



# **CHRISTCHURCH CITY COUNCIL AGENDA**

**THURSDAY 15 JUNE 2006**

**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 Parker, Bob Shearing, Gail Sheriff, Sue Wells and Norm Withers.

<b>ITEM NO</b>	<b>DESCRIPTION</b>
1.	<b>APOLOGIES</b>
2.	<b>CONFIRMATION OF MINUTES - COUNCIL MEETING OF 8.6.2006</b>
3.	<b>DEPUTATIONS BY APPOINTMENT</b>
4.	<b>PRESENTATION OF PETITIONS</b>
5.	<b>CORRESPONDENCE</b>
6.	<b>DRAFT PUBLIC PASSENGER TRANSPORT STRATEGY</b>
7.	<b>RATIONALISATION OF "PAY AND DISPLAY" OPERATING CONDITIONS</b>
8.	<b>REVIEW OF TRADE WASTE BYLAW 2000 AND RELATED POLICIES AND CHARGES</b>
9.	<b>REVIEW OF ANIMALS (OTHER THAN DOGS) BYLAW 2000 AND THE KEEPING OF POULTRY, ANIMALS AND BEES BYLAW OF BANKS PENINSULA DISTRICT COUNCIL</b>
10.	<b>REVIEW OF FIRE PREVENTION BYLAWS</b>
11.	<b>REVOCATION OF THE CHRISTCHURCH CITY DANGEROUS GOODS INSPECTION FEES BYLAW 1990</b>
12.	<b>APPLICATIONS FOR EVENTS SEEDING AND CONFERENCE LOAN FUNDING</b>
13.	<b>ELECTION SIGNAGE - REVIEW OF COUNCIL POLICY</b>
14.	<b>CHRISTCHURCH CITY HOLDINGS LTD - DRAFT STATEMENT OF INTENT FOR LYTTELTON PORT COMPANY LTD</b>
15.	<b>SHARES HELD BY THE COUNCIL IN ORION GROUP LTD</b>
16.	<b>PANDEMIC PLANNING</b>
17.	<b>APPOINTMENT OF ADDITIONAL MEMBER OF COUNCILLOR TRAVEL/CONFERENCE ATTENDANCE APPROVAL SUBCOMMITTEE</b>

15. 6. 2006

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<b>ITEM NO</b>	<b>DESCRIPTION</b>
18.	REPORT OF THE AKAROA/WAIREWA COMMUNITY BOARD - MEETING OF 21 APRIL 2006
19.	REPORT OF THE BURWOOD/PEGASUS COMMUNITY BOARD - MEETING OF 3 MAY 2006
20.	REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD - MEETING OF 11 APRIL 2006
21.	REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD - MEETING OF 26 APRIL 2006
22.	REPORT BY THE CHAIRPERSON OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD REGARDING MILLBROOK RESERVE
23.	REPORT OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD - MEETING OF 1 MAY 2006
24.	REPORT OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD - MEETING OF 12 APRIL 2006
25.	REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 26 APRIL 2006
26.	REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 9 MAY 2006
27.	REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 12 MAY 2006
28.	REPORT OF THE SHIRLEY/PAPANUI COMMUNITY BOARD - MEETING OF 3 MAY 2006
29.	REPORT OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD - MEETING OF 2 MAY 2006
30.	NOTICES OF MOTION
31.	QUESTIONS
32.	RESOLUTION TO EXCLUDE THE PUBLIC

15. 6. 2006

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1. **APOLOGIES**
  
2. **CONFIRMATION OF MINUTES - COUNCIL MEETING OF 8.6.2006**  
Attached.
  
3. **DEPUTATIONS BY APPOINTMENT**
  
4. **PRESENTATION OF PETITIONS**
  
5. **CORRESPONDENCE**

## 6. DRAFT PUBLIC PASSENGER TRANSPORT STRATEGY

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8656
<b>Officer responsible:</b>	Transport & City Streets Manager
<b>Author:</b>	Robert Woods, Transport Planner Public Passenger Transport

### PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to undertake citywide public consultation on the draft of a new Public Passenger Transport Strategy (attached – to be termed “metro strategy”). This is a full review of the current strategy document entitled ‘Our Future – Our Choice’, first produced by the City and Regional Councils in 1998, and updated in 2003.

