing plant and small industrial activities. The rural land is leased for grazing.
4. PPC19 seeks to include a new Business 8 Zone (B8) to the City Plan. The zone purpose is to enable the creation of a modern business park. PPC19 also facilitates the development of a brown-field site, remediation of significant landfill sites and the improved management of contaminants to ground water.
5. The proposed Business 8 zone is similar to the existing City Plan Business 4 (B4) zone except it introduces additional site specific provisions in relation to the protection of ground water (hazardous substances and contamination), restrictions on wastewater, reverse sensitivity, and levels of amenity.
6. PPC19 contains a single Outline Development Plan (ODP) prepared in accordance with policy 7 (Development Form and Design) and Policy 8 (Outline Development Plans) of Proposed Change 1 (PC1) to the Regional Policy Statement (RPS). PPC19 provides the Council with the discretion to consider all ODP matters through the resource consent process should developments be proposed that are not in general accordance with the ODP.
7. The PPC19 rule package will result in better outcomes in terms of:
 - (a) Groundwater management.
 - (b) Assistance in achieving the City Plan policies relating to business traffic accessing collector and arterial roads rather than local roads.
 - (c) Reducing the potential for residential reverse sensitivity.
 - (d) Limiting the scale and nature of retailing to ensure that adverse distributional effects on existing retail centres do not occur.
 - (e) Enabling a range of activities appropriate for servicing a modern business park.
 - (f) Curtailing additional costs or constraints on the Council network infrastructure.
 - (g) Enhancing bulk and location provisions along the residential zone interface, and improved overall amenity through bulk and location and specific amenity controls.

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8. In its appeal dated 4 March 2010, the Council sought the deletion of this site as a business greenfield area on the basis that a sub-region wide review of all business land is added to PC1 decision post its notification. No site specific appeals have been lodged against the Islington Park land. On 12 May 2010 the Council held an extraordinary meeting and resolved to adopt a revised position on its appeal as it relates to business land as per the ECan decision released in December 2009 that effectively accepted IPL land within the urban limits. Conflict between the Council's business land appeal position and IPL has therefore been removed.
9. There are however four issues: traffic; water, urban design; and heritage which concern Officers. These are the timing of intersection upgrades and development, a preference for a connected potable water system, a lack of consistency between plan changes regarding urban design assessment criteria and the lack of potential to ensure adaptive reuse of pre 1900 buildings. Nonetheless, it is considered that these issues are not sufficient grounds for rejecting PPC19.
10. The options for the Committee are to recommend to the Council that the requested PPC19 Islington Park be either:
 - (a) Dealt with as if it were an application for a resource consent (in which case the provisions of Part 6 of the Act would apply accordingly).
 - (b) Rejected in whole or in part.
 - (c) Modified with the agreement of the person who made the request.
 - (d) Adopted in whole or part, as if it were a plan change made by the Council itself.
 - (e) Accepted, in whole or in part, and that the Council proceed to notify the request, or part of the request.
11. The implications of the options under clauses 24 and 25 of the first schedule of the RMA are as follows:

11.1 Resolve to treat the plan change as a resource consent

- 11.1.1 Under this option the Plan Change is statutorily converted to a resource consent application and is processed by the Council as such. The applicant bears all of the associated costs.
- 11.1.2 A resource consent application is for a specific and highly defined development that does not comply with the standards of the subject zone. It is considered, given the variable nature of the proposed development and the site's large size, that it would be inappropriate to process it as a resource consent application. Development by resource consent application would be inefficient as amended or additional resource consents would be required for minor changes to the activity. It is therefore not recommended that the PPC19 be considered as a resource consent.

11.2 Resolve to reject the plan change

- 11.2.1 There are very limited grounds in the RMA for rejecting an application. A Plan change can be rejected if:
 - (a) It is frivolous or vexatious;
 - (b) The substance of the change has been dealt with by the Council or the Environment Court in the last two years;
 - (c) The change is not in accordance with sound resource management practice;
 - (d) The change would make the District Plan inconsistent with Part 5 of the Act (other policies or plans, such as Regional Policies or Plans); or
 - (e) The District Plan has not been operative for more than two years.
- 11.2.2 PPC19 change cannot be said to be frivolous or vexatious. The applicants have invested significant time and financial resources in preparing the plan change and have made a case for the plan change that warrants consideration in the plan change process.

