

ENVIRONMENT AND INFRASTRUCTURE COMMITTEE AGENDA

17 SEPTEMBER 2012

AT 2PM

IN COMMITTEE ROOM 1, SECOND FLOOR, CIVIC OFFICES, 53 HEREFORD STREET

Committee: Councillor Claudia Reid (Chair)
Councillors Sally Buck, Jimmy Chen, Barry Corbett, Aaron Keown (Deputy Chair), and Sue Wells

**General Manager
City Environment**
Jane Parfitt
Telephone: 941-8608

**General Manager
Strategy and Planning**
Michael Theelen
Tel: 941-8281

Committee Adviser
Tracey Hobson
Telephone: 941-5219

**PART A - MATTERS REQUIRING A COUNCIL DECISION
PART B - REPORTS FOR INFORMATION
PART C - DELEGATED DECISIONS**

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ENVIRONMENT AND INFRASTRUCTURE COMMITTEE 17. 9. 2012**1. APOLOGIES**

Councillor Claudia Reid.

2. DEPUTATIONS BY APPOINTMENT

ENVIRONMENT AND INFRASTRUCTURE COMMITTEE 17. 9. 2012

3. NO.2 SUMNER ROAD LYTTTELTON – BOUNDARY ROAD ADJUSTMENT/REALIGNMENT

| | |
|-------------------------------------|--|
| General Manager responsible: | General Manager City Environment, DDI 941-8608 |
| Officer responsible: | Unit Manager Transport and Greenspace |
| Author: | Lewis Burn, Property Consultant |

PURPOSE OF REPORT

1. The purpose of this report is to seek the Environment and Infrastructure Committee's recommendation to the Council to approve proceeding with negotiations and the conclusion of a proposed sale and purchase of land by way of a boundary adjustment/realignment with the owner of the property at 2 Sumner Road Lyttelton (AM & BM Stanaway Family Trust) which adjoins Council's land at 4 Sumner Road, the former site of the now demolished Lyttelton Plunket building.

EXECUTIVE SUMMARY

2. The property owner adjoining Council's Lyttelton Plunket site (Lot 2 DP 307398) has requested consideration be given to having a small area of Council's site, between 20-30 square metres, subject to survey, on which the former Municipal Electric Department substation and transformer pad existed, incorporated into their title. They have submitted that the amalgamation of this area would considerably ease and enhance the rebuilding of their residence which did not survive the 2010/2011 earthquakes and has been demolished.
3. Currently within the Council's title are retaining walls along the north wall of the former substation site with Sumner Road and the east boundary of the applicant's property including a disused toilet that is partly set back into this wall. In discussions with the owner it has been agreed, without prejudice to the Council approval, that the boundary realignment would draw a straight line along the eastern boundary from Sumner Road to include the former substation and transformer pad within the owner's property (Lot 1 DP 51886). This would mean that the new boundary would dissect the disused toilet with that part falling into the Council's title being incorporated within Lot 2 DP 307398. Refer **Attachment 1** (Topographical survey by Davie Lovell Smith). The proposed new boundary is shown marked red.
4. The proposed boundary adjustment has raised the issue of responsibility for the existing retaining walls. Refer **Attachment 2** (Photographs showing the footprints of the transformer pad, substation and disused toilet). The owner has indicated he is agreeable to a new eastern boundary as described in paragraph three above and has instructed his engineers as to how he can take responsibility for and adequately retain both north and eastern boundaries. Staff consider that both these walls should, after the realignment, lie within the applicant's property.
5. The applicant's structural engineers (Structex Lyttelton) have advised that new primary retaining measures will be constructed while leaving the existing wall in place. It is proposed to backfill the disused toilet (which on realignment will be partly in the Council's title, an area of approximately five square metres) using well graded hard fill or flowable concrete and whichever material is used, suitable packing put in below existing toilet roof to ensure bearing on backfill material. The applicant's engineers also state that while the design of the engineering approach to the existing retaining walls as part of the applicant's new building is still in development, it is intended that retaining of the east wall with the Council's land and the north wall along Sumner Road be provided by new concrete walls adjacent to the new building and where not adjacent by the building on the east boundary, to have a new retaining wall constructed against existing (likely to be gabion basket construction). The work it is understood can largely be carried out from within the site and without significant excavation with minimal disruption to the public or property outside the site boundaries.

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6. Mr and Mrs Stanaway purchased Lot 1 DP 51886 on subdivision in 1985 of the Plunket site from the Lyttelton Borough Council which contained the old Lyttelton library building and at that time carried out as part of the purchase agreement extensive seismic strengthening to the building. At the time of the purchase there existed in the north east corner a MED substation and transformer. They consider along with their architect and structural engineers that it would not be appropriate to undertake rebuilding on the site without obtaining ownership of the area on which the former MED substation and transformer pad was located.
7. The nature of the Council's small holding as will be evident by the photographs at **Attachment 2** could present a potential health and safety risk to the Council. The subject land has not been used for a community purpose for many years (if ever) and if disposed of (which could only be to the adjoining owner) will not restrict any future use of the Council's site for a community or other use.