### EXECUTIVE SUMMARY

2. The City Council and Regional Council first adopted a joint Christchurch public passenger transport strategy in June 1998. The strategy (entitled “Our Future – Our Choice”) set a new direction for public transport at a time when it was only just beginning to recover from a sustained decline in use, in part as a result of deregulation of public transport and a fragmentation of services, combined with major public sector employment changes and a cheaper imported vehicle market. The development of this strategy involved extensive public engagement, and through the analysis of submissions and the work of an advisory group made up of key stakeholders from across the community, formed a vision with goals and targets, improvements and investigations to be undertaken by each Council. The key focus for the strategy was developing a public transport system to tackle the growing threat of traffic growth and congestion. Short and long term targets were set including:
  - 100% patronage growth in 10 years (by 2008 17 million trips), 400% patronage growth in 20 years (by 2018 at least 42.5 million trips)
  - Proportion of trips made by public transport increases from 3% to 10-15% in 20 years
  - Per capita use of public transport increases from 26 to over 50 in 10 years, and to over 100 in 20 years.
3. The list of improvements and investigations was extensive, reflecting ambitions at the time but also the quality gap that existed between what was provided at the time and passenger expectations. With greater investment in public transport by both Councils following adoption of the strategy, a number of improvements came about including improved bus stop infrastructure, improved service coverage and frequency (including the introduction of the Orbiter), newer vehicles and improved fare structures, the central city shuttle and of course the Bus Xchange.
4. In 2002/03, the strategy was reviewed to confirm that the vision, goals and targets were still valid with the community, and to renew the list of improvements and investigations. The focus again of this strategy was the growth in traffic volumes and congestion and the need to combat this through improvements to public transport. Since adoption by the Councils of that update to the strategy, a number of further improvements to the system have come about including introduction of the metrocard, greater roll out of real time information at bus stops, more passenger shelters, service frequency improvements, the metrostar and the soon to be introduced bus priority corridors.
5. In the seven financial years to June 2005, patronage has increased from about 8.5 million passenger trips in 1997/98 to over 15 million trips in 2004/05, or about 70%. By June 2008 it is expected that the 17 million trip target will have been surpassed.
6. In December 2005 the Council approved a four stage process and a timeline for a full review of the Public Passenger Transport Strategy in line with the expiry date of the current strategy (June 2006). The structure of the review is identical to the way the first public transport strategy was developed so as to maintain the strong community buy-in and support and robust development process. This review process and its structure is contained within the report to Council made in December 2005.

## 6 Cont'd

7. Stages one and two of the review (issue identification and draft strategy development) are now complete. The issue identification stage was undertaken in a number of ways, comprising:
- Focus groups (including a teenagers group formed with the assistance of the Community Support Unit) to explore thoughts, feelings and attitudes to the present and future of public transport
  - In-depth interviews with passenger segments not best suited to the focus group environment, including recent migrants and intellectually and physically disabled users
  - Telephone interviews with 400 randomly selected respondents
  - Community Board meetings
  - Attendance at community group meetings
  - Distribution of 15,000 citywide public consultation brochures
  - Advertising on the inside of buses and other public locations
  - Development of the website [www.metrostrategy.org.nz](http://www.metrostrategy.org.nz)
8. In the 800 or so submissions received on the citywide consultation, over 2,000 comments were made on various topic areas as outlined below. These topics also came through in the focus groups, in-depth interviews and telephone interviews:
- Bus Priority Measures / Reliability (18.9%)  
 Improved Frequency (12.9%)  
 Marketing / Information Provision (9.4%)  
 Reduced Fares (6.6%)  
 Interchange Capacity (6.2%)  
 Improved Vehicles (6.0%)  
 Driver Training (5.5%)  
 Improve Coverage (4.5%)  
 Improved Shelters/Seats (3.7%)  
 Longer Transfer Time (2.6%)  
 Parking / Pricing Schemes (2.6%)  
 Park n Ride (1.7%)  
 Rail (1.6%)  
 Safety (1.0%)  
 Bikes on Buses (0.7%)
9. To initiate stage 2 of the review, these issues were presented to the reformed Passenger Transport Advisory Group<sup>1</sup> (PTAG) that was briefed to shape the draft strategy using all the feedback received from the consultation. The PTAG met on five occasions, at approximately fortnightly intervals between early February and late April to discuss current transport issues and trends, review the feedback from consultation and form the draft strategy text that is now presented for approval to consult further on.
10. The draft vision and goals remain valid today and are largely unchanged as the PTAG felt the current statements in the strategy articulated very accurately the themes coming through from the consultation. PTAG did request a minor addition that safety of the system (for users, drivers, other road users) be explicitly identified as a goal.
11. In keeping with the precedent set in the 1998 strategy for tough targets, more challenges are proposed. The PTAG discussed at length what had been achieved so far, what still had to be achieved and what future issues may come along to influence the transport sector. The main focus for discussions was on the patronage gains that would possibly come from achieving greater reliability (through improvements including greater roll out of bus priority measures) and through a greater focus on effective marketing of the system. Recent fuel price rises and the availability of fossil fuels and alternative fuels in the future also sparked debate. It was agreed that even with technology improvements and alternative fuels for cars, public transport had a major role to play in providing the community with a convenient and reliable alternative transport option as vehicle operating costs and congestion continue to rise.