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- 11.2.3 The substance of the plan change has been considered in the last two years as a consequence of the Council's involvement in the PC1 process but not through the District Plan process.
- 11.2.4 Whether the proposed change is not sound resource management practice is another relevant consideration. A number of Council staff have been involved in assessing various aspects of the proposal and no significant or fundamental issues have been raised that would suggest that the proposed change is so inappropriate such that it could be considered not sound resource management practice.
- 11.2.5 The relevant part of the City Plan has been operative for more than two years and this is not a grounds on which to reject the plan change.
- 11.2.6 The matter has been considered through the Greater Christchurch Urban Development Strategy (UDS) and Proposed Change 1 to the Regional Policy Statement processes. The Council has an appeal lodged on the inclusion of additional greenfield land. The Council's appeal is not considered to be sufficient grounds, by itself, to justify rejecting the plan change. Further the appeal as it relates to this site may shortly be formally withdrawn.

11.3 Modify the request

- 11.3.1 The Council may, within 30 working days of the receipt of the plan change request, as a result of further or additional information, commissioned reports, or other relevant matters, with the agreement of the person who made the request, modify the request. In this case the 30 working days have expired and it is not an option open to the Council and no modification was sought.

11.4 Resolve to adopt the plan change and section 32 and publicly notify as though it were the Council's own plan change.

- 11.4.1 Under this option PPC19 becomes a Council plan change. It would be notified, heard and decided the same way as a plan change prepared by the Council, that is, the Council bear all of the associated costs. Adopting the private plan change would mean:
- (a) The Council can control the proposal that is publicly notified;
 - (b) Council is indicating the plan change has merit and generally supports the proposal; and
 - (c) The Council bears the costs of managing and processing the plan change.
 - (d) The proposed plan change must be taken into consideration in the processing of any resource consents, i.e. it holds some legal weight from time of notification.
- 11.4.2 However, adoption of a private plan change application would generally only occur where there is a wider public good flowing from the plan change. A plan change addressing public good would normally be one that addressed an existing city wide or multiple zone wide adverse environmental effect; for example, a change to a bulk and location control that had lead to unexpected adverse outcomes. This private plan change application is a spot zone that facilitates a private development with most economic benefit flowing to the resource users and land owners within the development area. While there would be some public good flowing from the plan change in terms of redevelopment of a degraded brown-field site, employment opportunity and lesser potential ground water effects, these are not considered by officers to be of sufficient public good to the wider community to warrant the adoption of the plan change by the Council.
- 11.4.3 Further, the Council should have no reservations about the content of the plan change. In this case Officers are concerned about aspects of the proposal including traffic and urban design and hold the opinion that adopting the plan change would not be an appropriate option. By adopting the PPC19 the Council would bear the cost of the hearing.

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11.5 Resolve to accept the plan change for public notification

11.5.1 Under this option PPC19 would be notified in its current form as prepared by IPL. Accepting PPC19 proposal means:

- (a) IPL determines the nature of the plan change that is notified.
- (b) The Council takes on a neutral position on the proposal but is satisfied that PPC19 includes sufficient information to be publicly notified.
- (c) IPL bears the cost of the complete plan change process.

FINANCIAL IMPLICATIONS

12. Should the Council resolve to notify PPC19 there are legal processes which must be followed in accordance with the First Schedule of the Act. This is a standard process that all private plan changes must follow and if the processes are correctly followed, no particular financial risks are foreseen.
13. This is a private plan change and costs are largely recoverable from the applicant. Should the Council resolve to accept PPC19 for notification then the Council can charge the processing costs to the applicant up to the point of any appeals to the Environment Court.
14. There will be costs arising at stages of the private plan change process relating to the preparation of officer reports and a hearing in response to submissions. The scale of costs would depend on the level and complexity of the submissions received.
15. Should the Council resolve to reject PPC19 for public notification it is expected that the decision would be appealed and costs would be incurred by the Council in defending that decision before the Environment Court.
16. Should the Council resolve to adopt PPC19 as its own plan, then processing costs would lie with the Council.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

17. Yes. The 2009/10 budget for the District Planning work programme, adopted by the Council and provided for in the LTCCP, includes funding for processing the change. Funding will need to be included in the 2010/11 work programme because the change will not be fully processed by the end of this financial year.