FINANCIAL IMPLICATIONS

8. There are no financial implications of any significance for Council. The applicant has agreed to meet all costs associated with implementing the boundary realignment. A purchase price has yet to be negotiated. It is considered it would be reasonable to base this price on a value that reflects the added value to his property while having regard to the onerous nature/size of the Councils land, the area of the disused toilet the Council is to receive and the potential cost relief to the Council in terms of contribution to the redevelopment and maintenance of the retaining walls.

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

9. Not applicable.

LEGAL CONSIDERATIONS

10. The Council holds the Lyttelton Plunket site (a total area of 3,359 square metres) in fee simple title without any trusts, restrictions and reservations. Section 138 of the Local Government Act 2002 (Restriction on Disposal of Parks) does apply as this area is part of a site that was originally acquired "upon trust as and for sites for public buildings for the use and benefit of the Inhabitants of the Borough of Lyttelton and upon trust to use and occupy the same when and so long as the same or any part thereof shall not be built upon for general municipal purposes". This notation on the title was removed on 12 December 1994 pursuant to an application under Section 14 of the Banks Peninsula District Council Rates Validation, Empowering and Trust Removal Act 1994.
11. Having established that consultation is required, the question that needs to be asked is whether there is any person or party apart from the adjoining owner who is the applicant, to consult with who could reasonably claim that they would be affected by or have an interest in the proposed sale of this area. Given that the area proposed to be sold is not and will not detract from any future Council use of the Plunket site, it is the view of staff that wider views of the community not be sought.
12. The Council's land has been in the name of the local authority since the first title was issued to the Lyttelton Borough Council on 9 March 1928. While ownership prior to the Council owning this site has not been investigated, the provisions of Section 40 (4) of the Public Works Act 1981 (Disposal to former owner of land not required for a public work) allow the disposal of land to a neighbour without the need to offer the land back to a person from whom the land was originally acquired or their successor. Section 40(4) of the Public Works Act states: "Where the Chief Executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority believes on reasonable grounds that , because of the size, shape , or situation of the land he or it could not expect to sell the land to any person who did not own land adjacent to the land to be sold, the land may be sold to an owner of adjacent land at a price negotiated between the parties." Clearly this situation applies. The subject area is not a complying lot and cannot be sold as a separate title.

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13. The Committee does not have a delegation to approve the proposed sale/purchase but does have a recommendatory power to Council as the decision maker.

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

14. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

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

15. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

16. Not applicable.

CONSULTATION FULFILMENT

17. Reference is made to consultation in paragraphs 10 and 11. Section 79 of the Local Government Act 2002 allows a local authority to tailor the level of consultation having regard to all relevant matters in proportion to its significance. In this situation it is considered that this matter is of low significance and extensive consultation is not required. Orion has confirmed it has no interest in terms of its network requirements for this former electricity substation site which has long been decommissioned and removed. The Council's controlling asset unit, Transport and Greenspace has no issue with this proposal.
18. The New Zealand Historic Places Trust advise that there still remains archaeological potential within this area of Lyttelton and that an Archaeological Authority would be required for any removal of foundations or earthworks which would cause ground disturbance.

STAFF RECOMMENDATION

It is recommended:

1. That the Council approve the sale of land shown marked "A" and the purchase of land shown marked "B" on **Attachment 1** by way of a boundary alignment/adjustment subject to definition by survey between Lot 1 DP 51886 and Lot 2 DP 307398 delineated as a straight red line on **Attachment 1** subject to:
 - (a) The owner of Lot 1 DP 51886 taking ownership and responsibility for all structures and retaining walls on the north and eastern boundaries of Lot 1 DP 51886.
 - (b) Any demolition and construction of retaining walls next to the boundary not adversely compromising the support of the ground and buildings in Lot 2 DP 307398.
 - (c) The applicant obtaining all consents and approvals required including an for work on or associated with the retaining walls and construction on the area proposed for disposal.
 - (d) All costs in implementing the realignment be the responsibility of the applicant.
 - (e) The Corporate Support Manager being given a delegation to further negotiate the terms and conditions including the consideration between the parties, to conclude a contract that gives effect to the proposed boundary adjustment/realignment on terms and conditions acceptable to her.