<sup>1</sup> Membership – Councillor Shearing, Councillor Buck, Councillor Wagner, Councillor Carroll (both ECan), representative for secondary students, representative for Age Concern Canterbury, 6 bus user/non-user representatives, representative for taxi federation, representative for AA, 3 representatives for bus companies, representative for IHC, representative for Chamber of Commerce, representative for University of Canterbury, representative for Spokes, representative for Burwood Spinal Unit.

## 6 Cont'd

12. It was determined that provided the improvements were achieved for the system as outlined in the strategy to give people a quality alternative, a target to double current patronage by June 2012 (to 32 million trips) was a challenging but realistic target given the expected continued rise in fuel prices. This would represent the early achievement of current targets, to the extent that the 2015 target would be achieved by 2012.
13. A comparison of patronage achievements to date, along with current strategy targets and those proposed in the draft are outlined below. The 2005/06 patronage total in italics is a reliable estimate and is used as the base for the new 100% patronage gain target for 2012.

Financial year	Current targets – million trips (actuals in brackets)	Draft targets – million trips
<b>97/98 base</b>	<b>(8.50)</b>	-
98/99	8.87	-
99/00	9.53 (9.58)	-
00/01	10.25 (10.49)	-
01/02	11.02 (12.89)	-
02/03	11.84 (14.73)	-
03/04	12.73 (14.59)	-
04/05	13.69 (15.20)	-
<b>Now - 05/06</b>	<b>14.71 (16.00)</b>	<b>16.00</b>
06/07	15.82	17.96
<b>2007/08</b>	<b>17.00 – 100% growth</b>	20.16
08/09	18.63	22.63
09/10	20.42	25.40
10/11	22.38	28.51
11/12	24.53	<b>32.00 – 100% growth since 2006</b>
12/13	26.88	-
13/14	29.47	-
14/15	32.29	-
15/16	35.39	-
16/17	38.79	-
<b>2017/18</b>	<b>42.5 – 400% growth</b>	-

14. The proposed draft strategy targets require average annual patronage growth of 12.25%. Since 1998 the average annual rate of patronage growth has been 8.6%. The PTAG believed vehicle operating cost increases (including fuel prices, parking charges, etc) accompanied by ongoing infrastructure and service improvements (such as bus priority roll out, frequency improvements, etc) would be sufficient to accelerate the rate of patronage growth.
15. Once approved, the draft strategy text will be included in a consultation document taking the form and style of the current strategy booklet. The current strategy has good market recall (albeit with some important lessons learnt from recent market research) which will be valuable if a good level of response is to be made to the consultation. The formal consultation period will last six weeks. During this time each Community Board will be invited to submit its views on the draft strategy, with staff in attendance at meetings as necessary to provide advice. All other usual channels of communication with the general public and stakeholders will be used. As with previous strategies and in line with the primary theme of the community's feedback, the strategy wording will be framed around the continued threat of traffic congestion and the need to tackle it by attracting more people onto public transport through continued level of service improvements.

**6 Cont'd**

16. PTAG has recommended that the next strategy review take place in 2011/12 to set a course beyond June 2012.
17. The Regional Council approved this draft strategy for public consultation on 26 April 2006.
18. It is anticipated that following public consultation, feedback review and some final strategising sessions by the PTAG, a final draft strategy for adoption by the Council will be presented in September 2006.

**FINANCIAL AND LEGAL CONSIDERATIONS**

19. The final strategy will set out the community's vision and goals for public transport, identifying where improvements are necessary from both Councils. The MCTS identifies additional funding for passenger transport (and in other areas) in the current draft LTCCP 2006/16 (the bus xchange expansion is identified separately). It is believed at this time that the investment signalled by the City Council in the draft LTCCP is sufficient to meet its obligations under the new strategy once adopted. If medium to longer term changes are required, these can be incorporated into planning processes for the 2009/19 Community Plan preparation.
20. The Canterbury Regional Council's current draft LTCCP outlines a 65% growth in operating expenditure between now and 2011/12. This growth represents more investment in levels of service but also a rise in operating costs expected through higher tendered prices for services.