LEGAL CONSIDERATIONS

18. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed set out in the RMA.
19. The process, mentioned above, is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

20. Aligns with Activity Management Plan for 2009 – 2019 LTCCP – Activity 1.3 District Plan: Prioritised programme of plan changes is prepared and approved by the Council on an annual basis. Processing private plan change requests is a statutory Council process, and as such is consistent with the LTCCP and Activity Management Plans.

ALIGNMENT WITH STRATEGIES

21. Aligns with the decisions on Proposed Change 1 (PC1) to the Regional Policy Statement (RPS) where the PPC19 site is shown within the urban limit as an urban growth area for business activity.

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22. The PPC19 site is not included in the South West Area Plan (SWAP) boundary, however future roading connections between the south west and the PPC19 site are shown.

CONSULTATION FULFILMENT

23. Islington Park Limited (IPL) and Officers have discussed PPC19 with the Riccarton-Wigram Community Board on 16 February 2010.
24. Discussions have taken place between IPL and Environment Canterbury (ECan). Meetings have been conducted by IPL with the New Zealand Transport Agency (NZTA), On Track, Transpower and Christchurch International Airport Limited (CIAL) and where possible concerns raised have been addressed in PPC19.
25. IPL have written and made phone calls to Mahaanui Kurataiao Limited (MKT) in 2008 and 2009. No response has been received to date. Officers have also written to MKT to advise of lodgement of PPC19 with Council in May 2009.
26. No direct consultation with local residents has been undertaken by IPL. Residents will have the opportunity to be involved in the process should PPC19 be publicly notified. Positive verbal responses have been received from the adjacent Templeton Golf Course and Fulton Hogan Quarry.

STAFF RECOMMENDATION

The Committee recommends to the Council that it:

- (a) Accept the Section 32 Assessment for the Proposed Private Plan Change 19 Islington Park.
- (b) Accept Proposed Private Plan Change 19 Islington Park for public notification pursuant to Clause 25(2)(b) of the first schedule of the Resource Management Act 1991.
- (c) Note that all associated costs will be borne by the applicant.

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BACKGROUND AND DISCUSSION

Summary of plan change request

27. The Council received the attached proposed PPC19 request in December 2008. The request seeks to rezone the former Islington Freezing Works site located at the corner of Waterloo and Pound Roads to Business 8 zone to allow the development of a modern high-end business park. PPC19 also facilitates the development of a brown-field site, remediation of significant landfill sites and the improved management of contaminants to ground water.
28. The 114 hectare site is currently zoned Business 4 (2 hectares), Business 5 (33 hectares) and Rural (79 hectares). It is also within the 50dBA air noise contour and located over the Groundwater Recharge Area 1 and 1A identified in Variation 6 to the Natural Resources Regional Plan (NRRP). The groundwater in these areas is the principal source of water for Christchurch City.
29. The former freezing works begun operation on site in 1869 and largely stopped functioning as a freezing works in 1988. Brick buildings along the Waterloo Road frontage established in 1889-1890 still remain on site. The applicant holds a certificate of compliance for their demolition. The built area of site is currently occupied by a small deer processing plant and a number of small industrial activities, while the rural land is leased for grazing.
30. The site contains a number of large refuse pits containing building rubble and organic animal waste that has contaminated the land.
31. The site is bounded by Brixton Street and the low density residential suburbs of Hei Hei and Hornby to the north-east. To the north exists a Transpower substation, to the east runs the main trunk railway line and Waterloo Road. And to the west there is a Transpower substation, transmission lines, Pound Road, Rural 5 zoned land (including several rural residences), a Fulton Hogan Quarry and the Templeton Golf Course.

Outline Development Plan

32. PPC19 contains a single Outline Development Plan (ODP) prepared in accordance with Policy 7 (Development form and design) and Policy 8 (Outline development plans) of PC1 to the RPS. The single ODP incorporates green networks, blue networks, and movement networks into the one diagram. The ODP shows elements required under Policy 8 in particular, principal road and rail links, stormwater and open space areas, cycle and pedestrian links integrated with the open space network and setbacks from the transmission corridor. PPC19 provides the Council with the discretion to consider all of these matters through the resource consent process should developments be proposed that are not in general accordance with the ODP.
33. Future road network improvements, are enabled by the ODP, including the extension of Halswell Junction Road (as shown in SWAP) and the realignment of Pound Road (a proposal currently being investigated by NZTA). The location of the open space network forms an effective amenity buffer between business and residential activities.
34. IPL has a subdivision consent lodged with Council for development of the existing Business zoned portion of the site which is consistent with the proposed ODP.