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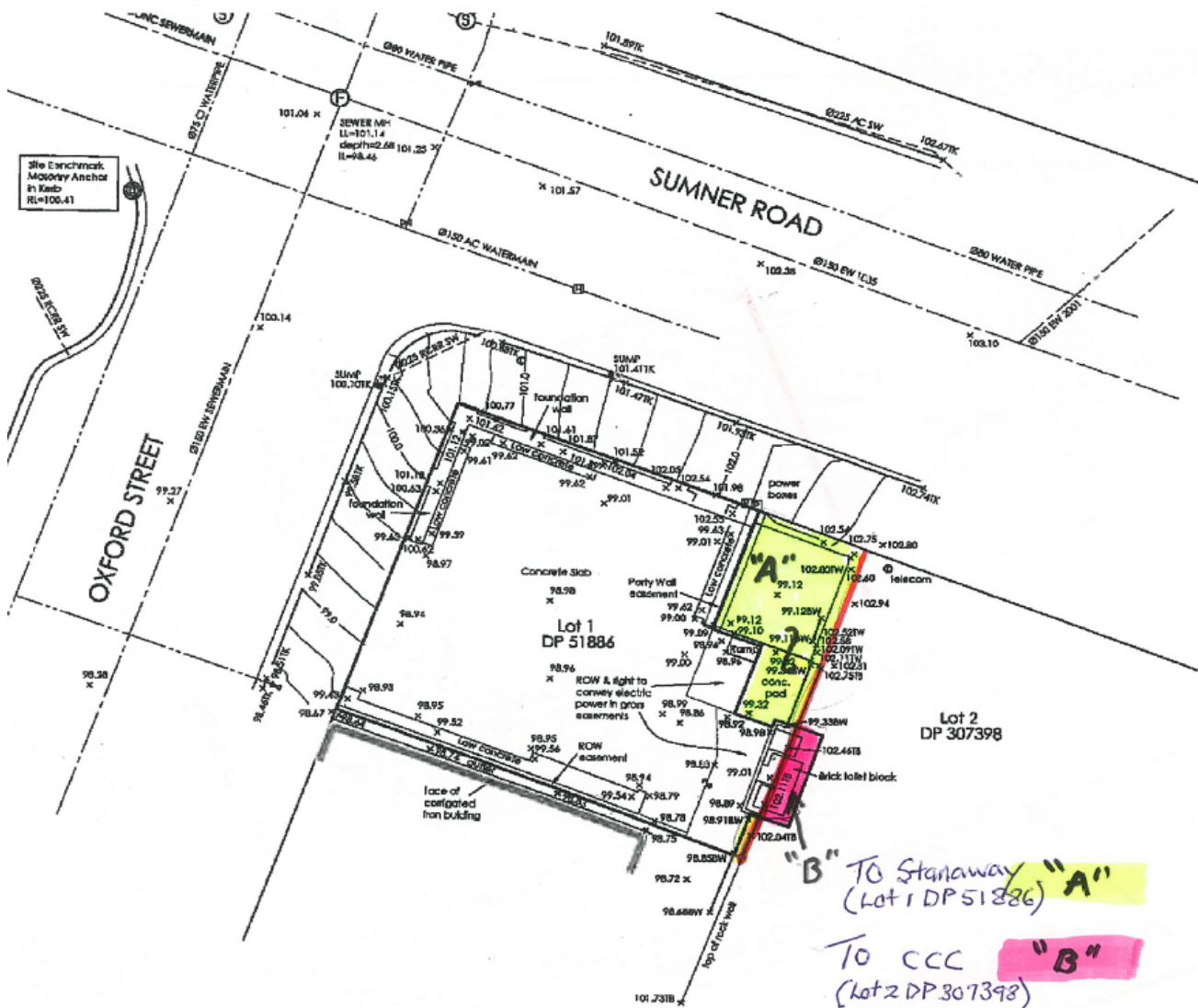
2. That, given the situation as discussed in paragraphs 11 and 17, that no further consultation in terms of Section 138 of the Local Government Act 2002, be required.
3. That pursuant to Section 40 (4) of the Public Works Act 1981 the Council determine that the Councils land may be sold to the owner of the adjacent land (Lot 1 DP 51886)

BOARD CONSIDERATION

The Lyttelton/Mt Herbert Community Board supported the proposed boundary adjustment, seeing it as a logical realignment of the current boundary. Members noted that the Board had a responsibility to support people as much as possible in their efforts to rebuild, especially on such important sites.

BOARD RECOMMENDATION

That the staff recommendation be adopted.



Site Benchmark
Masonry Anchor
in Kerb
RL=106.41

Bench Mark
Not in footpath R.L.100.00 Located corner of Oxford Street and Sumner Road.

Levels in terms of an Assumed Datum.

Legend

BOUNDARY LINE ————
 EASEMENT LINE - - - - -
 SANITARY SEWER - - - - -
 STORMWATER - - - - -
 WATER ————
 KERB ————

⊕ = ground level
 ⊕ = top of kerb level
 ⊕ = top of wall level
 ⊕ = top of bank level
 ⊕ = bottom of wall
 ⊕ = sewer manhole
 ⊕ = stormwater manhole
 ⊕ = sump
 ⊕ = light pole
 ⊕ = valve

DAVIE LOVELL SMITH
 PLANNING SURVEYING ENGINEERING

24 Southbridge Avenue PO Box 890 CH-1440448, New Zealand
 Telephone: 03 379 0700 Fax: 03 379 0704 Email: dls@dlsm.com

JOB TITLE:
 A.S & B Stanaway
 London Street, Lyttelton

SHEET TITLE:
 Topographic Survey
 of Lot 1 DP 51886

DRAWING STATUS:
 Topographical Survey

SCALE: 1:200@A3 DATE: November 2011
 CAD FILE: J:\17799\1112299\1010.dwg
 DRAWING No: H17799 SHEET No: 1 of 2

"B" To Stanaway (Lot 1 DP 51886) "A"
 To CCC "B"
 (Lot 2 DP 307398)

Attachment 1.



