



CHRISTCHURCH CITY COUNCIL AGENDA

THURSDAY 20 OCTOBER 2005

AT 9.30AM

IN THE COUNCIL CHAMBER, CIVIC OFFICES

Council: The Mayor, Garry Moore (Chairperson).
Councillors Helen Broughton, Sally Buck, Graham Condon, Barry Corbett, David Cox,
Anna Crighton, Carole Evans, Pat Harrow, Bob Shearing, Gail Sheriff, Sue Wells and Norm Withers.

DESCRIPTION

APOLOGIES

CONFIRMATION OF MINUTES - COUNCIL MEETING OF 6.10.2005

DEPUTATIONS BY APPOINTMENT

PRESENTATION OF PETITIONS

CORRESPONDENCE

RECOMMENDATION ON TRANSIT NEW ZEALAND'S 2005 NOTICE OF REQUIREMENT FOR A DESIGNATION ON STATE HIGHWAYS WITHIN CHRISTCHURCH CITY

AUGUSTA STREET STORMWATER DRAINAGE EXTENSION COST SHARING SCHEME

WORCESTER STREET – PARKING METER INSTALLATION (TWO HOUR RESTRICTION) WITHIN EXISTING MOBILITY CAR PARK

TRAVIS FINANCE LTD: AGM AND DIRECTOR APPOINTMENT

DRAFT 2005 SOLID AND HAZARDOUS WASTE MANAGEMENT PLAN

MAKING THE CITY PLAN OPERATIVE IN PART

POLICY ON PRIVATELY-REQUESTED PLAN CHANGES

REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD - MEETING OF 6 SEPTEMBER 2005

REPORT OF THE SHIRLEY/PAPANUI COMMUNITY BOARD - MEETING OF 14 SEPTEMBER 2005

REPORT OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD - MEETING OF 20 SEPTEMBER 2005

NOTICES OF MOTION

QUESTIONS

RESOLUTION TO EXCLUDE THE PUBLIC

20. 10. 2005

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- 1. APOLOGIES**
- 2. CONFIRMATION OF MINUTES - COUNCIL MEETING OF 13.10.2005**
Attached.
- 3. DEPUTATIONS BY APPOINTMENT**
- 4. PRESENTATION OF PETITIONS**
- 5. CORRESPONDENCE**

6. RECOMMENDATION ON TRANSIT NEW ZEALAND'S 2005 NOTICE OF REQUIREMENT FOR A DESIGNATION ON STATE HIGHWAYS WITHIN CHRISTCHURCH CITY

General Manager responsible:	General Manager City Environment
Officer responsible:	Environmental Services Manager
Author:	Scott Blair, DDI 941-6205

PURPOSE OF REPORT

1. The purpose of this report is to seek a resolution from the Council that the Council recommend to Transit New Zealand that it confirms, with conditions, Transit New Zealand's 2005 Notice of Requirement (NOR) to the Christchurch City Council requiring designations over parts of Transit New Zealand's State Highway network within Christchurch City be included in the Proposed and Transitional Christchurch City District Plans.

EXECUTIVE SUMMARY

2. Pursuant to section 168 of the Resource Management Act 1991 Transit New Zealand forwarded to the Council a Notice of Requirement (NOR) for designations to be included in the City Plan for State Highways within Christchurch City in July 2005.
3. The NOR sought that the following routes be designated in the Proposed and Transitional Christchurch City District Plans:

SH 74 route

From the Main North Road/Queen Elizabeth II Drive intersection, then via Queen Elizabeth II Drive, Travis Road, Anzac Drive, Dyers Road to the Dyers Road/Ferry Road/Tunnel Road intersection.

SH 74A route

From the Dyers Road/Palinurus Road intersection, then via Palinurus Road, Rutherford Street, Garlands Road to the junction with SH 73 at the Garlands Road/Opawa Road intersection.

SH 73 route

From the Curletts Road/Blenheim Road intersection, then via Curletts Road, Yaldhurst Road to the junction with SH 1 at the Masham Road/Russley Road/ Yaldhurst Road intersection.

4. A copy of the NOR, including route maps is attached in Attachment 1.
5. The NOR was publicly notified on 29 July and 30 July 2005. No submissions were received. The Council now needs to make a recommendation on the NOR back to Transit.

FINANCIAL AND LEGAL CONSIDERATIONS

6. The Council has a statutory obligation to make a recommendation back to Transit on its NOR.

STAFF RECOMMENDATION

It is recommended that the Council resolve, pursuant to Section 171 of the Resource Management Act 1991, that the Council recommend to Transit New Zealand that Transit's Notice of Requirement seeking a designation over the following state highway routes:

SH 74 route

From the Main North Road/Queen Elizabeth II Drive intersection, then via Queen Elizabeth II Drive, Travis Road, Anzac Drive, Dyers Road to the Dyers Road/Ferry Road/Tunnel Road intersection.

SH 74A route

From the Dyers Road/Palinurus Road intersection, then via Palinurus Road, Rutherford Street, Garlands Road to the junction with SH 73 at the Garlands Road/Opawa Road intersection.

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SH 73 route

From the Curletts Road/Blenheim Road intersection, then via Curletts Road, Yaldhurst Road to the junction with SH 1 at the Masham Road/Russley Road/ Yaldhurst Road intersection.

be included in the Transitional and Proposed Christchurch City District Plans be **modified with conditions** and that the designation extend over that part of the carriageway at the northwest corner of Dyers Road and Breezes Road that sits outside the legal road (approximately 8.5m²) and that Clause 2.2.2 Part 12 Volume 3 of the Proposed City Plan, and Attachments 1 and 2 to that clause, be altered as follows (alterations shown underlined or crossed through):

2.2.2 Transit New Zealand

...

The schedule of state highways in the city, as designated, is set out in Attachment 1 below, followed by the schedule of motorways in Attachment 2. Conditions apply to the designation on some of the routes described in Attachments 1 and 2. The underlying zoning of ~~all~~ most of the state highways is Special Purpose (Road) Zone. In very limited areas the state highway designation extends beyond the Special Purpose (Road) Zone to include small areas of land zoned for other purposes.

Attachment 1:**Schedule of state highways incorporated into City Plan under Section 171 of the Resource Management Act 1991 (Transit New Zealand)****SH1**

From the centre of the Waimakariri River Bridge (RP327/0.21) through Christchurch; via Main North Road, Johns Road, Russley Road, Masham Road, Carmen Road and Main South Road; to 10m south of Marshs Road/SH 1 intersection (RP 347/3.28).

SH 73

From the junction with SH 74 at the Port Hills Road interchange (RP 0/0.00) then via Port Hills Road, Opawa Road, Brougham Street, Jerrold Streets (North and South), Christchurch Southern Motorway, to the Curletts Road/Blenheim Road intersection (RP11/1.28); and from the junction with SH 1 at the Masham Road/Russley Road/Yaldhurst Road intersection to 10m south of Dawsons Road/SH 73 intersection (RP 14/8.77). Also from the Curletts Road/Blenheim Road intersection, then via Curletts Road, Yaldhurst Road to the junction with SH 1 at the Masham Road/Russley Road/ Yaldhurst Road intersection.

SH 73A

From the Blenheim Road/Curletts Road intersection (RP0/0.00) through Christchurch via Blenheim Road, Main South Road; to the junction with SH 1 at the Carmen Road/Main South Road intersection (RP0/3.62).

SH 74

From the junction of SH 1 at the intersection of Johns Road/Main North Road (RP0/0.00) then via Main North Road to the intersection of Main North Road/Queen Elizabeth II Drive (RP0/3.90); and from the north abutment of the Heathcote River Bridge (RP19/0.52) then via Tunnel Road to the Tunnel Portal – Lyttelton end (RP26/0.00). Also from the Main North Road/Queen Elizabeth II Drive intersection, then via Queen Elizabeth II Drive, Travis Road, Anzac Drive, Dyers Road to the Dyers Road/Ferry Road/Tunnel Road intersection.

6 Cont'd

SH 74A

From the Dyers Road/Palinurus Road intersection, then via Palinurus Road, Rutherford Street, Garlands Road to the junction with SH 73 at the Garlands Road/Opawa Road intersection.

SH 75

From the junction with SH 73 at the Curletts Road/Southern Motorway intersection (RP 0/0.00); then via Curletts Road, Halswell Road and Taitapu Road, to the centre of the Halswell River Bridge (RP 0/8.35).

Note:

Sections of state highway declared as "motorway" are included in Attachment 2 below "Schedule of Motorways".

Attachment 2

Schedule of motorways incorporated into City Plan under Section 171 of the Resource Management Act 1991 (Transit New Zealand)

SH 1 Northern Motorway

From the centre of the Waimakariri River Bridge (RP 327/0.21) to the northern side of the Main Road/Dickeys Road intersection (RP 327/3.04).

SH 73 Southern Motorway

From the western side of Barrington Street (RP3/5.18), including part Jerrold Street one way north and south, to the north eastern side of the SH 73/SH 75 Curletts Road intersection (RP 11/0.00).

SH 74

From the northern abutment of the Heathcote River Bridge (RP19/0.52) then via Tunnel Road to the Tunnel Portal- Lyttelton end (RP26/0.00).

Conditions

The following conditions and notes only apply to portions of the SH 73, SH 74 and SH 74A Transit New Zealand designation described in the preceding Attachments 1 and 2:

Construction and Operational Noise

1. As a minimum, Transit New Zealand shall comply with the relevant Transit New Zealand noise mitigation policy in effect at the time that Transit applies for outline development plan approval for works to give effect to this designation.

Protocol for discovery of koiwi, taonga or other artefact material

2. As a minimum, Transit New Zealand shall comply with the relevant Transit New Zealand accidental discovery protocol in effect at the time that Transit applies for outline development plan approval for works to give effect to this designation.

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Note:

These mitigation conditions do not limit the ability of Christchurch City Council to seek changes to any future outline plan of works, pursuant to section 176A of the Resource Management Act 1991.

The portions of SH 73, SH 74 and SH 74A to which these conditions apply are:

SH 73

From the Curletts Road/Blenheim Road intersection, then via Curletts Road, Yaldhurst Road to the junction with SH 1 at the Masham Road/Russley Road/ Yaldhurst Road intersection.