Rules Package

35. The proposed B8 zone is similar to the existing City Plan Business 4 (B4 Suburban Industrial) zone. PPC19 proposes additional site specific provisions in relation to the protection of ground water (hazardous substances and contamination), restrictions on wastewater, reverse sensitivity, and levels of amenity.

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Contamination

36. PPC19 rules provide for mitigation of adverse effects associated with potential onsite contamination by properly capping contaminated areas to prevent rainwater percolation through contaminated soil, and the instigation of a monitoring programme. Capping works are not economically viable under the present Rural zoning. The proposed change, in zoning the balance of rural land presents an opportunity to improve the existing situation.

Groundwater Protection

37. The site lies over Groundwater Recharge Area 1A identified in Variation 6 in Environment Canterbury's Natural Resources Regional Plan. Groundwater in lowland Canterbury is largely contained in a system of unconfined, semi-confined and alluvial aquifers. The groundwater in these areas is the principal source of potable water for the confined aquifers that supply Christchurch City with water. Groundwater is vulnerable to contamination, particularly from land uses over the aquifer and from the cumulative effect of land uses occurring in the groundwater catchment. The Christchurch Groundwater Recharge Zone is the principle recharge zone for the confined aquifer system beneath Christchurch. It has been divided into zones 1, 1A and 2. Substantial areas of land within 1 and 1A have very thin soils over highly permeable gravels, and all this land is underlain by very shallow groundwater. Consequently, the groundwater in Zones 1 and 1A are particularly vulnerable to contamination from land uses activities. While Zone 1A is vulnerable appropriately designed urban activities that will have minimal effects on the groundwater can be established.
38. Activities which have the potential to contaminate groundwater will not be able to be established in the B8 zone given the proposed rules package. Rules include restrictions on categories of hazardous substances, not permitting underground storage of hazardous substances by setting very low quantity threshold levels for the use and storage of such substances both on a site and zone wide basis. The manufacture of hazardous substances in the zone would be subject to non-complying activity status. The proposed rule package is more restrictive than the current zone provisions in terms of the use and quantities of hazardous substances allowed on site under the current B4 and B5 zoning. The proposed changes result in a significantly better outcome in terms of groundwater management than the current mix of heavy industrial uses and contaminated rural areas.

Traffic

39. The rules package prevents vehicle access to the site from Brixton, Wilson and Mortlake Streets to ensure and maintain levels of amenity appropriate to residential areas. Individual site access from Pound Road is also restricted to protect its arterial function. The new rules will improve the current situation and assists in achieving the City Plan's policies relating to business traffic accessing collector and arterial roads rather than local roads.

Reverse Sensitivity

40. The site is located near to long-established noise-generating activities as described in paragraphs 29 and 32 above. Proposed business uses enabled by PPC19 are not defined as noise sensitive activities in either the City Plan or Variation 4 (Revised Ldn 50dBA Air Noise Contour for Christchurch International Airport) to the RPS. The proposed rule package is explicit that no residential activities will be permitted as of right, including not providing for caretaker units in association with business activities. The rule seeks to avoid reverse sensitivity effects associated with noise sensitive activities within the 50dBA air noise contour.
41. PPC19 more efficiently and effectively meets the objectives of both the City Plan and the RPS in terms of restricting the location of residential activities in locations where such uses could give rise to reverse sensitivity issues. The exclusion of residential units is an improvement on the current mix of rural and B4-B5 zoning where approximately 19 dwellings are permitted as of right in the rural portion of the site, and where residential activities are permitted in association with any established business in the existing business zones.

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Retail and Office Activities

42. The standard B4 rule package for retail and office activities will apply to the PPC19. The B4 zone limits the sale of goods produced, processed or stored on the site. The zone provides for permitted activities that include trade suppliers, yard based suppliers and food and beverage outlets as these activities are not considered to have significant adverse effects on the function and amenity of the central city and district centres. The rule package therefore limits the scale and nature of retailing to ensure that adverse distributional effects on existing retail centres does not occur, whilst still enabling a range of activities (including offices) appropriate for servicing a modern business park.