Attachment 2.





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4. DRAFT WASTEWATER STRATEGY

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager, Strategy and Planning Group, DDI 941-8281 |
| Officer responsible: | Healthy Environment Programme Manager, Strategy and Planning Group |
| Author: | Diane Shelander, Senior Policy Analyst, Strategy and Planning Group |

PURPOSE OF REPORT

1. The purpose of this report is to advise the Committee of the preparation of a Draft Wastewater Strategy and to seek the Committee's recommendation to the Council that the Draft Strategy is released for public consultation.
2. This report was presented to the Committee on 6 September 2012. The Committee recommended that this matter lay on the table pending the workshop on 7 September 2012 and further advice was sought from staff.

EXECUTIVE SUMMARY

3. Wastewater is used water collected from internal drains in homes, business and commercial/industrial properties.
4. The need for a Council Wastewater Strategy is driven primarily by:
 - the Independent Advisory Panel's suggestion that the plan to develop a Council Wastewater Strategy as the key instrument for managing Christchurch's wastewater system be accelerated due to the impact of the Christchurch earthquake sequence;
 - a lack of an overarching strategy. This strategy had been planned for development and delivery in 2010-2011 but earthquakes interrupted this work;
 - the need for updated analysis regarding the ability of the existing wastewater collection, treatment and disposal systems to meet future capacity in the medium and long term; and
 - a need to incorporate the learnings from the Christchurch earthquakes into a strategy for these services that recognises the heightened risks to the wastewater infrastructure that have eventuated in the Christchurch seismic environment.
5. A collaborative approach has been taken throughout the development of the Draft Wastewater Strategy (Draft Strategy) with the Stronger Christchurch Infrastructure Rebuild Team (SCIRT), Canterbury Earthquake Recovery Authority (CERA), Selwyn District Council (SDC), Waimakariri District Council (WDC), and Mahaanui Kurataiao Ltd (MKT). At each stage in the process, consensus among the parties has been critical to the development of the Draft Strategy.
6. The aim of the Draft Strategy is to establish the Council's strategic direction for sustainably managing wastewater over the next 10, 30 and 100 years.
7. The vision of the Draft Strategy is an affordable, reliable, culturally acceptable, sustainable and resilient wastewater system that protects public health and meets the needs of present and future communities.
8. The Draft Strategy's guiding principles can be summarised as follows:
 - delivering cost effective wastewater services;
 - minimising environmental effects;
 - working collaboratively;
 - planning and implementing affordable maintenance, renewals and expansion works;
 - optimising infrastructure resilience;
 - taking a flexible approach to new technologies;
 - supporting a sustainable economy.
9. The Draft Strategy identifies three primary goals, that the City's wastewater system:
 - protects public health effectively;
 - is resilient and meets community needs for environmental, social and cultural sustainability;
 - supports the future growth and economic wellbeing of the City.

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10. Five key issues have been identified, for which options are explored and actions recommended in the Draft Strategy:
 - Wet weather overflows;
 - Sewer system resilience;
 - Long term wastewater treatment and disposal;
 - Banks Peninsula wastewater;
 - Treatment product reuse (water and biosolids).
11. The Draft Wastewater Strategy was produced in August 2012 following the preparation of a situational analysis report, an issues and options report, two external stakeholder workshops, two huis, a Combined Community Board seminar, a Water and Wastewater Committee seminar and a Council seminar between December 2011 and July 2012.

FINANCIAL IMPLICATIONS

12. As with any strategy, implementation of the Draft Strategy is dependent on balancing the goals against the ability to achieve the outcomes. The Draft Strategy builds on established principles and practices, but continues to develop these to address emerging standards, pressures and issues.
13. Implementation beyond current resources will need to be addressed as part of the 2013 - 22 and future Long Term Plans.

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

14. Funding to support the development of the Wastewater Strategy aligns with the current LTCCP budget. However implementation of the strategy will require funding in the 2013 - 22 Long Term Plan.

LEGAL CONSIDERATIONS

15. The Draft Strategy provides policy guidance for the Council on wastewater matters pursuant to the Local Government Act 2002 (LGA 2002) and the Resource Management Act 1991 (RMA 1991).
16. LGA 2002 as amended requires that local authorities promote the social, economic, environmental and cultural well-being of current and future generations (Section 10b) and to consider the impact of their decisions on the four well-beings (Sections 11c and 14).
17. LGA 2002 also requires that local authorities have particular regard to the contribution that the core services, including network infrastructure, make to its communities (section 11A). RMA 1991 promotes the sustainable management of natural and physical resources, and requires the Council to manage the use, development and protection of these resources.