**STAFF RECOMMENDATIONS**

It is recommended that the Council:

- (a) Thank the Passenger Transport Advisory Group (PTAG) members for their work on developing the strategy to date.
- (b) Agree to formal public consultation being undertaken on the attached draft metro strategy.

## 7. RATIONALISATION OF “PAY AND DISPLAY” OPERATING CONDITIONS

<b>General Manager responsible:</b>	General Manager City Environment DDI 941-8656
<b>Officer responsible:</b>	Acting Manager Transport and City Streets
<b>Author:</b>	Barry Cook, Acting Team Leader Network Operations

### PURPOSE OF REPORT

1. The purpose of this report is to inform the Council of the issues associated with the multitude of hours, days and maximum time periods that the existing parking meters operate, how this will affect the operation of the new ‘Pay & Display’ machines, and to propose a way forward.

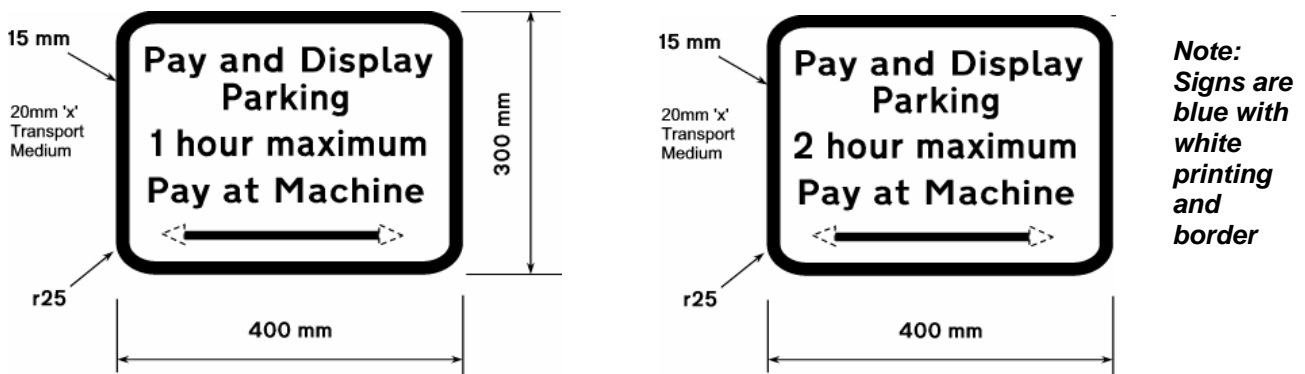
### EXECUTIVE SUMMARY

2. The Council has approved the purchase and installation of the ‘Pay & Display’ machines to replace the existing parking meters.
3. The ‘Pay & Display’ machines will issue a receipt that must be displayed on the vehicle’s dashboard.
3. The promotion for the ‘Pay & Display’ emphasises the advantages of being able to use this receipt in other ‘Pay & Display’ areas providing the time purchased has not expired or the maximum time for the area is not exceeded.
4. Time can also be purchased from any ‘Pay & Display’ machine. The current parking meters have seven different times of day and days of the week and two different maximum parking periods. This relates to 10 different combinations covering the existing parking meters.
5. This can be confusing for users of this system and complicates enforcement.
6. Staff did a presentation to a Council seminar on Tuesday 9 May 2006 outlining these issues and providing information on the signs that were prescribed by the Land Transport Rule Traffic Devices 2004.
7. Feedback from the seminar was:
  - (a) That there was a need to standardise the times, days and maximum parking periods.
  - (b) That consultation was an important part of this process.
  - (c) That there were opposing views on what was the best solution for rationalisation.
  - (d) There was concern expressed over the visual effect of sign clutter.
  - (e) Staff would present options with the ramifications to Council for the decision on final rationalisation.
  - (f) Options should be as much as possible cost neutral.
8. Further investigations into the requirement of the law and legal interpretation has found that the size of signs, number of signs and the wording on the signs can be changed from that presented at the Council seminar.
9. A recent High Court decision on a legal challenge of the signs used in Wellington has clearly defined ‘Pay & Display’ machines as “Parking Meters”. There is no legal requirement for signage for parking meters providing they are nearby and obvious. This is quite different to the requirement for signage each side of every parking restriction, when displaying a ‘P’ on the signs as outlined in the Council seminar.
10. The Christchurch City Traffic and Parking Bylaw 1991 covers in detail the provision of metered areas, fixation of fees, when parking by meters applies, payment of fees and parking in multiple parking meter areas.
11. Providing the ‘Pay & Display’ machines are nearby and obvious, the details of the hours of operation, day of the week and maximum parking period can be displayed on the machine in the same way as they are at present on the existing parking meters.