SH 74

From the Main North Road/Queen Elizabeth II Drive intersection, then via Queen Elizabeth II Drive, Travis Road, Anzac Drive, Dyers Road to the Dyers Road/Ferry Road/Tunnel Road intersection.

SH 74A

From the Dyers Road/Palinurus Road intersection, then via Palinurus Road, Rutherford Street, Garlands Road to the junction with SH 73 at the Garlands Road/Opawa Road intersection.

For the following reasons:

1. Designating these roads allows Transit New Zealand to apply a consistent set of standards to the state highway network across New Zealand, and to not be required to deal with different plan rules in different local authorities.
2. Designating these roads flags that they are recognised as different from other roads in the city (with a different road controlling authority and are affected by different legislation in some issues, such as that involved with the declaration of limited access restrictions).
3. Transit New Zealand has requested the conditions and they reflect developments in their policy relating to traffic noise issues and reverse sensitivity, and they acknowledge the accidental discovery protocol that has been agreed with the Historic Places Trust and Te Runanga o Ngai Tahu.

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BACKGROUND ON RECOMMENDATION ON TRANSIT NEW ZEALAND'S 2005 NOTICE OF REQUIREMENT FOR A DESIGNATION ON STATE HIGHWAYS IN WITHIN CHRISTCHURCH CITY

7. The Christchurch City Council has received a NOR for new roading works designations in the Transitional and Proposed Christchurch City District Plans. This NOR covers parts of the state highway network not covered by Transit's 1994 NOR for a designation on its state highway network. Responsibility for the roads the subject of this 2005 NOR was recently transferred to Transit by the Christchurch City Council and therefore were not subject to the 1994 NOR.
8. The routes described in paragraph 3 of the executive summary are all on formed legal roads, road reserve or parcels of land in the process of being legalised as road. However there are six areas on the route where the formed roads pass over land that is not part of the Special Purpose (Road) Zone, or will not become part of that zone following legalisation as road. These areas of land are described in the NOR on page 2 in Attachment 1.
9. No new works were proposed as part of the NOR. The notice states that Transit New Zealand may wish to progress works to four sections of State Highway 74 in the future. Any future works would form applications for outline plan approval at a latter date. The NOR does not, and did not need to, include the various existing individual Transit road widening designations in the proposed City Plan. The proposed designation will sit along side these existing designations.
10. Designating these roads allows Transit New Zealand to apply a consistent set of standards to the state highway network across New Zealand, and to not be required to deal with different plan rules in different local authorities. It also flags that these roads are recognised as different from other roads in the city (with a different road controlling authority and are affected by different legislation in some issues, such as that involved with the declaration of limited access restrictions).
11. Subsequent to the closure of the public notification period Transit New Zealand has requested that the Council recommend back to Transit New Zealand that two conditions be added to the designation. Transit has requested these conditions to better reflect developments in their policy relating to traffic noise issues and reverse sensitivity, and to acknowledge the accidental discovery protocol that has been agreed with the Historic Places Trust and Te Runanga o Ngai Tahu.
12. Conditions and explanatory notes have been developed through discussions between Transit officers and Council officers. The suggested conditions are as follows:

Construction and Operational Noise

1. *As a minimum, Transit New Zealand shall comply with the relevant Transit New Zealand noise mitigation policy in effect at the time that Transit applies for outline development plan approval for works to give effect to this designation.*

Protocol for discovery of koiwi, taonga or other artefact material

2. *As a minimum, Transit New Zealand shall comply with the relevant Transit New Zealand accidental discovery protocol in effect at the time that Transit applies for outline development plan approval for works to give effect to this designation.*

Note:

These mitigation conditions do not limit the ability of Christchurch City Council to seek changes to any future outline plan of works, pursuant to section 176A of the Resource Management Act 1991.

The portions of SH 73, SH 74 and SH 74A to which these conditions apply are:

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SH 73

From the Curletts Road/Blenheim Road intersection, then via Curletts Road, Yaldhurst Road to the junction with SH 1 at the Masham Road/Russley Road/ Yaldhurst Road intersection.

SH 74

From the Main North Road/Queen Elizabeth II Drive intersection, then via Queen Elizabeth II Drive, Travis Road, Anzac Drive, Dyers Road to the Dyers Road/Ferry Road/Tunnel Road intersection.

SH 74A

From the Dyers Road/Palinurus Road intersection, then via Palinurus Road, Rutherford Street, Garlands Road to the junction with SH 73 at the Garlands Road/Opawa Road intersection.

13. The first explanatory note is to clarify that the conditions will not limit the ability of the Council to seek more stringent or 'project specific' conditions as part of future outline plan approvals for specific works. The conditions can only apply to that part of the state highway network covered by the 2005 NOR – hence the second explanatory note. These conditions and notes have been discussed with Transit's representatives who have indicated that they are happy with the wording of the conditions as proposed.
14. In the interests of a consistent national network and consistent designation coverage of state highways in the City Plan, I have recommended that the Council recommend to Transit the confirmation of these designations with the conditions requested by Transit.
15. It is further noted that a small area of carriageway (approximately 8.5m² in area) at the northwest corner of Dyers Road and Breezes Road sits outside the legal road on Christchurch City Council owned land. The NOR did not extend over this area. For the sake of a complete coverage of the carriageway the responsibility of Transit the designation should extend over this portion. For this reason I have recommended that the designation be modified to include this area. The area is shown in Attachment 2 to this report.

OPTIONS

16. The Council's options, in respect of its recommendation to a requiring authority, are set out in section 171(2) of the Resource Management Act. Specifically this section states:
 - 2) *The territorial authority may recommend to the requiring authority that it-*
 - (a) *confirm the requirement:*
 - (b) *modify the requirement:*
 - (c) *impose conditions:*
 - (d) *withdraw the requirement.*
17. Accordingly the Council's options are to:
 1. Recommend to Transit that the designation be confirmed.
 2. Recommend to Transit that the designation be modified.
 3. Recommend to Transit that the designation be modified with conditions.
 4. Recommend to Transit that the designation be confirmed with conditions.
 5. Recommend to Transit that the designation be withdrawn.

18. The 'do nothing' option is not an option open to the Council under the Act.

ASSESSMENT OF OPTIONS

Option 1: Recommend to Transit that the designation be confirmed

19. For the reasons set out in paragraphs 11–14 it is not appropriate for the Council to recommend to Transit that its NOR be confirmed without conditions.

6 Cont'd

Option 2: Recommend to Transit that the designation be modified

20. The proposed designation does need to be modified to extend over a small portion of carriageway not covered by the NOR. However it is not appropriate for the Council to recommend to Transit that their NOR be modified without conditions. The proposed designation does not need to be reduced from the area shown on the NOR maps.

	Benefits (current and future)	Costs (current and future)
Social	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Cultural	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Environmental	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Economic	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
<p>Extent to which community outcomes are achieved:</p> <p>The designation will help to achieve:</p> <ul style="list-style-type: none"> • A prosperous city (esp. maintaining and developing essential infrastructure) • A safe city (esp. improving road safety) • A liveable city (esp. ensuring an effective transport system) <p>Impact on Council's capacity and responsibilities:</p> <p>The designation will assist the Council to help Transit to continue to strive to operate an effective and efficient State Highway transportation network.</p> <p>Effects on Maori:</p> <p>There are no known effects on Maori.</p> <p>Consistency with existing Council policies:</p> <p>There are no known inconsistencies with existing Council policy.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>The NOR was publicly notified in accordance with the requirements of the Resource Management Act 1991. No submissions were received on this part of the notice.</p> <p>Other relevant matters:</p>		

6 Cont'd

Option 3: Recommend to Transit that the designation be modified with conditions

21. For the reasons set out in paragraphs 11–15 the proposed designation does need to be modified to extend over a small portion of carriageway not covered by the NOR. It is appropriate for the Council to recommend to Transit that its NOR be modified with conditions. The proposed designation does not need to be reduced from the area shown on the NOR maps.

	Benefits (current and future)	Costs (current and future)
Social	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Cultural	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Environmental	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Economic	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
<p>Extent to which community outcomes are achieved:</p> <p>The designation will help to achieve:</p> <ul style="list-style-type: none"> • A prosperous city (esp. maintaining and developing essential infrastructure) • A safe city (esp. improving road safety) • A liveable city (esp. ensuring an effective transport system) <p>Impact on Council's capacity and responsibilities:</p> <p>The designation will assist the Council to help Transit to continue to strive to operate an effective and efficient State Highway transportation network.</p> <p>Effects on Maori:</p> <p>There are no known effects on Maori.</p> <p>Consistency with existing Council policies:</p> <p>There are no known inconsistencies with existing Council policy.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>The NOR was publicly notified in accordance with the requirements of the Resource Management Act 1991. No submissions were received on this part of the notice.</p> <p>Other relevant matters:</p>		

6 Cont'd

Option 4: Recommend to Transit that the Designation be confirmed with conditions

22. For the reasons set out in paragraphs 11–15 it is necessary to recommend to Transit that the designation be modified with conditions. This option is therefore not appropriate.

	Benefits (current and future)	Costs (current and future)
Social	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Cultural	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Environmental	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
Economic	Confirmation of the designation, in accordance with the NOR, will allow Transit to continue to strive to operate an effective and efficient State Highway transportation network.	Not confirming the designation in accordance with the NOR, will hinder Transit in its efforts to operate and effective and efficient transportation network.
<p>Extent to which community outcomes are achieved:</p> <p>The designation will help to achieve:</p> <ul style="list-style-type: none"> • A prosperous city (esp. maintaining and developing essential infrastructure) • A safe city (esp. improving road safety) • A liveable city (esp. ensuring an effective transport system) <p>Impact on Council's capacity and responsibilities:</p> <p>The designation will assist the Council to help Transit to continue to strive to operate an effective and efficient State Highway transportation network.</p> <p>Effects on Maori:</p> <p>There are no known effects on Maori</p> <p>Consistency with existing Council policies:</p> <p>There are no known inconsistencies with existing Council policy.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>The NOR was publicly notified in accordance with the requirements of the Resource Management Act 1991. No submissions were received on this part of the notice.</p> <p>Other relevant matters:</p>		

6 Cont'd

Option 5: Recommend to Transit that the Designation be withdrawn

23. There is no reason to recommend to Transit that the designation be withdrawn. Withdrawal of the designation may affect Transit's ability to effectively administer the state highway network.