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

18. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

19. Preparation of the Draft Strategy is in line with three activity management plans in the current 2009 – 19 Long Term Council Community Plan (09-19 LTCCP): Wastewater Collection, Wastewater Treatment and Disposal, and City and Community Long-term Policy and Planning Activities.
20. The actions in the Draft Strategy are anticipated to be considered in the Wastewater Collection and Wastewater Treatment and Disposal Activity Management Plans for the proposed 2013-22 Long Term Plan.

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

21. Yes. Activities 11.0 Wastewater Collection and 11.1 Wastewater Treatment and Disposal.

ALIGNMENT WITH STRATEGIES

22. The Draft Strategy aligns with other Council strategies and policies including the Greater Christchurch Urban Development Strategy, the Council Sustainability Policy, and other Healthy Environment Strategies:
- Biodiversity Strategy, adopted in 2008;
 - Water Supply Strategy, adopted in 2009;
 - Surface Water Strategy, adopted in 2009;
 - Open Space Strategy, adopted in 2010;
 - Climate Smart Strategy, adopted in 2010.
23. The Draft Strategy also aligns with infrastructure recovery plans and strategies, such as the *Stronger Christchurch Infrastructure Rebuild Plan* (Stronger Christchurch Infrastructure Rebuild Team] and *Recovery Strategy for Greater Christchurch* (Canterbury Earthquake Recovery Authority).

Do the recommendations align with the Council's strategies?

24. As above.

CONSULTATION FULFILMENT

25. SCIRT, CERA, SDC, WDC, and MKT have been actively involved in the development of the Draft Strategy, with representation on the Wastewater Strategy project team and/or the Wastewater Strategy Advisory Group.
26. Consultation with key external stakeholders has been undertaken over the last seven months, and includes two external stakeholder workshops in March and June 2012, and two hui with local rūnanga in June and July 2012.
27. Consultation with the community as a whole will be undertaken on the Draft Strategy, once it has been approved for release by the Council.

STAFF RECOMMENDATION

It is recommended that the Committee:

- (a) Recommend to the Council that the Draft Wastewater Strategy is approved for release for public consultation.
- (b) Recommend to the Council that a public consultation period is over 30 calendar days starting no later than four weeks after the Council's approval. Indicative dates are 8 October through 4 November 2012. This will be a non-statutory process and not a special consultative procedure.
- (c) Recommend to the Council that a Hearings Panel is formed no earlier than two weeks following the close of the submission period to hear oral submissions and consider written submissions.

ENVIRONMENT AND INFRASTRUCTURE COMMITTEE 17. 9. 2012

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BACKGROUND

28. The Wastewater Strategy will be the third of the water-related strategies to be developed as a part of the Healthy Environment Strategies programme, joining the Water Supply Strategy and the Surface Water Strategies that were adopted by the Council in 2009.
29. Wastewater is used water that is collected from internal drains in homes, businesses and commercial/industrial properties including sinks, basins, toilets, tubs, showers, washing machines and dishwashers. It also includes trade waste. Wastewater is also known as sewage. Wastewater is not stormwater, which is rainwater collected by external drains.
30. There were several drivers for the development of a Wastewater Strategy, including a request from the Independent Advisory Panel that the Council Wastewater Strategy, as a key instrument for managing Christchurch's wastewater system reconstruction post earthquakes, be accelerated.
31. Other drivers for a Wastewater Strategy were:
 - Lack of overarching strategy. Although various management plans have been developed for the wastewater system, the Council lacks an overarching wastewater management strategy. This strategy was about to start development just prior to the September 2010 earthquake.
 - Future capacity requirements. With anticipated future population growth and changes to the settlement patterns for the City, a strategic review was needed to consider the manner in which the wastewater system is able to meet medium and long term future collection treatment and disposal needs.
 - Risk profile. As a consequence of the 2010 and 2011 earthquakes, there was a need to incorporate the learnings from the Christchurch earthquakes into a strategy for these services that recognises the heightened risks to the wastewater infrastructure that have eventuated in the Christchurch seismic environment.
32. The development of the Draft Strategy has been informed throughout the process by a collaborative approach that included the active participation of representatives of Stronger Christchurch Infrastructure Rebuild Team (SCIRT), Canterbury Earthquake Recovery Authority (CERA), Selwyn District Council (SDC), Waimakariri District Council (WDC), and Mahaanui Kurataiao Ltd (MKT). At each stage in the process, consensus among the parties has been critical to the development of the Draft Strategy.
33. A project team comprised of Council staff from the City Water and Waste Unit, the Asset and Network Planning Unit and the Strategy and Planning Group plus a representative of MKT were involved in the development of the Draft Strategy.
34. A consultant was engaged to prepare a series of reports critical to the formation of the Draft Strategy: a situational analysis report, an issues and options report and a draft strategy report.
35. An Advisory Group that provided overview and guidance during the development of the Draft Strategy included senior Council staff and representatives from SCIRT, CERA, SDC, WDC and MKT.
36. The development of the Draft Strategy began with the preparation of an analysis of the current state of the wastewater system. The *Christchurch City Council Wastewater Strategy: Situational Analysis* (CH2M Beca, 2012) was completed with input from:
 - an issues definition workshop and a situational analysis review in February 2012 by Council staff and representatives from SCIRT, CERA, SDC, WDC, and MKT; and
 - an external stakeholder wastewater issues workshop in March 2012 that included representatives from local community groups and professional organisations.