Water Supply, Wastewater and Stormwater

43. PPC19 will enable the establishment of *dry* business activity, with water and trade waste requirements being limited to little more than servicing staff tea rooms. The infrastructural capacity of the existing freezing works site, means that the site as a whole can be readily serviced from the existing capacity within the Business zoned portion of the site. There is no need for Council funding or wider network upgrades. To avoid the need for additional capacity, the proposed rule package includes restrictions on average daily sewage flows.
44. IPL commissioned water supply report discusses two options. The first would use a central storage reservoir with enough storage to serve the whole development while meeting fire fighting requirements. This option is feasible because existing water take consents and bores are in place and permit an adequate water take to service the entire 114 hectare site if redeveloped for business purposes and the site has an existing reservoir that could be utilised and/or supplemented into which water from the bores is pumped. If this option is adopted by IPL then IPL will develop and fund the internal system. The Council for its part does not support this option since it assumes that the private and isolated system will pass to the Council for adoption and operation.
45. The second option discussed in the report is connection to the Council west water supply zone. Both the commissioned report and the Council prefer this option. This option would be fully funded by IPL since the Council has no immediate plans to upgrade the existing mainline system. A new water supply pump station in Wilmer's Road is planned by the Council to boost the operating pressure in the western water zone meaning the flow requirements for the developed proposed B8 zone could be met. However this will not be completed until 2013 at the earliest. The Council is more likely to accept vesting of a connected water system that would include upgrading of the B8 zone internal water distribution system.
46. PPC19 contains no rules specific to water supply and moreover the section 32 report (paragraphs 8.34 and 8.35) do not commit IPL to one or other water supply option. Other rules limiting the storage of hazardous substances will insure that activities on the site are limited to *dry* industrial activities.
47. Stormwater will be managed on-site through a combination of swales and soakage basins. This combination of methods will result in no additional volume entering the wider Council-controlled drainage network beyond the site and will ensure that groundwater effects from stormwater systems are minimised. IPL have recently been granted a notified resource consent by ECan for the discharge of stormwater to ground in association with the subdivision of the existing Business zone area of the site.
48. The inclusion of the site within the urban limits will not therefore place any costs or constraints on the Council network infrastructure, unless a future water connection required, and there are no infrastructural reasons for delaying the development of the site for business purposes.

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Bulk and Location

49. The B4 plot ratio standard of 1.0 will apply to the B8 zone. The plot ratio is the relationship between net floor area of building and the net site area. The proposed plot ratio is more restrictive than the 1.5 that currently applies to the B5 zoning.
50. The current B4 rules will apply to the Living zone boundary interface with Brixton, Wilson and Mortlake Streets. Within 50 meters of the Living zone boundary, height will be limited to 15 metres as a development standard (restricted discretionary activity if breached) and 20 metres as a critical standard (non-complying activity if breached). The proposed rule will ensure that building height near to residential boundaries will be no greater than that currently permitted by the B4 zoning. For the balance of the zone, a height limit of 20 metres is proposed as a development standard. This height limit is based on the potential future demands of large distribution centres that may require a stud height of up to 20m to accommodate modern stacking technologies. In considering the proposed height, it is noted that the existing B5 land is not subject to any height limit.
51. The standard 6 metre building setback for the B4 and B5 zones is to be applied to the road boundaries to ensure that adequate space is provided for landscaping. This provision is more restrictive than the current business zone rules that enable the building setback to be reduced to only 1.5 metres where a site has more than one road frontage. A 5 metre building setback and recession plane (height to boundary) control applies along the boundary with a Living zone. It is noted that with the provision of the northeastern greenspace buffer area (approximately 50 metres wide), it is not anticipated that any business-related buildings will be located close to the boundary with a Living zone.

Visual Amenity

52. As with the B4 zone, office and showroom/retail areas are to be located along the street frontage as one method to ensure a good street scene and appearance. Two modifications to the standard rule apply for the B8 zone. Where a site has frontage to both Pound Road and an internal road, offices/showrooms should face the internal road as Pound Road is a limited access road where individual sites will not be permitted direct access. The second exception is to enable some flexibility with office location where sites share a boundary with the proposed open space areas. Open space areas provide a high level of amenity and will provide an attractive outlook for office users while also improving the views from the open space areas and allowing passive surveillance.
53. The B4 zone 10 per cent landscaping requirement is proposed. This is an increase over the 7.5 per cent that currently applies over the B5 area. Two minor amendments are sought to the landscaping rules for the B8 zone. The first is to increase the usual requirement for a minimum average width of the front landscape strip from 0.6 metre to 3 metres deep to ensure adequate space is provided for good quality landscaping and tree planting. The second change is to introduce flexibility regarding the location of landscaping by enabling the balance of the 10 per cent minimum (in included on the 3 metre frontage strip) to be allocated in front of buildings on the site and along internal boundaries (where visible from a public place). This enables landscaping to be allocated along the side boundaries adjacent to driveways or carparking areas that are often highly visible from the road. No changes are proposed to the rules relating to tree planting with exception of an amendment regarding tree planting beneath the Roxburgh-Islington 220kV electricity transmission line where the height of trees planted within the transmission corridor to be no higher than 10 metres.