	Benefits (current and future)	Costs (current and future)
Social	There are no known benefits	Withdrawal of the designation would impact on Transit's ability to provide and effective and efficient transportation network.
Cultural	There are no known benefits	Withdrawal of the designation would impact on Transit's ability to provide and effective and efficient transportation network.
Environmental	There are no known benefits	Withdrawal of the designation would impact on Transit's ability to provide and effective and efficient transportation network.
Economic	There are no known benefits	Withdrawal of the designation would impact on Transit's ability to provide and effective and efficient transportation network.

Extent to which community outcomes are achieved:

Withdrawal of the designation would conflict with the following community outcomes:

- A prosperous city (esp. maintaining and developing essential infrastructure)
- A safe city (esp. improving road safety)
- A liveable city (esp. ensuring an effective transport system)

Impact on Council's capacity and responsibilities:

Withdrawal of the designation will would hinder the Council to help Transit to continue to strive to operate an effective and efficient State Highway transportation network.

Effects on Maori:

There are no known effects on Maori

Consistency with existing Council policies:

There are no known inconsistencies with existing Council policy.

Views and preferences of persons affected or likely to have an interest:

The NOR was publicly notified in accordance with the requirements of the Resource Management Act 1991. No submissions were received on this part of the notice.

Other relevant matters:**Preferred Option**

24. Based on the above assessment it is considered that Option 3 is the preferred option.

7. AUGUSTA STREET STORMWATER DRAINAGE EXTENSION COST SHARING SCHEME

General Manager responsible:	General Manager City Environment
Officer responsible:	Greenspace Unit Manager
Authors:	Ken Couling, Senior Planning Engineer DDI 941-8936 Nina Nikora, Senior Modeller DDI 941-8716

PURPOSE OF REPORT

1. The purpose of this report is for the Council to formally adopt subject to consultation:
 - (a) The proposed Augusta Street stormwater drainage extension scheme that is required to provide for current and future development within the Augusta Street catchment.
 - (b) The establishment of a formal drainage cost sharing scheme to recover funding already spent by the Council and to fund future stages of the proposal on a fair and equitable basis.

EXECUTIVE SUMMARY

2. Residential development is occurring on the hills behind Augusta Street, Redcliffs. The stormwater system within the Augusta Street catchment needs to be extended to convey stormwater runoff safely from the hills to the existing reticulation system on the flat that discharges into the Avon-Heathcote Estuary (Ihutai).
3. A formal drainage cost sharing scheme set up in accordance with the Council's Development Contributions Policy is proposed to share the costs of new drainage infrastructure fairly. It is estimated that a development levy on new residential lots and on some new dwellings of \$4,540 plus GST per unit will be necessary.
4. A consultation period of one month with affected landowners is proposed. Feedback will be sought and considered prior to the final adoption of the cost sharing scheme at a future Council meeting.

FINANCIAL AND LEGAL CONSIDERATIONS

5. A Council policy objective is to obtain a fair and reasonable contribution from those responsible for development that places additional demands on its services towards the cost of expansion of those services. The policy is set out in full within the Development Contributions Policy within the LTCCP. The Development Contributions Policy is pursuant to the Local Government Act 2002.
6. The Council can recover all or part of the costs relating to the upgrading of drainage works, or other infrastructure, to accommodate growth. Section 199 of the Local Government Act 2002 enables the Council to include the recovery of any costs already incurred in anticipation of the proposed development and before the constitution of the drainage cost sharing scheme. A development contribution can be levied at either the time of subdivision or at the time of building consent.
7. The capital cost of works can be met from Greenspace's Waterways and Wetlands Restoration Budget. Development levy revenue will accrue in Greenspace's operational budget. The revenue from drainage rates levied on new residential developments should meet any additional waterway and drainage operation and maintenance costs.

7 Cont'd

STAFF RECOMMENDATIONS

It is recommended that the Council subject to the outcome of consultation:

- (a) Establish the Augusta Street Stormwater Drainage Extension Cost Sharing Area in accordance with its Development Contributions Policy to finance the upgrading of the drainage system.
- (b) Approve the area shown on the plan attached as the Augusta Street Stormwater Drainage Extension Cost Sharing Area (see Figure 1).
- (c) Set as a condition of all future subdivision consents, and building consents for dwellings and other premises within existing subdivisions a requirement for cost contribution as described in this report.
- (d) Advise developers within the catchment of the Council's decision.
- (e) Seek feedback from affected landowners for a consultation period of one month.
- (f) Appoint three Councillors to a hearings panel to consider any feedback received from affected landowners.

7 Cont'd

BACKGROUND ON AUGUSTA STREET STORMWATER DRAINAGE EXTENSION COST SHARING SCHEME

8. The Augusta Street stormwater drainage catchment is located in Redcliffs and is approximately 90 ha in total area (see Figure 1). The area of the hill sub-catchment is approximately 34 hectares and is where development is currently taking place.
9. There is an existing drainage cost sharing scheme that was constituted in the late 1960s to fund a major stormwater pipeline extending from the Estuary to the head of Augusta Street. The existing scheme is included in the Long Term Council Community Plan (LTCCP). Those within the existing scheme area will continue to pay the existing development levies ranging from \$4,106.20 to \$10,251.74 plus GST per hectare at the time of development.
10. In the long term there is the potential for approximately 95 new residential lots within the Augusta Street hill sub-catchment. The current capacity of the stormwater pipe and waterway network is insufficient within the hill sub-catchment. The capacity of the existing 750 mm diameter stormwater main to the Estuary is sufficient. The existing scheme needs to be extended up the catchment and upgraded to accommodate the additional runoff from new residential development.

CAPITAL WORKS

11. The Augusta Street hill sub-catchment, major waterways, and drainage scheme components are shown in Figure 2 (attached).
12. Stormwater capital works are estimated to cost \$718,300 and comprise:
 - (a) Stage 1 - stormwater piping and associated structures (estimated cost \$123,070).
 - (b) Stage 2 - stormwater piping, two pipe intakes and two road culverts (including intake structures) estimated cost \$119,780.
 - (c) Stage 3 - channel stabilisation and erosion control planting along approximately 1300 m of hill waterways (estimated cost \$431,450).
13. Stages 1 and 2 have largely been constructed. Approximately \$230,000 has been spent. Stage 3 will involve channel stabilisation and erosion control planting. Extensive planting of ecologically suitable species on the margins of waterways is an integral part of modern stormwater management practice. Not only do the plants improve bank stability and reduce flow velocity, but they also provide some filtering of water-borne contaminants.
14. It is highly desirable that opportunities to provide public access between Moncks Spur and Augusta Street along the waterways is taken at the time of subdivision. This has not been included in the stormwater drainage scheme, however.
15. All the structures and inlet/outlet conveyance systems on the hills will be part of the drainage cost sharing scheme. The Council has been involved in the approval and funding of structures already built and the Council will be involved in ongoing management of these and new drainage structures/facilities yet to be built.
16. The programming of Stage 3 works will be determined by the rate of development within the catchment. It is anticipated that completion within the next 4 to 5 years will be necessary to keep ahead of development within the catchment.

DEVELOPMENT LEVY

17. Throughout the Augusta Street hill catchment the fundamental benefit gained by developers from the proposed drainage cost sharing scheme is the ability to subdivide the land. The upgraded stormwater network will be sufficient to cope with additional flows from hill developments to the accepted level of service (currently a 20 year return period). With the extended scheme in place, a uniform development levy throughout the hill catchment is considered to fairly reflect the benefit that will accrue to developers.

7 Cont'd

18. Approximately 40% of the hill catchment has already been developed. The remaining 60% is still to be developed. Therefore, a 40/60 split between the Council and developers is considered fair. Developers should meet 60% of the estimated cost (i.e. \$430,980).
19. For 95 potential new lots within the hill catchment, the development levy for each lot is assessed as \$4,540 plus GST. Twenty-seven of these lots have already been created within a subdivision approved on 21 December 2004. Payment of the new development levy for these new residential lots will need to be made at the time of building consent. (Those within the existing stormwater drainage cost share scheme will also continue to pay the current development levies ranging from \$4,106.20 to \$10,251.74 plus GST per ha.)

COST SHARING SCHEME

20. In summary, the Augusta Street Stormwater Drainage Extension Cost Sharing proposal involves:
 - (a) Total capital cost estimated at \$718,300. Developer contribution of \$430,980.
 - (b) Development levy of \$4,540 plus GST for:
 - (i) Each new dwelling within subdivisions approved between 21 December 2004 and when the cost sharing scheme is formally constituted by the Council.
 - (ii) Each new lot approved after the cost sharing scheme is formally constituted
 - (c) The first dwelling on any lot existing before 21 December 2004 will not be liable for the levy. However, the second and subsequent dwellings on the same lot will each attract the levy.
 - (d) Calculations have been based on estimates and will be adjusted as actual costs are incurred. Annual adjustments will be made for the value of money over time. Historical expenditure will be adjusted in accordance with the Consumers Price Index (all in accordance with the Development Contributions Policy).

CONSULTATION AND CONSENTS

21. The proposed communication and notification steps for the Augusta Street Stormwater Drainage Extension cost sharing scheme are:
 - (a) Presentation to the Council.
 - (b) A mailout circular to affected landowners within the scheme area advising them of details of the proposal and inviting comment.
 - (c) A consultation period of one month during which landowner feedback is received and assessed.
 - (d) The opportunity for landowners or developers to appear in front of a Council hearings panel.
 - (e) Presentation of the scheme to the Council for final adoption.
 - (f) Formal public notification of the scheme.
 - (g) Inclusion of scheme details in the LTCCP.
22. Resource consents have been obtained from Environment Canterbury for structures in the bed of the waterways. However, developers will need to obtain discharge permits for stormwater discharge from new residential subdivisions and will have to meet the costs of any specific requirements to give effect to their discharge permit.

7 Cont'd

OPTIONS

23. Four stormwater disposal options for new urban development within the Augusta Street hill sub-catchment have been considered:
- (a) "Do nothing". The land is zoned for development and suitable for the purpose. However, the Christchurch City Council could not grant subdivision approval without a properly designed stormwater disposal system.
 - (b) A stormwater detention system option is impractical on the steep hillside.
 - (c) On-site stormwater tanks were not considered seriously because current internal policy is against their use as the primary means of stormwater control within a catchment.
 - (d) Controlled stormwater discharge to stabilised hill waterway channels including new road culverts.