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37. Five key wastewater issues emerged:
- Wet weather overflows;
 - Sewer system resilience;
 - Long term wastewater treatment and disposal;
 - Banks Peninsula wastewater; and
 - Treatment product reuse (water and biosolids).
38. The next phase of the strategy development process was an examination of the key issues facing the wastewater system, approaches that are being taken or could be taken to address the issues and recommended actions for the future. The *Christchurch City Council Wastewater Strategy – Issues and Options* (CH2M Beca 2012) report was the product of:
- a options development workshop in April 2012 and an options review workshop in June 2012 with Council staff and representatives from SCIRT, CERA, SDC, WDC and MKT;
 - a seminar for the Combined Community Board meeting in April 2012;
 - a seminar for the Water and Wastewater Committee in May 2012;
 - a Council workshop in May 2012;
 - a briefing to the MKT Board of Directors in May 2012;
 - a hui with Ngāi Tūāhuriri and Te Taumutu Rūnanga in June 2012; and
 - a wastewater options workshop with external stakeholders in June 2012.
39. The final phase in the development process was the completion of a Draft Strategy, which was based on the *Christchurch City Council - Draft Wastewater Strategy* report (CH2M Beca, 2012). The report was informed by:
- a strategy review workshop in July 2012 with Council staff and representatives from SCIRT, CERA, SDC, WDC and MKT; and
 - a hui with Banks Peninsula rūnanga that was held in July 2012.
40. The Draft Strategy aims to establish the Council's strategic direction for sustainably managing wastewater over the next 10, 30 and 100 years.
41. The Draft Strategy establishes the Council's vision for sustainable management of the City's wastewater system: to provide an affordable, reliable, culturally acceptable, ecologically sustainable and resilient wastewater system that protects public health and meets the needs of present and future communities.
42. Seven guiding principles provide the framework for the Draft Strategy:
- Wastewater services will be delivered cost effectively while balancing social, cultural and environmental effects.
 - Effects on the environment from wastewater systems will be minimised.
 - The Council will work collaboratively with communities, businesses and other stakeholders to achieve wastewater management goals and objectives.
 - Maintenance, renewals and expansion works will be planned and implemented so that costs are affordable and appropriately distributed over time.
 - Infrastructure resilience will be optimised using standardised risk assessment methods to categorise system risks and develop and implement risk management solutions that are efficient and represent best value.
 - The Council will take a flexible approach to new technologies for conveyance, treatment, reuse and disposal and will consider adoption of new technologies in future where the benefits and risk are well defined.
 - The Council will develop infrastructure that supports a sustainable economy.
43. To achieve this strategic vision, the Draft Strategy sets out three keys goals:
- The wastewater system manages public health risks effectively;
 - The wastewater system is resilient and meets community needs for environmental, social and cultural sustainability;
 - The wastewater system supports the future growth and economic wellbeing of Christchurch City.

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44. Following the Council's approval for public release of the Draft Wastewater Strategy, a process of general public consultation will be undertaken. This process will encompass community and social organisations, environmental organisations, Government agencies, iwi, residents, business and commercial organisations, and other stakeholders.
45. It is recommended that consultation on the Draft Strategy will commence within 30 days of the Council decision to release the document for a period of 30 calendar days. Indicative dates are 8 October through 4 November 2012. This will be a non-statutory process and not a special consultation process.
46. A Hearing Panel is proposed to consider oral and written submissions on the Draft Strategy.
47. It is intended that the final draft of the Wastewater Strategy will be completed by early 2013.

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5. HIGH ST/TUAM ST TRIANGLE APPLICATION BY C1 EXPRESSO FOR TABLE AND CHAIR LICENCE

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| General Manager responsible: | General Manager City Environment Group, DDI 941-8608 |
| Officer responsible: | Unit Manager, Asset and Network Planning |
| Author: | John Allen, Policy and Leasing Administrator |

PURPOSE OF REPORT

1. The purpose of this report is to seek the Environment and Infrastructure Committee's recommendation to the Council that:
 - (a) It considers granting a table and chair licence in accordance with the Public Streets Enclosures Policy for up to five years over part of the reserve triangle on the corner of High and Tuam Streets to C1 Espresso Company Ltd.
 - (b) It approves the application to use part of the garden in the raised planter for the production of vegetables and other produce to be used in their adjacent business.