7 Cont'd

12. It is proposed to have the 'Pay & Display' machines covering up to approximately eight parking spaces. This is similar to the current "multi bay" parking meters. To achieve this there is a need to eliminate isolated parking meters.
13. It is proposed to install signs at the beginning and end of each block and additional signage in between, if the distance between these signs exceeds 100m.
14. This will reduce the number of different signs to two. These will show one hour and two hour maximum parking period. The total number of signs that need to be installed will be significantly reduced from that presented at the seminar. The signs shown below are indicative of what is proposed.



15. The rationalisation of the hours of operation and days of week, still needs to be addressed. However this process can be carried out without having to shortcut the consultative process, as the changes can be implemented after the meter installation completion date of 16 July 2006 as these changes will be carried out on the 'Pay & Display' machines themselves.
16. A report presenting the outcome of consultation and providing options and their ramifications will be presented to the Council at a future meeting.
17. In addition to this, another report will be presented to the 15 July 2006 meeting which proposes changes to eliminate isolated parking meters and re-designate all other parking metered spaces as 'Pay & Display' areas.
18. A separate memo will outline the current fine structure that will be applied to the enforcement at 'Pay & Display' parking areas.

**FINANCIAL AND LEGAL CONSIDERATIONS**

19. The cost of the signs have been allowed for in the overall 'Pay & Display' project budget. The proposal in this report will result in a minor overall saving in what was initially allowed for signs.
20. The provision of 'Metered' parking is defined in the Land Transport Rule Traffic Devices 2004 and has been more recently clarified by a High Court ruling.
21. The Christchurch City Traffic and Parking Bylaw 1991 further defines the local requirements for the operation of parking meters.

**CONCLUSION**

22. Research into the legal requirements has provided information that defines 'Pay & Display' machines as 'Parking Meters'.
23. As such the hours of operation, day of the week and maximum parking period only has to be displayed on the machine.

**7 Cont'd**

24. In addition to this, it is proposed to install a limited number of signs which will help motorist identify where the 'Pay & Display' machines are located.
25. In depth consultation needs to be carried out before a further report can be presented with options for a Council decision on rationalising time of day, day of week and maximum parking period.
26. This consultation can be carried out after the completion date of 16 July 2006 for the installation of the 'Pay & Display' machines.

**STAFF RECOMMENDATION**

It is recommended that the Council receive the advice given in this report and support the commencement of consultation on the rationalisation of time of day, days of the week and maximum parking periods.

**8. REVIEW OF TRADE WASTE BYLAW 2000 AND RELATED POLICIES AND CHARGES**

<b>General Manager responsible:</b>	General Manager City Environment DDI 941-8656
<b>Officer responsible:</b>	City Water and Waste Manager
<b>Authors:</b>	Mike Bourke; Gareth Phillips; Zefanja Potgieter

**PURPOSE OF REPORT**

1. The purpose of this report is to recommend commencing a public consultation process to review the 2000 Trade Waste Bylaw, and related policies and charges.

**EXECUTIVE SUMMARY**

2. The Local Government Act 2002 requires the review of all existing bylaws by 2008. This report focuses on the 2000 Trade Waste Bylaw and related trade waste policies and charges, which have been reviewed to align with the Standards NZ Model Trade Waste Bylaw. Following a Council seminar on 9 May 2006, the report recommends commencing a statutory two month public consultation period.

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council resolve that it has determined that, as is required in terms of Section 155 of the Local Government Act 2002:
  - (1) a bylaw is the most appropriate way to address the management of discharges from trade waste;
  - (2) the form of draft bylaw is the most appropriate form; and
  - (3) there are no inconsistencies between the draft Trade Waste Bylaw 2006 and the New Zealand Bill of Rights Act 1990.
- (b) That the attached Statement of Proposal for the draft Trade Waste Bylaw 2006, the Draft Trade Waste Bylaw 2006 itself, and the Draft Trade Waste Policy and Schedule of Charges 2006 be approved to be publicly notified subject to the Local Government Act 2002 special consultative procedure with public submissions to be made between 7 June 2006 and 7 August 2006, with the hearing of submissions to take place as set out in the report.
- (c) That a Trade Waste Bylaw Hearings Panel be appointed to hear submissions as set out in the report.