PREFERRED OPTION

24. The option of controlled stormwater discharge to stabilised hill waterway channels including new road culverts has been chosen as the most appropriate means of upgrading the Augusta Street stormwater system.

ASSESSMENT OF OPTIONS**The Preferred Option**

Controlled stormwater discharge to stabilised and vegetated hill waterway channels (including new road culverts).

	Benefits (current and future)	Costs (current and future)
Social	Public safety from the effects of accelerated erosion and flooding. Mental and physical well-being associated with the landscape and ecology of restored waterways. Opportunity for public access.	Capital \$300,000
Cultural	Metaphysical connection with natural looking waterway systems	
Environmental	Attractive shrub and tree-lined waterways. Reduced sediment discharge to Estuary.	See below
Economic	Landowners ability to develop their land	Net Council capital contribution of \$287,320. Operational \$3,000 per annum
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome a Sustainable Natural Environment Also contributes to a Safe City and a Prosperous City</p> <p>Impact on Council's capacity and responsibilities: The Council needs to ensure that infrastructure is expanded in line with growth. A cost sharing scheme spreads the funding burden fairly between the Council and developers.</p>		

7 Cont'd

Effects on Maori:

Gully stabilisation and planting will reduce accelerated channel erosion and sediment discharge into the Avon-Heathcote Estuary (Ihutai), waters of major significance to Takata Whenua.

Consistency with existing Council policies:

The scheme is consistent with the Development Contributions Policy.

Views and preferences of persons affected or likely to have an interest:

The consultation process will tease out views and preferences of persons affected.

Other relevant matters:**Maintain The Status Quo (ie "Do nothing")**

The land is zoned for development and suitable for the purpose. The Christchurch City Council could not grant subdivision approval without a properly designed stormwater disposal system. Drainage works would still need to proceed in the absence of a cost sharing scheme and without developer funding.

	Benefits (current and future)	Costs (current and future)
Social	Public safety from the effects of accelerated erosion and flooding. Mental and physical well-being associated with the landscape and ecology of restored waterways. Opportunity for public access.	Capital \$300,000
Cultural	Metaphysical connection with natural looking waterway systems	
Environmental	Attractive shrub and tree-lined waterways. Reduced sediment discharge to Estuary.	See below
Economic	Landowners ability to develop their land	Capital \$718,300 (NO developer contribution). Operational \$3,000 per annum

Extent to which community outcomes are achieved:

Primary alignment with community outcome a Sustainable Natural Environment
Also contributes to a Safe City and a Prosperous City

Impact on Council's capacity and responsibilities:

The Council needs to ensure that infrastructure is expanded in line with growth. In the absence of a cost sharing scheme the total funding burden is likely to fall on the Council.

Effects on Maori:

Gully stabilisation and planting will reduce accelerated channel erosion and sediment discharge into the Avon-Heathcote Estuary (Ihutai), waters of major significance to Takata Whenua.

Consistency with existing Council policies:

Not to constitute a cost sharing scheme is inconsistent with the Development Contributions Policy.

Views and preferences of persons affected or likely to have an interest:

Unknown

Other relevant matters:

8. WORCESTER STREET – PARKING METER INSTALLATION (TWO HOUR RESTRICTION) WITHIN EXISTING MOBILITY CAR PARK

General Manager responsible:	General Manager City Environment
Officer responsible:	Transport and City Streets Manager
Authors:	Paul Burden/Andrew Hensley, DDI 941-8971

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to impose a two hour maximum parking limit on an existing mobility car park located on the north side of Worcester Street immediately west of Cambridge Terrace, and to make the space controlled by a parking meter (refer attached).

EXECUTIVE SUMMARY

2. The existing mobility car park is often occupied (legitimately) for extended periods. This has resulted in a number of complaints to CCS and the Council from disabled persons going to appointments in Harley Chambers building not being able to locate a convenient car park.
3. It is not unusual for mobility car parks to have no time limit. However, in locations where the demand is high, the space needs to be appropriately managed in fairness to all users. The location of this space within the central city and its proximity to a number of office buildings gives rise to considerable demand. There are other mobility car parks located in this vicinity that are controlled by a parking meter and have a time limit of one and two hours i.e. Gloucester Street (west of Cambridge Terrace), Cashel Street (west of Cambridge Terrace) and Armagh Street (west of Cambridge Terrace). The space on Worcester Street is somewhat of an anomaly. The balance of the car parking spaces in this section of Worcester Street is controlled by parking meters.
4. Installing a parking meter with a two hour restriction on the mobility car park is considered the most practicable solution to the problem.
5. CCS has written to the Council endorsing the need to place a time limit on the space and further discussions reveal they have no objection to the space being controlled by a parking meter.

FINANCIAL AND LEGAL CONSIDERATIONS

Cost

6. Parking meter is within existing budgets.

Legal

7. The Land Transport Rules provide for the installation of parking restrictions and parking meters.

STAFF RECOMMENDATION

It is recommended that the Council approve the installation of one parking meter with a time limit of 120 minutes on the north side of Worcester Street commencing at a point 18 metres in a westerly direction from its intersection with Cambridge Terrace and extending 11.5 metres in a westerly direction.

9. TRAVIS FINANCE LTD: AGM AND DIRECTOR APPOINTMENT

General Manager responsible:	Director of Strategic Investment
Officer responsible:	Director of Strategic investment
Author:	Bob Lineham, DDI 941-8411

PURPOSE OF REPORT

1. The purpose of this report is to authorise the holding of the Annual General Meeting of Travis Finance Limited by an entry in the minute book of the company and to appoint a replacement director of the company.

EXECUTIVE SUMMARY

2. Travis Finance Limited is now a shell company. It was previously the company which the Council used to purchase the Travis Wetland but several years ago the land was transferred to the Council. The company is being retained as a shell company in case there is some further use for it but in the meantime there is no current operating purpose for the company. Nevertheless certain formalities must be carried out to comply with legislation.
3. The accounts for the year ended 30 June 2005 have now been completed and audited (a copy has been circulated to Councillors) and it is necessary to have an annual meeting for the company or to record an entry in the minute book in lieu of an annual meeting. The latter is proposed in view of the non operational status of this company.
4. The company was set up under the old Local Government Act which required that two external directors be appointed to each company. The three directors since the company was established were Peter Taylor, Mark Russell and Bob Lineham. No remuneration was payable to these directors. Mark Russell has now resigned and Peter Taylor has indicated that he wishes to resign from this position. It is proposed that Roy Baker be appointed to the board to replace Peter Taylor. As this is effectively a caretaker role two internal directors are all that is required in the meantime to maintain the requirements of the Companies Act.

FINANCIAL AND LEGAL CONSIDERATIONS

5. Section 122 of the Companies Act allows a company to meet its obligations for an annual general meeting by the recording of a resolution in its minute book signed by the shareholders.
6. The new Local Government Act no longer has a requirement that there be at least two directors of each Council Controlled Trading Organisation who are not elected members or Council staff. The appointment of Roy Baker and Bob Lineham as the only directors of this company is therefore now legally possible.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Authorise the affixing of the common seal of the Council to an entry in the minute book of Travis Finance Limited for the year ended 30 June 2005 and subsequent years while the company remains non operational.
- (b) That Roy Baker be appointed as a director of Travis Finance Limited to replace Peter Taylor.
- (c) That Mark Russell and Peter Taylor be thanked for their service as directors of the Travis Group since it was established.

10. DRAFT 2005 SOLID AND HAZARDOUS WASTE MANAGEMENT PLAN

General Manager responsible:	General Manager City Environment
Officer responsible:	City Water and Waste Manager
Authors:	Zefanja Potgieter DDI 941-8271, Tony Moore DDI 941-6426, Diane Shelander DDI 941-8304

PURPOSE OF REPORT

1. The purpose of this report is to present the Draft 2005 Solid and Hazardous Waste Management Plan for consideration, to obtain approval for the statutory consultation programme, to appoint a Hearings Panel and set an extraordinary Council meeting to finalise the Plan. The summary document referred to in the report will be separately circulated.

SUMMARY

2. This Draft 2005 Solid and Hazardous Waste Management Plan (Attachment A) and the summary statement of proposal (Attachment B) are legal requirements of the Local Government Act 2002. Once approved the 2005 Plan will replace the current 2003 and 2004 Plans.
3. This Draft Plan was presented at a Council seminar on 4 October and then a revised Draft was presented at a Council meeting 6 October. Further amendments, as requested by the Council, have now been incorporated.
4. Key aspects of the new Draft Plan are:
 - Revised vision, goals, and waste reduction targets (pages 11–14 of the Draft Plan).
 - A review of the kerbside services provided by the Council (pages 15-24 of the Draft Plan).
 - The expansion of the pilot enclosed compost plant agreed to by the Council in 2004 to enable the composting of material collected by the kerbside service.

PROCESS

5. The process for considering and adopting a new waste management plan is as follows:

Council approval of the "Statement of Proposal" (Draft Plan and Summary Document)	20 October
Special Consultation Procedure	27 October to 2 December
Hearing of submissions	12 and 13 December
Extraordinary Council meeting to consider the report from the Hearings Panel	21 December

LEGAL AND FINANCIAL CONSIDERATIONS

6. The *Special Consultative Procedure* of the Local Government Act 2002 will be followed.
7. The options for future kerbside collection presented for public consultation have widely different financial implications depending on the option selected - see attached Draft Plan for details.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Approve the Draft 2005 Solid and Hazardous Waste Management Plan and the summary statement of proposal for public consultation.
- (b) Appoint the whole Council as Hearings Panel to:
 1. Hear submissions on 12 and 13 December 2005; and
 2. Make recommendations on the final 2005 Solid and Hazardous Waste Management Plan.
- (c) Approve an extraordinary Council meeting the week of 21 December 2005 to consider the report from the Hearings Panel.

10 Cont'd

BACKGROUND ON DRAFT 2005 SOLID AND HAZARDOUS WASTE MANAGEMENT PLAN

8. This Draft 2005 Solid and Hazardous Waste Management Plan (Attachment A) and the summary statement of proposal (Attachment B) are legal requirements of the Local Government Act 2002. Once approved, this plan will replace the current 2003 Waste Management Plan and the 2004 Waste Action Plan. Specific actions that flow from the 2005 Plan will feed into the 2006 Long Term Council Community Plan process, which will allow solid waste activities to be considered along with other Council activities and priorities.
9. This Draft Plan was presented at a Council seminar on 4 October and then a revised Draft was presented at a Council meeting 6 October. Further amendments, as requested by the Council, have now been incorporated.
10. The Draft Plan proposes the following vision goals and waste reduction targets:

Vision

A prosperous City, where each person and business takes responsibility for waste minimisation and actively works toward zero waste.