EXECUTIVE SUMMARY

2. The parcel of land of approximately 285 square metres, which includes the raised garden bed on the Tuam High Street Corner, and the pedestrian area between this bed and the former post office building is vested in the Council pursuant to The Christchurch City (Reserves Empowering) Act No 8 1971. The land is held for the purposes of lawns, ornamental gardens, and ornamental buildings and is administered in accordance with the provisions of the Reserves Act 1977.
3. Before the earthquakes, C1 Espresso Company Limited (Company), operated their business out of premises on the east side of High Street near the corner with Tuam Street.
4. The Company had a tables and chairs licence with the Council which extended over the extended footpath area on that corner; this footpath being extended by the Council to redirect traffic from High Street into Tuam Street by way of a right angle tee intersection.
5. The Company has shifted its business to the ground floor of the former post office building located at 209 Tuam Street, because the former premises they operated out of have been demolished due to earthquake damage. It has applied for:
 - (a) A Tables and Chair Licence over some of the paved area east of building, see plan showing the area applied for in (refer **Attachment 1**).
 - (b) A licence over the adjacent triangle garden area to enable them to grow vegetables and other produce for their adjacent restaurant business, (refer **Attachment 1**).
6. The Council has previously approved a tramway easement corridor through the reserve, which includes an area for a tram stop building, (refer **Attachment 1**), which has been approved by the Minister of Conservation. The proposed Tables and Chairs licence that has been applied for, if granted, is to be conditioned that it be re-evaluated when work resumes on construction in the easement corridor over the paved area between Tuam and High Streets. This evaluation is required to ensure that there are safe clearances from the licensed area for both tram construction and subsequent operation, including the tram stop shelter, whilst ensuring that pedestrian use of the area is maintained.
7. The Company has made application to be granted a licence over the adjacent triangle garden area to use it for the production of vegetables and other produce to be used in the kitchens of the restaurant. The applicant is very environmental focused, and while this garden will only produce a token amount of the produce required by the restaurant, the Company wishes to demonstrate to its customers the 'production route' the food takes from the garden to the table. Officers have discussed this proposal with the applicant and believe there is no reason why such a licence should not be granted subject to a number of conditions to ensure that the principal purpose that the reserve is held for is upheld.

ENVIRONMENT AND INFRASTRUCTURE COMMITTEE 17. 9. 2012

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8. The applicant has also applied for a licence over an area on the Tuam Street frontage. This area is not being considered as part of this report, the issue of whether or not to grant such a licence over legal street being further delegated to the Roading Corridor Operations Manager to decide upon.
9. This proposal is in alignment with the Canterbury Earthquake Recovery Authority (CERA) approved Central City Redevelopment Plan.
10. Officers recommend that a table and chairs licence, and a licence over the adjacent garden area be granted to the applicant for an initial period of up to five years subject to a number of conditions which are amplified upon below.

FINANCIAL IMPLICATIONS

11. There are no financial implications for the Council in approving this application, costs, (mainly staff time), required to gain Council approval to the granting of the licenses and putting them in place will be paid for from existing budgets. A commercial licence fee will be charged for the use of the table and chairs licensed area in accordance with the Public Streets Enclosure Policy. This revenue will more than offset the initial set up costs to the Council.

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

12. No, but after paying for the initial approval and licence set up costs there will be an ongoing revenue flow back to the Council.

LEGAL CONSIDERATIONS

13. The subject land is vested in the Council pursuant to the Christchurch City (Reserves Empowering Act 1971, for the purposes of lawns, ornamental gardens, and ornamental buildings. Section 12 of that Act provides that all reserves subject to that Act are to be held and administered subject to the provisions of the Reserves Act 1977.
14. As a reserve held for "lawns, ornamental gardens, and ornamental buildings" it is considered, for Reserves Act 1977 purposes, to be held by the Council as a local purpose reserve for those particular purposes.
15. Section 61 of the Reserves Act empowers the Council to lease or licence local purpose reserve for activities consistent with its classification. It is the view of the Legal Services Unit that the proposed activity of the licensee is consistent with the reserves classification provided that the existing landscaping on the reserve is not altered. Under section 61(2) of the Reserves Act leases or licences of local purpose reserve may be granted for terms of less than five years without there being a requirement to publicly tender such arrangements.
16. Community Boards have been granted delegated authority to grant licences of reserve under section 61 of the Reserves Act; however the power to grant such licences within the central city area has been expressly reserved to the Council. Council staff have no delegated authority to grant leases or licences over Reserve Act land.
17. Whilst the land in question is held by the Council as reserve, it is currently formed and landscaped as a footpath and raised garden bed. Whilst strictly not applicable, as the land is not legal road, Council staff propose that it would be appropriate for any licence of the land to be administered in accordance with the Council's 'Public Street Enclosure Policy'.
18. Council staff when considering this application were aware of the ongoing changes that will occur to the central cities layout, as a result of the rebuild. Therefore to ensure that any changes not yet decided upon for this area, are not unreasonably held up from being implemented, officers are recommending that a clause be inserted in the licence documents allowing the Council to terminate the licences upon giving the licensee one months notice of such termination.

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

19. Yes – see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

20. Aligns with Community Outcomes.

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

21. Supports central city revitalisation and recovery. Recommendations ensure that future construction of tram extension through the site will not be impeded.