Amenity

54. The City Plan noise, glare, and excavation and filling standards for the Business 5 zone are considered the appropriate set of standards given the site's isolation and buffering from residential neighbours (relative to typical B4 zones). Noise and glare along the boundary with more sensitive zones e.g., Living or Rural zones, the more restrictive zone standard applies, that is, at the boundary with the Living zone, business activities need to comply with the Living

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zone standards. Any dust and vibration effects experienced during construction will be controlled through the subdivision and building consent process. PPC19 promotes *dry* industrial activities and it is not anticipated that such activities will result in adverse odour effects as manufacturing processes which more typically results in odour will not be able to establish. Overall the level of amenity protection currently enjoyed by nearby landowners will not change, whilst enabling more flexibility for business activities located well within the B8 zone. The PPC19 site is located outside of the ground lighting and aircraft safety area where consultation with the Civil Aviation Authority is advised.

The South West Area Plan (SWAP)

55. The SWAP specifies desired goals for development of the South West. There is a high degree of correlation between PPC19 and the relevant SWAP goals. While not within the south west area, the site does immediately adjoin this area. In particular PPC19 is consistent with the following SWAP provisions:

- Goal 9 seeks to: *Provide business environments that are resource efficient, diverse and support the local economy and community.*

Provision has been made for convenience facilities for workers through a note on the ODP and its associated assessment matters, as well as some office and retail activity through the rules package. The Business 4 zoning will be a *dry* industrial zoning which encourages activities such as warehousing. The activities will be *dry* because of the ground water recharge issues and the NRRP discussed above.

- Goal 11 seek to: *Provide a transportation system that gives priority to active and energy-efficient ways of travel and minimises its effects on the environment.*

The plan change introduces transportation network requirements into the ODP. Provision is made for multiple modes of transportation including, walking, cycling, public transport, private car and heavy goods vehicles. The network has been designed to give opportunity for all modes of the transport enabling a viable choice for employees between motor vehicles pedestrians and cycle travel within and outside the development.

ISSUES

56. Notwithstanding the above discussion, there remain four issues requiring additional comment so that the Council is aware of potential issues associated with PPC19 and to suggest that each shall be a matter raised in the Council officer section 42A hearing reports for consideration by the Committee. These matters, however, are not alone considered grounds for rejecting PPC19. The four matters are:

- (a) Traffic – intersection upgrades
- (b) Water
- (c) Urban Design
- (d) Heritage – design and appearance, and historical context.

57. It is the Council's preference not to make submissions on plan changes. It may be the case that no submissions are received on these four matters. This does not raise any difficulty with matters of scope for a Committee or a Commissioner when considering a private plan change (Clause 10 Schedule 1 of the Act) and when making a decision on a private plan change (Clause 29(4) of the Act). Neither clause constrains consideration and decision to submissions. That is to say matters of scope, or being out of scope, are not relevant at the Committee stage of the process and therefore a Committee or a Commissioner may give consideration to matters raised in a section 42A report.

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Traffic

58. The upgrade of two key intersections/roads is shown on the ODP, the Halswell Junction Road extension and the Pound Road re-alignment. Council traffic engineering officers, the Riccarton/Wigram Community Board and NZTA have also identified that there are existing levels of service problems in terms of delays and safety at the Barters Road/Main South Road intersection just south of the site. PPC19 contains no information when these intersections require upgrading, other than that IPL consider their development does not necessitate the upgrades of these intersections when fully developed. IPL have however, allowed for upgrading by a third party (the Council or NZTA) in the future to deal with wider network issues not associated with their proposed activities.
59. The two significant intersection and road upgrades are on a 10 year horizon for the Council and NZTA and therefore do not coincide with IPL's more immediate development timetable. The work is not currently budgeted for in the LTCCP or by NZTA.
60. Council traffic engineering staff are concerned that if development should proceed before the intersection upgrades occur, increased traffic volumes will add to the existing delays and safety problems at the Barters Road/Main South Road (SH1) intersection. Staff consider that development will also cause large numbers of heavy vehicles to travel through the immediate residential area to get access to Main South Road via the signalised Halswell Junction Road intersection. Officers consider that the upgrades are required once a certain limited development threshold is met on the site. Rather than deferring a physical portion of the B8 zoning until the intersections are upgraded, the staff's preference would be a threshold linked to the amount of developed Gross Floor Area (GFA) permitted on site as the issue relates to traffic generation not location of the land.