Goals

- Individuals and businesses take greater responsibility for waste minimisation.
- Council provides much enhanced reuse and recycling services at the kerbside.
- Council supports and incentivises waste reduction, reuse and recycling.
- Council ensures that environmentally sound waste disposal services are provided.

Targets

- No more than 30 kg/person/year of green and kitchen waste is sent to landfill by 2015
 - No more than 90 kg/person/year of paper and cardboard is sent to landfill by 2015
 - No more than 60 kg/person/year of plastic is sent to landfill by 2015
 - No more than 25 kg/person/year of kerbside waste collected by the Council is sent to landfill by 2015
 - No more than 22 kg/person/year of wood waste is sent to landfill by 2015
 - No more than 10 kg/person/year of rubble received at refuse stations for landfilling by 2015
 - No more than 320 kg/person/year of waste is sent to landfill overall by 2020
11. The difference between these targets and the targets in the previous plan is largely related to the time frame over which the targets might be achieved. The previous plan had many of the target dates at 2010. The recent buoyant economy has in fact reversed some of the gains made by the community in the previous decade and it is believed that even these new extended time frames will require a significantly increased commitment by the Council and the community to achieve.
 12. A number of actions are contained in this Draft Plan that aim to advance on the proposed vision, goals and targets. Key actions include options for reducing household waste. Three options have been put forward and if adopted, would commence from 2008.

Options:

1. The fortnightly collection of a rate-funded recycling wheeliebin and continuing with the provision of 26 rate-funded rubbish bags.
 2. The fortnightly collection of two rate-funded wheeliebins - one for recycling and one for rubbish, instead of rubbish bags.
 3. The weekly collection of an organics wheeliebin (for food scraps and greenwaste), the fortnightly collection of a recycling wheeliebin and no rate-funded rubbish bags. In this option both wheeliebin services are partly funded from rates and partly funded from the Waste Minimisation Fund. Official Council rubbish bags would continue to be collected each week, but no longer provided through the rates. Rubbish bags would continue to be available for purchase at supermarkets and Council service centres.
13. The option of continuing with the existing green recycling crate is no longer considered practical because of the limited crate capacity and for health and safety reasons.

11. MAKING THE CITY PLAN OPERATIVE IN PART

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	Environmental Services Manager
Author:	David Mountfort, DDI 941-8669

PURPOSE OF REPORT

1. The purpose of this report is to recommend that the Council approve those parts of the City Plan which have been completed and resolve to make the City Plan operative in part.

EXECUTIVE SUMMARY

2. The City Plan was first notified in 1995. Decisions on submissions were made in 1999. Approximately 400 references to the Environment Court were lodged. The great majority of these have been resolved, either by negotiated settlements or by decisions of the Court. Approximately 90 variations have been introduced. The great majority of these have also been resolved. Most of the City Plan is now beyond challenge and is legally deemed to be operative already. The final step in the Resource Management Act process for preparing the district plan is for the Council to approve the completed plan and make it operative.
3. There are a number of submissions, references and variations still not completed. It is possible for the plan to be approved and made operative in part. Those parts of the plan not being made operative will be clearly identified in the plan
4. In accordance with previous resolutions of the Council, it is intended to provide a version of the City Plan on the Internet.

FINANCIAL AND LEGAL CONSIDERATIONS

3. Finally approving the City Plan and making it operative are required steps under the Resource Management Act. There are four main legal consequences that follow from this:
 - The former Transitional District Plans cease to apply to any issue dealt with by the operative City Plan.
 - People are entitled to apply for changes to the City Plan and have their applications considered under a formal process. A report on this was considered by the Council on 15 September 2005.
 - Modifications to the City Plan are possible, but are carried out by the plan change process as opposed to the plan variation process. The processes are similar but not identical. A plan change does not have immediate effect but must be considered alongside the original provisions being changed, until the process is complete. Variations have immediate effect and replace the provision being varied from the date of public notification, although they may be further modified during the submissions and hearings process.
 - The 10 year review period starts to run.

The main financial considerations will be:

- The simplification in processing of resource consents and enforcement matters due to the lapsing of the Transitional Plans. This will result in minor cost savings for both the Council and applicants.
- The Council will also be able to dispense with giving advice about what provisions of the City Plan are complete and deemed to be operative.
- The new electronic production and publication systems will simplify the process of updating copies of the City Plan within the Council and in the community.

11 Cont'd

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Approve, pursuant to Clause 17(2) of the First Schedule of the Resource Management Act 1991, the City Of Christchurch City Plan, with the exception of those provisions set out in the attached Schedule.
- (b) Authorise the Team Leader, City Plan to set and publicly notify the date on which the City Plan is to become operative, following the completion and distribution of the electronic and hard copy versions and the setting up of necessary administrative systems.

11 Cont'd

BACKGROUND ON MAKING THE CITY PLAN OPERATIVE IN PART

4. The City Plan was prepared between 1991 and 1995 and involved a great deal of research, tapping into past experiences, interviews with key members of the community, submissions made by a wide range of people, businesses and organisations, legal advice, and lengthy consideration by various committees of Councillors.
5. Much of the work in preparing the new Plan was done by the planning staff of the then Environmental Policy and Planning and the Environmental Services Units, assisted by many other Units of the Council, including City Streets, Parks, Waste Management, Water Services and Leisure.
6. The City Plan has been prepared by the Christchurch City Council to fulfil its obligations under the Resource Management Act 1991, and is prepared in three volumes:
 - Volume 1: The Statement of Issues
 - Volume 2: The Statement of Objectives, Policies and Methods
 - Volume 3: The Statement of Rules and Planning Maps
7. The City Plan was before the Council on 22 March 1995 and approved as the proposed District Plan for the City of Christchurch for the purpose of public notification in terms of Clause 5, First Schedule of the Resource Management Act 1991. It was publicly notified on 24 June 1995.
8. All citizens, community groups and businesses were invited to consider the City Plan as proposed, and to make submissions where this may be appropriate.
9. Over 2,500 people and organisations made 3,900 submissions covering over 12,000 topics. A further 1,500 people lodged submissions in support or opposition to the earlier submissions.
10. Hearings on the submissions took place over two years from October 1996 and involved over 630 days of hearings. Decisions on the submissions were made by the Council on 22 March 1999 and publicly notified on 8 May 1999. These decisions were subject to referral to the Environment Court within 15 working days.
11. Two hundred and seventy-three references to the Environment Court were lodged involving 409 topics. The City Plan as republished in September 1999, incorporates all amendments resulting from decisions on submissions made to the proposed City Plan notified on 24 June 1995.
12. Between 1999 and 2005 most of these references were either heard, withdrawn or settled by consent. Variation numbers 1 to 93 inclusive were publicly notified by the Council. Most of these have been completed, some remain to be heard by the Council or Environment Court. Ninety-three variations to the City Plan had been publicly notified by August 2005. Most of these have now been completed.
13. The City Plan was republished in May 1999, incorporating all amendments resulting from decisions on submissions made to the proposed City Plan. Numerous updates have been issued since, incorporating decisions of the Environment Court and subsequent Variation numbers 1 to 93 inclusive.
14. The City Plan has been available in electronic form, on the Council's intranet and for sale to the public on compact disc. The electronic version was a high quality product but achieved only limited sales. Electronic publishing has been complex and labour intensive and has required the maintenance of two separate versions of the Plan in different software. It was not practicable to publish on the internet in the form adopted. In recent years it has become usual for Councils to publish their plans on the internet. The opportunity has now been taken to update production techniques, move to a single version and publish the plan on the Council's website. This will be a high quality product, able to be readily browsed or searched. This electronic version is intended to be the authoritative version. It will be kept constantly up to date and in the opinion of the Ministry for the Environment will be the most advanced electronic version of an RMA plan currently available in New Zealand.

11 Cont'd

15. Hard copies will also be available, and updates made available for downloading from the Internet, and also through a hard copy subscription service for those who still require this.

PROVISIONS NOT YET ABLE TO BE MADE OPERATIVE**Outstanding references to the Environment Court**

16. The following matters have not yet been completed by the Environment Court at time of writing:
- Retail issues in Industrial Business Zones
 - Floodplains issues
 - Airport Issues – limits to urban growth in vicinity, aircraft noise management, engine testing, retailing on the airport site, rezoning of rural site within airport noise contours
 - Urban growth at Belfast, Masham, Aidanfield and Cashmere
 - Living 1A zone issues
 - Zoning of Meadow Mushrooms site and surrounding lands at Awatea
 - Coastal hazard lines at South Brighton
17. It is possible that some of these matters may be resolved prior to the Council meeting, particularly in the airport group, South Brighton and Meadow Mushrooms and if so the Council will be advised at the meeting.

Outstanding Variations

Variation 52	Restrictions on urban growth near airport	Awaiting final decision of Environment Court.
Variation 82	Latimer Square road closure	Waiting for Environment Court hearing.
Variation 84	Stonehurst Accommodation	Awaiting Environment Court. Settlement by consent probable.
Variation 86	Retail distribution	Awaiting Council hearings November 2005.
Variation 89	Recession Planes	Council decision released, in appeal period.
Variation 90	Rural allotment clustering	Submissions heard, awaiting Commissioners decision.
Variation 91	Financial contributions	Council decision released, in appeal period.
Variation 92	Johns Road rezoning	Council decision released, in appeal period.
Variation 93	Clearwater	Publicly notified, in submission period.

Miscellaneous Matters

- Living 1A prohibited activity, minimum lot size of 1,500m² facing rural zones. The Council has agreed to initiate a further variation changing prohibited activity status to non-complying to resolve an existing reference. Draft variation is in consultation phase.
- Opawa Road/Port Hills Road. Submissions on the original plan were not resolved. Issues with property owners were resolved by negotiation and road widening is being carried out in reliance on the existing designation in the Transitional District Plan. This requires a new notice of requirement from Transit NZ to conclude the matter.
- State Highway designations. The recent notice of requirement from Transit NZ to designate the routes of all the existing State Highways in Christchurch has been publicly notified. No submissions were received. The Council has to make a recommendation to Transit NZ on this requirement but the matter has been complicated by recent issues relating to noise mitigation that arose in a case in Napier.