8 Cont'd

**BACKGROUND ON REVIEW OF TRADE WASTE BYLAW 2000 AND RELATED POLICIES AND CHARGES**

3. Trade waste relates to all commercial wastewater that flows into the Council's sewer system from all industrial and commercial premises, therefore not from residential properties. The Council has had a trade waste bylaw since 1968, and the current bylaw has been in operation since 2000.
4. The reasons for having a trade waste bylaw include:
  - Protecting the environment
  - Protecting the sewer system infrastructure
  - Protecting sewer system workers
  - Ensuring compliance with consent conditions by providing a structure for control and monitoring of industrial discharges
  - Ensuring fair apportionment of costs between residential and trade waste dischargers
  - Promoting water conservation, waste minimisation and cleaner production.
5. The Local Government Act 2002 requires the review of all existing bylaws by 2008, and with the amalgamation of Christchurch City with Banks Peninsula a revised new bylaw would apply one set of incentives and rules to the whole of the enlarged municipal area - Banks Peninsula has not had an operative trade waste bylaw in place to date. In addition to the 2000 Trade Waste Bylaw the Council also has an operative 'Trade Waste Policy and Schedule of Charges' which has been reviewed annually, and which has therefore been included in the current review process.
6. Some good news examples achieved under the existing bylaw include:
  - (a) As a result of bylaw enforcement a vegetable wash company which exceeded the suspended solid consent limit, with adverse impacts on the Belfast treatment plant, took action and put in place a water recycling plant resulting in virtually no discharge and no disposal cost, plus reducing their cost for potable water substantially.
  - (b) The levels of certain heavy metal levels in biosolids have been reduced over time to such an extent that it is now below (better than) the Class A New Zealand Biosolids Guideline standard. This has been achieved through bylaw enforcement and pre-treatment facilities.

**REVIEW OF BYLAW, POLICY AND CHARGES**

7. The Local Government Act 2002 process for the review of a bylaw includes a preliminary step in terms of Section 155 where the Council has to determine whether a bylaw is the most appropriate way of addressing the situation ie in this instance regulating trade wastes to achieve the outcomes set out in paragraph 4. Section 155 also applies to the review of an existing bylaw, not just to the making of a new bylaw.
8. In order to comply with Section 155 there are three theoretical options:
  - (a) Let the current bylaw lapse and do nothing. This is clearly unacceptable.
  - (b) Work co-operatively with industry with no bylaw or regulation back-up. This option is not recommended as there has been an effective bylaw in place in Christchurch since 1968.
  - (c) Have in place a regulatory tool such as the review of the 2000 Trade Waste bylaw. At local government level bylaws have proved to be an effective tool in general, including the management of trade waste in particular.

## 8 Cont'd

9. In order to comply with Section 155 the Council needs to formally resolve that a bylaw is the most appropriate way to deal with trade waste in the Christchurch area, and if so that this form of bylaw is the most appropriate form and that it is not inconsistent with the New Zealand Bill of Rights Act 1990. Regarding the 'most appropriate form' requirement, the attached Draft Bylaw follows the Standards New Zealand Model bylaw for trade wastes which has already been widely adopted in line with the recommendations contained in the 2000 New Zealand Waste Strategy.
10. A bylaw of this type may give rise to possible implications concerning the Council's power to make determinations in respect of a person's rights, obligations, or interests protected or recognised by law, as identified in section 27 of the New Zealand Bill of Rights Act 1990. Where the Council has such a power it must observe the principles of natural justice. Nothing in this Bylaw is inconsistent with section 27 or any other provision of the New Zealand Bill of Rights Act 1990.
11. Reasons for the current review of the 2000 Bylaw and related policy and charges include:
  - (a) new treatment processes at the wastewater treatment plant providing higher levels of treatment;
  - (b) changing the measurement of organic strength to industry standard;
  - (c) addressing issues relating to fats, oil and grease in certain discharges;
  - (d) recent availability of waste tracking systems for liquid waste;
  - (e) the availability of the *Guidelines for safe application of biosolids to land in New Zealand*;
  - (f) providing a basis for including Hazardous Substances and New Organisms Act 1996 requirements; and
  - (g) reviewing some dated definitions in the existing bylaw.
12. Key changes of the review include:
  - (a) The bylaw will apply to all of Christchurch including Banks Peninsula
  - (b) Increases of less than 6.9% in trade waste charges for consented dischargers
  - (c) Adopting 95 percentile metal concentrations in compliance with the *Guidelines for safe application of biosolids to land in New Zealand*
  - (d) New requirements for all permitted dischargers to be registered and to pay an annual connection fee of \$112.50
  - (e) Increased application fees for consent holders
  - (f) Changes to the existing charging formula:
    - (i) Changing to a 3 year rolling average from a 6 year rolling average for flow measurement
    - (ii) Changing from the current 6 year rolling average to the most recent year's organic load and solids calculations
  - (g) Requiring tankered waste to comply with an approved waste tracking system.
  - (h) Change the measurement of organic strength in discharges from BOD (biochemical oxygen demand) to COD (chemical oxygen demand)
  - (i) Adopt the industry standard for measuring suspended solids
  - (j) Progressively reduce the peak to off-peak ratio from the current 3:1 to an eventual 1.5:1 in 2009/10 and onwards
  - (k) Requiring all dental service facilities to provide amalgam management procedures.
  - (l) Phase out the domestic equivalent allowance for industry over a six year period as from 1 July 2005.