Water

61. As noted in paragraphs 45-47 above, IPL has not committed itself to a preferred option, being either onsite storage and use of water from existing bores, or connection to the Council western water zone when that is possible. The Council continues to hold the opinion that the site must be connected to its western water system once upgraded and that costs for onsite distribution upgrade and connection lies with IPL. The Council does not support an isolated, independent water supply system.

Urban Design

62. IPL has developed their own urban design code which provides for design and appearance of any new building within the proposed B8 zone. Approval for building design is restricted to IPL by way of covenant on Certificates of Title. PPC19 does not include the design code. The issue for Officers is that IPL can remove the covenant without Council approval and if the design code remains external to the City Plan this will create an inconsistency with the Plan Change 5 (PC5) a Council initiated plan change that includes discretionary activity design and appearance standards for Business 7.

The current bulk and location and landscaping standards proposed for PPC19 do not give Council the broader discretion to assess building design as in PC5. It is acknowledged however, that the proposed standards provide an approved amenity outcome over the existing industrial Business zones in the City Plan by way of:

- Increased setbacks and reduced heights in relation to Living zones.
 - Increased landscaping on road frontages.
 - Location of offices in relation to the street and open spaces.
 - Screening of outdoor storage areas.
63. Without acceptance from IPL to include a design and appearance assessment rule and associated criteria within the private plan change, officers continue to hold the above opinion and will seek to advance this via a section 42A report.

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Heritage

64. The proposed plan change explains that the brick buildings on site dating from 1890 (and identified in the SWAP heritage study as worthy of protection under the City Plan) may be adaptively re-used as part of the sites development. However, no commitment is made to this in the proposed rules package. Unfortunately the buildings are not listed in the City Plan or by the New Zealand Historic Places Trust Pouhere Taonga (NZHPT). However, given the pre-1900 human activity the site is considered an archaeological site under the Historic Places Act 1993 and an archaeological authority will be required from NZHPT prior to any earthworks taking place.
65. The urban design and landscape advice received from officers is a preference that buildings are re-used to retain the important historical context of this site. Officers are aware that the applicant holds a Certificate of Compliance (CoC) for their demolition which can not be overturned via a change in the City Plan provisions. The CoC will lapse in December 2013. NZHPT are aware of PPC19 and the CoC and may advocate for the retention and re-use of the buildings during the submission period should public notification be recommended.

Proposed Change 1 to RPS

66. On 4 March 2010, the Council lodged two appeals against ECan's decision on PC1 which was released in December 2009. Both the joint appeal with Waimakariri District Council and the Council's own sole appeal in particular, has been the subject of much mediation. On 12 May 2010 an extraordinary meeting of the Council was held to determine the outcome of the mediation and a modified position on the matter of appeal will be put to the Environment Court on 26 May 2010. The modified position has been accepted by all members of the UDS Partnership, including ECan.
67. The relevance of the modified appeal position is that PPC19 Islington Park is now no longer inconsistent with the Council appeal position whereas initially it was. Islington Park is now within the urban limits and accepted as a business greenfield area by the Council.

THE OPTIONS

68. Option 1

Resolve to accept PPC19 Islington Park and section 32 assessment for public notification pursuant to Clause 25(2)(b) of the first schedule of the Resource Management Act 1991.

69. Option 2

Resolve to adopt the plan change and publicly notifying it as though it were the Council's own plan change pursuant to Clause 25(2)(a) of the first schedule of the Resource Management Act 1991.

70. Option 3

Resolve to reject the plan change pursuant to Clause 25(4) of the first schedule of the Resource Management Act 1991.

71. Option 4

Resolve to deal with the plan change as if it were an application for resource consent pursuant to Clause 25(3) of the first schedule of the Resource Management Act 1991.

THE PREFERRED OPTION

72. Option 1 is the preferred option.