REMAINING WORK REQUIRED AFTER COUNCIL APPROVAL

- Complete the preparation of the electronic master City Plan document.
- Establish a system for printing hard copy versions from the master document and print copies for initial distribution.
- Establish systems for updating the master document and making updates available to plan holders.

11 Cont'd

- Complete preparations to make the City Plan available on the Internet.
- Provide training on the new electronic version to internal users and regular external users.
- Publicly notify that the City Plan is operative.
- Publicise and promote the on-line version of the City plan.

18. These remaining actions are anticipated to require 3-4 weeks. If completed successfully it is anticipated that the City plan can be made operative by the end of November.

OPTIONS

19. The options are:

- (a) Approve and make the Plan operative in part at this time.
- (b) Do nothing now. Wait until all existing matters are complete before approving the Plan and making it operative.
- (c) Do not approve the plan at all or make it operative.

PREFERRED OPTION

20. The preferred option is (a).

ASSESSMENT OF OPTIONS**The Preferred Option**

This achieves cost savings for those preparing, reporting on and deciding consent applications and removes the need to give advice on which sections of the plan are deemed to be operative.

	Benefits (current and future)	Costs (current and future)
Social	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.
Cultural	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.
Environmental	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.	No particular benefits or costs. This is a formal legal step which does not affect the contents of the Plan.
Economic	Simplifies consent processing and the giving of planning advice.	
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome "a well-governed City" Also contributes to "A City with a Sustainable Natural Environment"</p> <p>Impact on Council's capacity and responsibilities: Simplifies processes, record keeping and public advice to a minor extent</p> <p>Effects on Maori: No known effects</p> <p>Consistency with existing Council policies: No known inconsistency</p> <p>Views and preferences of persons affected or likely to have an interest: Persons affected are those with outstanding submissions or references. As all provisions of the plan affected by these processes will not be made operative there is no effect.</p> <p>Other relevant matters: Nil</p>		

11 Cont'd

Option (b)

Do nothing now. Wait until all existing matters are complete before approving the Plan and making it operative

There is no advantage in doing this. Some of the variations have several years before they can be completed. As the City Plan is a "living document", it is probable that further variations would be required. It is unlikely that there will ever be a time when there are no current amendments being considered and consequently there would never be an opportunity to make the plan operative.

	Benefits (current and future)	Costs (current and future)
Social	Nil	Nil
Cultural	Nil	Nil
Environmental	Nil	nil
Economic	Nil	Costs owing to existence of Transitional Plans and the need to give advise on what provisions are deemed to be operative. Delays the opportunity for people to make applications for plan changes
<p>Extent to which community outcomes are achieved: No alignment with community outcomes</p> <p>Impact on Council's capacity and responsibilities: Adds minor complexity to administrative procedures</p> <p>Effects on Maori: None known</p> <p>Consistency with existing Council policies: No policies relevant</p> <p>Views and preferences of persons affected or likely to have an interest: Persons preparing plan change applications likely to be opposed</p> <p>Other relevant matters: Christchurch is already one of the later Councils to achieve an operative plan and receives some adverse publicity for this.</p>		

11 Cont'd

Option (c)**Do not approve the plan at all or make it operative.**

This is not recommended. The Council is obliged by the RMA to complete the plan, and approve it and make it operative. Likely to lead to Ministerial intervention.

	Benefits (current and future)	Costs (current and future)
Social	Nil	Nil
Cultural	Nil	Nil
Environmental	Nil	Nil
Economic	Nil	Costs owing to existence of Transitional Plans and the need to give advise on what provisions are deemed to be operative. Delays the opportunity for people to make applications for plan changes
<p>Extent to which community outcomes are achieved: No alignment with community outcomes</p> <p>Impact on Council's capacity and responsibilities: Fails to achieve Council's legal obligations under RMA</p> <p>Effects on Maori: Nothing particular known</p> <p>Consistency with existing Council policies: No relevant policies</p> <p>Views and preferences of persons affected or likely to have an interest: Likely to be opposed by many parties</p> <p>Other relevant matters: Would prevent private plan changes being applied for. Could lead to Ministerial intervention</p>		

12. POLICY ON PRIVATELY-REQUESTED PLAN CHANGES

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	Environmental Services Manager
Author:	David Mountfort, DDI 941-8669

PURPOSE OF REPORT

1. The purpose of this report is to recommend a policy to guide decisions on whether applications for changes to the City Plan should be rejected within the first two years after the Plan becomes operative. This report also comments on the letters regarding the draft policy received from Goodman Steven Tavendale, and Anderson Lloyd Caudwell.

EXECUTIVE SUMMARY

2. When the Christchurch City Plan becomes operative there will be the opportunity for parties to apply for privately requested plan changes. If accepted by the Council these must be processed according to a timeframe laid out in the RMA. There are a limited number of circumstances in which the Council may decline to process these, one being that the City Plan has been operative for less than two years. At its meeting on 24 March 2005 the Council resolved that staff be requested to report back to the Council on options for private plan changes and the two year stand-down period. This report recommends that applications for plan changes not be routinely rejected within the two-year period, but rather that the Council adopt criteria under which applications, which might adversely affect strategic planning exercises being undertaken by the Council, may be rejected.

FINANCIAL AND LEGAL CONSIDERATIONS

3. It would be unlawful for the Council to adopt a blanket policy that all applications would be rejected within the two-year period. This is because the Resource Management Act requires that each application must be considered on its own merits. Any policy must be general only. A policy would enable applications to be assessed consistently and all relevant matters to be considered, and provides some guidance for potential applicants and Council staff within the two-year period.
4. The costs of private plan changes can be fully recovered from the applicants. In practice not all costs would be, especially costs arising early in the process on preliminary consultation. These costs would be minor. The great majority of costs would be recovered.

12 Cont'd

STAFF RECOMMENDATIONS

It is recommended that the Council adopt the following policy:

POLICY ON APPLICATIONS FOR CHANGES TO THE CHRISTCHURCH CITY PLAN

1. Applications for changes to the Christchurch City Plan may be made in the manner set out in Part 2 of the First Schedule to the Resource Management Act. A flowchart outlining the City Plan Variation Application Procedure is attached.
2. The Council will consider any applications in the manner set out in the First Schedule.
3. The Council will recover its costs relating to such applications, as set out in Section 36 of the Resource Management Act 1991.
4. Pursuant to Clause 25(4)(e) of the First Schedule the Council may reject applications for plan changes within two years of the City Plan becoming operative. In considering whether to do this the Council will have regard to whether any of the following matters apply:
 - (a) The subject matter of the application affects an important strategic or policy issue the Council is currently investigating and may preclude options being considered.
 - (b) The proposal is for rezoning of a significant amount of land for urban growth and would pre-empt options for urban growth, being considered under the Metropolitan Christchurch Urban Development Strategy.
 - (c) *The application is for rezoning of land for urban growth within Groundwater Recharge Zone 1 of the Natural Resources Regional Plan prior to the hearing of submissions and appeals on that plan by the Regional Council and the Courts.*
(Now proposed that this clause be deleted - see separate report.)
 - (d) *The proposal is for rezoning of land for urban growth and does not comply with the Council's objectives and policies for urban growth, in particular those set out in Sections 6 and 7 of the City Plan.*
(Now proposed that this clause be deleted - see separate report.)
 - (e) The proposal is for rezoning of land for urban growth and the site is within a Priority 1 Area Plan currently under investigation by the Council. As at August 2005 Priority 1 Area Plans include Belfast, Memorial-Russley-Hawthornden, Southwest and Upper Styx-Harewood.
 - (f) *The proposal is for rezoning of land for urban growth and does not make adequate provision for:*
 - (i) *Stormwater management*
 - (ii) *Provision of open space*
 - (iii) *Mitigation of traffic effects*
 - (iv) *Integration with Land Transport strategies prepared by the Council and Environment Canterbury*
 - (v) *Mitigation of landscape effects*
 - (vi) *Infrastructure*
 - (vii) *Mitigation of effects upon the natural environment**(Now proposed that this clause be deleted - see separate report.)*
5. This policy will cease to have effect in regard to any provision of the City Plan which has been operative for two years or more.

12 Cont'd

BACKGROUND ON POLICY ON PRIVATELY-REQUESTED CHANGES TO THE CITY PLAN

5. The First Schedule to the Resource Management Act provides that any person may apply for a change to a district plan. Such changes are referred to as "privately-requested plan changes". A district plan is defined in the Act as an operative district plan. When the Christchurch City Plan becomes operative there will be the opportunity for parties to apply for privately requested plan changes. If accepted by the Council, these must be processed according to a timeframe laid out in the RMA. There are a limited number of circumstances in which the Council may decline to process these, one being that the City Plan has been operative for less than two years. The relevant clause is Clause 25(4) as follows:

(4) *The local authority may reject the request in whole or in part, but only on the grounds that:*

 - (a) The request or part of the request is frivolous or vexatious; or*
 - (b) The substance of the request or part of the request has been considered and given effect to or rejected by the local authority or Environment Court within the last 2 years; or*
 - (c) The request or part of the request is not in accordance with sound resource management practice; or*
 - (d) The request or part of the request would make the policy statement or plan inconsistent with Part V; or*
 - (e) In the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.*
6. The Council has requested that a draft policy be developed for its consideration, to guide it in making decisions whether or not to reject these applications within two years of the plan becoming operative. It should be noted that such a policy can only be in general terms and each case would have to be considered on its individual merits. A policy on this matter would however enable consistency in decision-making on these applications and ensure all relevant matters are considered.
7. The Council has a number of significant planning projects underway or due to commence. Details of the projects being managed by the City Plan Team were reported to the Council in April 2005. Other significant strategic planning exercises are being carried out by the Planning Strategy Unit, most notably the Urban Development Strategy, the Area Plans programme and the Commercial Strategy. Privately requested plan changes to any part of the City Plan that may be affected by these exercises have the potential to preclude available options or reduce the effectiveness of options the Council may select. For example applications for urban rezonings within the area affected by an Area Plan could, if successful, reduce the options available under the Area Plan or significantly delay the Council's ability to prepare and implement the Area Plan.
8. Environment Canterbury is also progressing the Natural Resources Regional Plan. This plan proposes to prohibit intensification of land use in the Groundwater Recharge Zone 1, an area of land which lies above the unconfined aquifers from which Christchurch draws its water supplies. This prohibition, if confirmed, could have a significant impact on the urban development of Christchurch. Although this is Environment Canterbury's responsibility, the existence of the NRRP adds a considerable amount of complexity to this Council's rezoning issues.
9. Many property owners have opposed the NRRP. This Council itself has submitted on the Plan, supporting the overall objective of preserving the purity of the water, but questioning whether it is necessary to prohibit residential development in Zone 1. The Council is already involved with three rezoning cases affected by the NRRP, being the section 293 cases at Masham and Belfast, and the Clearwater Variation. These were all underway before the NRRP was publicly notified. The prohibition will not take effect until the NRRP becomes operative, but any resource management processes must now have regard to the NRRP.