**8 Cont'd**

13. Attachment A contains a graph that compares Christchurch's existing charges and proposed new charges with other urban centres in New Zealand and Australia indicating a position close to the median.
14. All stakeholders will have a statutory two month period in which to make submissions on the proposed bylaw and related policies and discharges, as set out below. As Banks Peninsula trade waste dischargers will for the first time be operating under a trade waste bylaw, staff have met with some key stakeholders in the Lyttelton area.
15. Process from here:
  - *Councillor seminar was held on 9 May*
  - Council meeting to authorise public consultation – 1 June
  - Special consultative procedure (public consultation) in terms of the Local Government Act 2002 from 7 June to 7 August. As a statutory requirement the Ministry of Health will also be provided with a copy of the proposed bylaw in order to comment.
  - Hearing of submissions scheduled for 14 August.
  - Council meeting in September to receive the report from the Hearings Panel and consider adopting the Draft Trade Waste Bylaw 2006 and the Draft Trade Waste Policy and Schedule of Charges 2006, with a suggested date of operation of 1 October 2006.
16. A hearings panel (suggested to consist of three elected members) needs to be appointed by the Council on 1 June for a the hearing of submissions on 14 August, with 15 August being a reserve day if needed.
17. The attachments to the report are:
  - Attachment A: Comparison of charges in major centres
  - Attachment B: Statement of Proposal as required by Sections 83 and 86 of the Local Government Act 2002.
  - Attachment C: The Draft Trade Waste Bylaw 2006.
  - Attachment D: The Draft Trade Waste Policy and Schedule of Charges 2006.

**SUMMARY**

18. The attached draft Bylaw, and Policy and Schedule of Charges will result in changed compliance standards for certain customers. In addition there are limited increases of up to 6.9% for discharges, and new or higher administration charges for certain customers. The overall costs for customers remain in the median range for cities in New Zealand and Australia. Approval of this report will commence a statutory public consultation process with final determination in September.

## 9. REVIEW OF ANIMALS (OTHER THAN DOGS) BYLAW 2000 AND THE KEEPING OF POULTRY, ANIMALS AND BEES BYLAW OF BANKS PENINSULA DISTRICT COUNCIL

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Terence Moody

### PURPOSE OF REPORT

1. The purpose of this report is to consider a review undertaken of the above bylaws and a proposal to consider the control of the number of cats that may be kept at premises in the city.