ALIGNMENT WITH STRATEGIES

22. Relevant strategies - Central City Revitalisation Strategy, Draft Central City Recovery Plan.

Do the recommendations align with the Council's strategies?

23. Yes - re-establishing the business formerly across the road in High Street (building now demolished) will assist in the recovery of this part of the central city.

CONSULTATION FULFILMENT

24. There is no requirement under section 61 of the Reserves Act 1977 to undertake public consultation before the Council grants the licence. The Council however must ensure before the licence is granted that the public have free access through the reserve without encroaching upon the licensed area.
25. Council support of the application to re-establishing the business formerly across the road in High Street (building now demolished) will assist with the recovery of this part of the central city.

STAFF RECOMMENDATION

It is recommended that the Council approve the granting of the following licences pursuant to section 61(2) of the Reserves Act 1977 for a period of up to five years over the approximately shown areas on the plan attached the (refer **Attachment 1**):

- (a) A licence of approximately 72 square metres of the paved area between the raised triangle garden area and the former post office building for tables and chairs as shown in the (refer **Attachment 1**) to be administered in accordance with the requirements of the 'Public Streets Enclosure Policy' subject to the following conditions:
- (i) The tables, chairs and fences being stored within the adjacent restaurant building at the end of business each day.
 - (ii) Any planters which are left out at the end of each business each day are not to impede free public access into the licensed area(s) when the restaurant is closed for business.
 - (iii) The licence is to be conditioned that the area licensed is to be re-evaluated when work resumes on construction in the easement corridor over the paved area between Tuam and High Streets. This evaluation is required to ensure that there are safe clearances from the licensed area for both tram construction and subsequent operation, including the tram stop shelter, whilst ensuring that pedestrian use of the area is maintained.
 - (iv) That contact is made with the Council's Contract's Manager Greenspace to ascertain the Council's requirements before the anchor bolts are inserted into the pavement.
 - (v) The applicant is to ensure that he keeps his infrastructure within the licensed area at all times.

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- (b) A licence of approximately 95 square metres being the raised triangle plot for a produce garden for the growing of vegetables and other garden produce to supply the restaurant as shown on the plan (refer **Attachment 1**) subject to the following conditions:
- (i) A landscape plan is to be prepared by the Council in which ornamental plantings are to be present as well as vegetables to ensure that the purpose the reserve is held for, that being for lawns, ornamental gardens, and ornamental buildings is maintained.
 - (ii) The overseeing of the preparation of the plans and ongoing management of the area is to be undertaken by the Senior Contracts Manager (Greenspace) and his staff to ensure that the purpose for which the reserve is held is maintained.
- (c) That a clause be inserted in both licence documents which enables the Council to terminate the licences upon giving the licensee one months notice of such termination to ensure that any changes not yet decided upon for this area, as part of the rebuild of the central city area, are not unreasonably held up from being implemented.
- (d) That the Corporate Support Unit Manager in consultation with the Transport and Greenspace Unit Manager, be delegated authority to negotiate and enter into such deeds of licence implementing the above on such terms and conditions as they shall consider appropriate.

Background

26. The proposed use of the licensed area for outdoor dining area will have no effect on the principal purpose for which the reserve is held. The effect of this dining within the licensed area will be to encourage the public to linger more in the reserve, and consequently enjoy its ambience.
27. A landscape plan is to be prepared by the Council's landscape architects for the garden area in which ornamental plantings are to be present as well as vegetables to ensure that the purpose for which the reserve is held ,(lawns, ornamental gardens and ornamental buildings), is maintained. The ongoing management of the gardens is to be undertaken in such a way that the purpose for which they are held is maintained.
28. The overseeing of the preparation of the landscape plans and ongoing maintenance of the garden is to be undertaken by the Transport and Greenspace Manager and his nominees to ensure that the area is kept tidy, and the purpose for which the reserve is held is maintained.
29. It is important that pedestrian access through the reserve over the paved area by the former post office building is maintained past the areas it is proposed to license for tables and chairs, this access across the reserve is to be maintained clear of the tram easement area to allow for the future operation of the tram through this area.
30. The applicant will remove the table and chairs at the end of the business day, the restaurant intending to be open between the hours of 6 am and 11 pm, storing these in the adjacent restaurant at night. The applicant intends to place some movable planter boxes and anchor points, (to help anchor their windbreaks in bad weather), on the footpath, in accordance with the requirements set out in the 'Public Streets Enclosure Policy, the policy setting out the constructional requirements for these structures.
31. The applicant has indicated that from time to time they may wish to hold an exclusive function within their licensed area during which time the licensed area will be closed to the general public to use.
32. Officers are recommending that if the Council approves the officers recommendation, the putting in place of the required licences be delegated to the Transport and Greenspace Manager in association with the Corporate Support Manager, subject to them adhering to the conditions set out in the officer's recommendation, in accordance with the 'Public Streets Enclosure Policy', and the requirements of section 61 of the Reserves Act. It is proposed that the deeds of licence will provide the Council with a right of termination should the area be developed or required to support the redevelopment of the Central City.