12 Cont'd

10. Any further applications in the NRRP's Zone 1 are likely to be opposed by Environment Canterbury. It may be desirable to use the two year period to enable progress on the NRRP without the complications of further rezoning exercises in the affected areas.
11. On the other hand there are a number of reasons why the Council might consider allowing certain privately-requested plan changes to proceed, including:
 - Not all proposals are likely to affect strategic planning exercises. Some may be quite site specific, or specific to particular parts of the City Plan.
 - Christchurch considers itself a business friendly city. The opportunity to make applications for plan changes is supposed to be available under the RMA. It has not been available since 1995.
 - A decision to reject an application is appealable to the Environment Court. Defending such appeals would consume valuable resources rather unproductively.
 - Deferring applications could produce a "bow wave" of applications which could all arrive together on or close to the second anniversary of the operative date and overwhelm the resources at that time.
 - Deferring applications would give potential applicants a disincentive to discuss them with the Council at the early formative stage. Applications could arrive after the two-year period fully developed, with applicants with fixed ideas and little remaining patience. In general developers prefer and expect to consult with the Council from the outset and this should be encouraged, as that is the best time to influence projects.
 - After the two-year period the Council will have to learn to work this way anyway and may as well do so from the outset.
 - All of the costs, except for initial consultation prior to lodgement, are recoverable from the applicant.

OPTIONS

- (a) Status quo, ie do nothing. Adopt no policy. Assess each application at the time of receipt.
- (b) Adopt as a policy that all privately requested plan changes be rejected in the two-year period.
- (c) Adopt the following policy:

POLICY ON APPLICATIONS FOR CHANGES TO THE CHRISTCHURCH CITY PLAN

1. *Applications for changes to the Christchurch City Plan may be made in the manner set out in Part 2 of the First Schedule to the Resource Management Act.*
2. *The Council will consider any applications in the manner set out in the First Schedule.*
3. *The Council will recover its costs relating to such applications, as set out in Section 36 of the Resource Management Act 1991.*
4. *Pursuant to Clause 25(4)(e) of the First Schedule the Council may reject applications for plan changes within two years of the City Plan becoming operative. In considering whether to do this the Council will have regard to whether any of the following matters apply:*
 - (a) *The subject matter of the application affects an important strategic or policy issue the Council is currently investigating and may preclude options being considered.*
 - (b) *The proposal is for rezoning of a significant amount of land for urban growth and would pre-empt options for urban growth, being considered under the Metropolitan Christchurch Urban Development Strategy.*
 - (c) *The application is for rezoning of land for urban growth within Groundwater Recharge Zone 1 of the Natural Resources Regional Plan prior to the hearing of submissions and appeals on that plan by the Regional Council and the Courts.*

12 Cont'd

- (d) *The proposal is for rezoning of land for urban growth and does not comply with the Council's objectives and policies for urban growth, in particular those set out in Sections 6 and 7 of the City Plan.*
 - (e) *The proposal is for rezoning of land for urban growth and the site is within a Priority 1 Area Plan currently under investigation by the Council. As at August 2005 Priority 1 Area Plans include Belfast, Memorial-Russley-Hawthornden, Southwest and Upper Styx-Harewood.*
 - (f) *The proposal is for rezoning of land for urban growth and does not make adequate provision for:*
 - (i) *Stormwater management*
 - (ii) *Provision of open space*
 - (iii) *Mitigation of traffic effects*
 - (iv) *Integration with Land Transport strategies prepared by the Council and Environment Canterbury*
 - (v) *Mitigation of landscape effects*
 - (vi) *Infrastructure*
 - (vii) *Mitigation of effects upon the natural environment*
5. *This policy will cease to have effect in regard to any provision of the City Plan which has been operative for two years or more.*
12. This policy has been drafted to give effect to the considerations described above. Every application would still have to be considered on its own merits, but each application would be assessed to see whether the various factors apply, and to what extent. The policy would simply:
- Provide a basis for making decisions on whether to reject the applications;
 - Assist with consistent decision-making;
 - Give some guidance to applicants as to how their application would be assessed.
13. Item 5 of the policy requires explanation. As the City Plan is to be made operative in stages, then it is important to ensure that the policy continues to apply to the provisions that become operative later, ie that it is the date that the individual provision affected by an application becomes operative that is the trigger, not the date when the first parts of the plan become operative. The great majority of the City Plan will be made operative initially. Matters that are incomplete and will not be made operative include:
- floodplains issues (Variation 48),
 - retail distribution, being objectives and policies for business and rules for Business 3, 4 and Business Retail Park zones (Variation 86)
 - Financial contributions (Variation 91)
 - Airport noise policies and rules
 - Section 293 zoning issues at Belfast, Masham and Cashmere
 - Zoning issues at Aidanfield
 - Minimum lot sizes in Living 1A zone
 - Clearwater Variation 93
 - Recession planes Variation 89
 - Allotment definition variation 90
 - Belfast rezoning under Variation 92
 - Stonehurst Variation 84

PREFERRED OPTION

14. The preferred option is Option (c)
15. It has been suggested consideration be given to including an additional criterion along the following lines:

12 Cont'd

- Large scale developments on the borders of Christchurch not be allowed in the two year period following the City Plan being made operative.
16. This is not recommended. This concern is amply dealt with in Item 4(b) and (d) of the policy which relate to the UDS and the Area Plans programme. In many cases the matter would also be addressed by all of the other recommended criteria. It would be too difficult to define what is and what is not large-scale. "Borders" is ambiguous. It could refer to either the edge of the existing built-up area, or to the legal boundaries of the city.
17. There is no particular significance to the boundaries of Christchurch. In some places eg Templeton the boundary is close to the built-up edge. In other places eg Yaldhurst it is quite distant. Proximity to the built-up edge is important and is already dealt with in Policy 6.3.1 of the City Plan, as follows:

Urban Boundary

- *To ensure peripheral urban growth does not occur in a form detached from current urban boundaries, or which promotes a dispersed and uncoordinated pattern of development.*
18. Applications which do not achieve this policy would have little chance of success unless there was some exceptional circumstance

ASSESSMENT OF OPTIONS**The Preferred Option**

Adopt the recommended policy

	Benefits (current and future)	Costs (current and future)
Social	Enables people to apply for plan changes that they believe better meet the purposes of the RMA than the existing provisions	Costs of resourcing the process (largely met by applicants)
Cultural	As above	As above
Environmental	As above	As above
Economic	As above. Enables people to apply for plan changes that improve economic opportunities.	As above
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome</p> <ul style="list-style-type: none"> • A city with a sustainable and natural environment <p>Also contributes to</p> <ul style="list-style-type: none"> • A prosperous city and • A well governed city and • A liveable city <p>Impact on Council's capacity and responsibilities: Some potential for committing Council's resources to projects other than Council's own priorities, but can be largely managed by cost recovery.</p> <p>Effects on Maori: No particular impact</p> <p>Consistency with existing Council policies: No known inconsistency</p> <p>Views and preferences of persons affected or likely to have an interest: Some land developers likely to oppose some aspects of the policy if it reduces their opportunity to apply for plan changes.</p> <p>Other relevant matters: Provides guidance for Council decisions, ensures relevant matters are taken into account on each occasion and that decisions are consistent.</p>		

12 Cont'd

Maintain The Status Quo (If Not Preferred Option)

Option (a). Adopt no policy.

	Benefits (current and future)	Costs (current and future)
Social	Enables people to apply for plan changes that they believe better meet the purposes of the RMA than the existing provisions	Uncertainty as to whether or not the Council will reject application
Cultural	As above	As above
Environmental	As above	As above
Economic	As above. Enables people to apply for plan changes that improve economic opportunities.	As above
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome</p> <ul style="list-style-type: none"> • A city with a sustainable and natural environment <p>Also contributes to</p> <ul style="list-style-type: none"> • A prosperous city and • A well governed city and • A liveable city <p>Some potential for committing the Council's resources to projects other than the Council's own priorities, but can be largely managed by cost recovery.</p> <p>Effects on Maori: No particular impact</p> <p>Consistency with existing Council policies: No known inconsistency</p> <p>Views and preferences of persons affected or likely to have an interest: Likely to be favoured by land developers and opposed by those concerned about the effects of land development.</p> <p>Other relevant matters: Would cause some uncertainty for Council staff and applicants as to whether or not applications are likely to be rejected. May lead to adverse impacts on Council strategic planning exercises.</p>		

12 Cont'd

Option (b). All applications rejected within two-year period

	Benefits (current and future)	Costs (current and future)
Social	Cost savings. Allows the Council to concentrate on existing priorities	Possible costs if people are not allowed to promote changes.
Cultural	As above	As above
Environmental	As above	As above
Economic	As above	As above
<p>Extent to which community outcomes are achieved: Poor alignment with all</p> <p>Impact on Council's capacity and responsibilities:</p> <p>Effects on Maori: Denies opportunity to Maori to promote plan changes</p> <p>Consistency with existing Council policies:</p> <p>Views and preferences of persons affected or likely to have an interest: May be favoured by opponents some applications. Likely to be opposed by land developers and others with interest in applying for plan changes</p> <p>Other relevant matters: Not legal. Each application must be considered on its merits at time of receipt. Likely to generate legal challenges.</p>		

12 Cont'd

DRAFT POLICY ON PRIVATELY-REQUESTED PLAN CHANGES (FURTHER REPORT)

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	Environmental Services Manager
Author:	David Mountfort, DDI 941-8669

EXECUTIVE SUMMARY

1. At its meeting on Thursday 6 October 2005 the Council deferred consideration of the report before it at that meeting on a draft policy for privately-requested plan changes as it had received that day a copy of letters from Goodman Steven Tavendale, and Anderson Lloyd Caudwell, regarding the draft policy.
2. Councillors deferred consideration of the officers' report to enable officers to report back on the issues raised in the two letters and this report is intended to do that.
3. A question had also been raised at the meeting regarding the need for a draft policy regarding privately-requested plan changes.

FINANCIAL AND LEGAL CONSIDERATIONS

4. There are no relevant financial considerations. The adoption of the policy would have legal implications, in that the policy itself could be challenged in applications for judicial review, and any decision to request a private plan change for reasons similar to the policy could see the policy being examined and commented upon in the Environment Court.

STAFF RECOMMENDATION

It is recommended that clauses 4(c), (d) and (f) be deleted from the policy and that the balance remain.

NEED FOR A PRIVATE PLAN CHANGE POLICY

5. As explained in the substantive report before the meeting on 6 October 2005, with the City Plan becoming operative in November this year (on the basis that the Council adopts a staff recommendation to this effect to be considered at the 20 October 2005 meeting), then the Resource Management Act 1991 provides that any person has a legal right to apply to the Council for a privately-requested plan change. The 1991 Act provides limited grounds upon which the Council can decline such a request for a private plan change.
6. One of those grounds is that the Council may reject the request in whole or in part on the ground that *"...in the case of a proposed change to a plan, the plan has been operative for less than two years."*
7. It is this ground upon which the Council may reject private plan changes that officers are recommending that the Council adopt a policy to guide it when it decides whether or not to adopt or reject a private plan change request.
8. Certainly there is no legal requirement in the Resource Management Act for the Council to adopt a policy to guide it in making decisions on requests for private plan changes. The adoption of such a policy is a matter for the Council.
9. However, policies are often adopted by public bodies when actions under the same power are expected to be taken more than occasionally as this is seen to be desirable to ensure consistency of action. It is anticipated that the Council will receive a number of requests for private plan changes such as to warrant the staff recommending the Council adopt a policy to guide it when making decisions on such applications.

12 Cont'd

10. Having a policy is not unlawful but what is unlawful is the blind following of policy. The normal rule is that each application for a private plan change must be considered on its merits and that a claim by an applicant for a private plan change that the policy should not be followed in a particular case must be considered. This does not mean that exception to a policy must be made, but only that the Council must be open to persuasion in deciding that.
11. The draft policy recommended by the officers is primarily to give a signal to the community as to the matters the Council is likely to take into account in making a decision on an application. As noted above, the law requires that the Council must consider each application on its merits and must always be open to being persuaded that in a particular case the policy should not be followed.
12. Regarding the letters from the two law firms, they raise a number of points in common as follows:

(a) Policy will unlawfully fetter the Council's discretion.

This comment misunderstands the nature of this recommended policy. The advice to the Council has been consistently that it is required to consider all applications on their merits and the policy sets out some relevant issues the Council ought to consider in the interests of consistency. The Resource Management Act gives the Council discretion to reject any application within the two-year period and what the draft policy does is to signal to the community some situations when the Council may reject an application in a narrow range of situations. The adoption of a policy on its own is not an unlawful fettering of the Council's discretion so long as the Council accepts that it must always consider each application on its merits and that would no doubt be the case with applications for private plan changes.

Even if the Council did not adopt a policy the Council could still reject applications for private plan changes for the same reasons outlined in the policy in any event.

(b) Council ought not to consider such a policy without undertaking consultation under the Local Government Act 2002.

The Local Government Act 2002 requires the Council to make decisions in accordance with a number of provisions of the Act. Those decisions turn around consideration of all of the options and also a requirement that the views of those likely to be affected be taken into account. The Act clearly provides the Council with the power to make a judgement as to how to achieve compliance with these provisions, and in particular the extent and detail of the information to be considered and what degree it adheres to these decision-making requirements of the Local Government Act, and whether or not it chooses to consult on any particular matter. The persons likely to be affected are potentially very wide-ranging and not easily identifiable. Also given that the Council is making a policy and is not making a decision on a particular application, and the law requires the Council to consider each application on its merits when an individual decision is to be made, it is considered the Council can judge that it has complied with its Local Government Act requirements.

In the present situation the Council is considering to adopt a policy to be a guide to those situations when the Council is required to make a "decision" on a particular application for a private plan change. To extend the logic of the two law firms in saying that there must be consultation on the adoption of the policy would mean that if a person was to make an application for a private plan change to the Council, then there would also need to be public consultation on that application before the Council makes a decision whether or not to accept or reject the application. All this bearing in mind that if the Council adopts a private plan change request, then there is a public notification procedure in any event and which is set out in the attachment to the substantive report. If the Council was to reject the application for a private plan change, then the applicant has a right of appeal to the Environment Court against the Council's decision.

There is no legal requirement in the Act for the Council to consult on the formulation of a policy.

12 Cont'd

(c) The policy is targeted to urban growth.

This is incorrect, and may merely reflect the nature of the two law firms' own practice and clients. The Council has a number of thematic reviews underway which may lead to changes to the City Plan, examples being controls on higher-density housing, heritage buildings, Special Amenity Areas, Transport and Parking issues. Clause 4(a) of this draft policy deals with these.

(d) Applications that are caught by the policy will inevitably be turned down.

The draft policy certainly does not say this. It merely lists factors the Council should consider. There may well be countervailing factors that might persuade the Council to allow the application to continue.

(e) With regard to the Proposed Natural Resources Regional Plan, clause 4(c) of the draft policy deals with this. The argument is that there is a statutory regime for considering what weight to give to a proposed regional plan, the NRRP is at an early stage and the draft policy would tend to pre-empt the Act.

There is now some merit in this comment since when the policy was drafted. The Environment Court recently turned down an application by ECan to discontinue the Masham s293 proposal on exactly these grounds. This Council opposed the ECan application, and has submissions of its own opposing this aspect of the NRRP. Clause 4(c) was included in the draft policy because of the seemingly intractable issue the Masham application had become because of the NRRP. Now that the Environment Court has clarified this issue it is no longer a problem and clause 4(c) could safely be deleted.

(f) It is alleged that the Council is attempting to reinforce its application to strike out the Belfast s293 rezoning application. Council has previously opposed the Belfast application being allowed to be publicly notified and is attempting to recover control of the timing of events at Belfast by deferring rezoning applications until the Belfast Area Plan is complete.

This is incorrect. The basis for the Council's strikeout application is that the developers do not control all the land they need for their application and are unlikely ever to do so given the determined opposition of those who do own it. That makes the current application an expensive waste of time and money. Even if the Environment Court was to approve the proposal it is almost inevitable that the developers would have to return subsequently to the Council to have the plan modified again to provide for something they can actually build. That would be either a private plan change or a Council plan change following the Area Plan. The Area Plan is actually close to complete, so is unlikely to hold matters up for the whole two years, but sewerage and roading constraints are likely to severely limit development at Belfast in the medium term.

There is no connection between the policy and the strikeout application.

(g) The policy goes further than the grounds set out in the RMA for rejecting plan change applications.

This is not correct. The RMA gives five reasons for rejecting applications. The last of these is that the plan has been operative for less than two years. The draft policy simply qualifies and restricts this ground, ie narrows down the circumstances in which the Council might use that ground. So, far from adding to the statutory reasons, it actually reduces them.

12 Cont'd

- (h) **Council has made little progress with the Area Plans and it is unfair to restrict applications for this reason. In particular it has made no progress with the Memorial-Russley Hawthornden (MRH) Area Plan**

This is incorrect. The Council has made substantial progress with the South-West and Belfast Area Plans, and useful progress with the Upper Styx and MRH plans. Much critical information has been established. Some ongoing investigations are required. The MRH plan was previously making good progress but the staff concerned were all taken off the process by six major Environment Court references brought by a client of Anderson Lloyd Caudwell, all of which have been extremely protracted, and five of which were decided in favour of the Council while the other is about to be settled by consent. In one of those decisions the Court actually commented that the rezoning would be inappropriate until a comprehensive planning exercise for the area had been completed, ie gives complete endorsement for this part of the draft policy in respect of the MRH area. Since the conclusion of the Court cases, staff resources are being reassigned to the MRH Area Plan process.

- (i) **The Urban Development Strategy is at an early stage and it cannot be said how it will affect urban growth on the edge of Christchurch.**

In fact the UDS process has defined some clear issues relating to urban growth and is evaluating options for dealing with these. It is possible that traditional greenfields subdivision as we know it may be restricted after the UDS is completed and implemented. The UDS will be making substantial progress in the next two years and it is not unreasonable to use the opportunity provided by the RMA to limit major growth proposals during that time. In any case there are few if any sites on the periphery of Christchurch that will not be constrained for much longer than two years by roading and sewerage constraints. Deciding what is a major or significant development is a difficult issue but probably one best done on a case by case basis as proposed, rather than selecting some arbitrary size limit. It needs to be remembered that the UDS is looking at planning solutions that can accommodate around 120,000 people, so significant in UDS terms is going to be quite large.

- (j) **It is contrary to the weight of case law to reject proposals that are contrary to the objectives and policies of the City Plan. Case law tends to indicate that these are precisely the sort of proposals that need to be tested by plan change.**

Upon reflection, I agree with this. The existence of the objectives and policies goes more to the merits of a proposal and the applicants will already face the considerable burden of proving the objectives and policies are inappropriate or should not be applied. I would therefore support deletion of clause 4(d).

- (k) **Clause (f) lists a number of criteria that proposals should be assessed against. ALC suggest that these go more to the merits of a proposal and are not a good basis for rejecting an application without a hearing.**

On reflection, I agree. This clause merely repeats the City Plan and clause 4(c) could be deleted.

**13. REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD -
MEETING OF 6 SEPTEMBER 2005**

Attached.

**14. REPORT OF THE SHIRLEY/PAPANUI COMMUNITY BOARD -
MEETING OF 14 SEPTEMBER 2005**

Attached.

**15. REPORT OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD -
MEETING OF 20 SEPTEMBER 2005**

Attached.

16. NOTICES OF MOTION

17. QUESTIONS

18. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.