### EXECUTIVE SUMMARY

2. Bylaws that were made under the Local Government Act 1974 and in force on 1 July 2003 (when the Local Government Act 2002 came into force) continue in force but the 2002 Act requires that they must be reviewed within five years of 1 July 2003. So they must be reviewed by 30 June 2008. Bylaws made under the 2002 Act itself must be reviewed within five years after the date they were made. Once reviewed bylaws must be reviewed 10 yearly. The Act requires the Council to use the special consultative procedure in reviewing each bylaw and the Council must, before beginning the formal review process "*determine whether a bylaw is the most appropriate way of addressing the perceived problem.*" [section 155(1) Local Government Act 2002]
3. In the normal course of events the Animals (Other than dogs) Bylaw would be due for review sometime before June 2008. However, the Council at its meeting on 30 June 2004 on the draft Long Term Council Community Plan decided:
  - (b) *That staff review the current bylaw with a view to including provisions for the control of the number of cats that a household may retain and to effective penalties for breaches of the bylaw.*<sup>2</sup>
4. In the case of a review all the matters included in section 155 must be considered, including whether a bylaw is the most appropriate way of addressing the problem. As any reviewed bylaw is likely to remain in force for a period of at least five years, but could be as long as 10 years following review, this opportunity has been taken to re-examine all provisions. In undertaking these bylaw reviews the approach that has been taken follows that of the Ministry of Economic Development *Code of Good Regulatory Practice*.<sup>3</sup>
5. The Christchurch City bylaw currently in force, as introduced in 2000, consolidated similar titled bylaw provisions previously in force in the territorial authorities that were amalgamated into the present Christchurch City in 1989. At the time of developing the bylaw the opportunity was taken to simplify the provisions compared with previous bylaws but still retain a bylaw applying over the whole city. At the time it was realised that central government legislation, introduced since previous bylaws had been made, regulated many of the matters which had been the subject of bylaw controls. The City Plan, then notified, also contained matters that previously would have been included in such bylaws.
6. It is considered sufficient legal powers exist for the control of nuisances and matters of animal welfare under national legislation such as the Health Act 1956; the Animal Welfare Act 1999; the Building Act 2004; The Agricultural Pests (Exemption of Domestic Rabbits) Order 1994; Wildlife (Farming of Unprotected Wildlife) Regulations 1985; Animal Products Act 1999; Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998 and the Impounding Act 1955. A legal opinion is as follows on the matter of covering matters covered by central government legislation:

*Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, to make a bylaw duplicating those offences.*<sup>4</sup>

<sup>2</sup> *Annual Plan Subcommittee Report*, clause 24, Christchurch City Council, 30 June 2004

<sup>3</sup> Ministry of Economic Development, *Code of Good Regulatory Practice*, Quality of Regulation Team, Competition and Enterprise Branch, November 1997

<sup>4</sup> Chris Gilbert, 3 May 2005, *op cit*

**9 Cont'd**

7. In two years the Environmental Services Unit has dealt with 309 complaints related to animals, bees and poultry. About half of these referred to problems with poultry or birds; about a third regarding animals or stock; and 20 per cent regarding bees or wasps. The total complaints referred to 279 properties over the city over the two years, or 0.21 per cent of the estimated 135,000 households at June 2005. It is therefore not a significant issue in Christchurch City. On the basis of the examination of the problems caused by the keeping of animals it appears these are generally minimal.
8. The additional controls over cats being sought result from a relatively small number of cases occurring in the city. In the last year (September 2004 to August 2005) most complaints have related to what have been described as feral, semi feral or abandoned cats. These are not cases that could be dealt with under any bylaws relating to the keeping of animals as they effectively do not have any owners. About 40 complaints at 33 properties have been dealt with by pest control services on behalf of the Council. Given that it is estimated that there are 60,000 households keeping cats and about 20,000 with two or more cats, there are in the order of 88,000 cats kept in the city. The complaint rate is therefore very small about 0.05% of cat keeping households and of the total number of cats. No further controls are therefore considered necessary.
9. It is considered there are sufficient powers under central government legislation to control nuisances arising from the keeping of animals, and indeed to control animal welfare issues that may arise from time to time. In reality the nuisance sections of the Health Act 1956 are used to control such matters and these are wide enough to control matters that have been the subject of complaint. These provisions also cover the problems caused by noise from animals although noise provisions of the Resource Management Act 1991 are also likely to apply.
10. On the basis of this examination it is considered that any perceived problems caused by the keeping of animals relate to potential nuisances, either public or statutory, and these matters are controllable through the provisions of central government legislation. As such it is not considered that a bylaw is the most appropriate way of addressing the problem in terms of section 155(1) of the Local Government Act 2002. Accordingly it is considered that both the Christchurch City Animals (Other than Dogs) Bylaw 2000 and the Banks Peninsula District Council Animal Control Bylaw (NZS 9201 Chapter 13: 1972) should be revoked.

**FINANCIAL AND LEGAL CONSIDERATIONS**

11. There are limited cost implications, although changes in the staff undertaking the inspection and enforcement may be required. Such staff would still be employed in the same Unit as present. The number of cases dealt with are relatively small.

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council resolve that it is satisfied that such bylaws are not necessary in terms of sections 155 of the Local Government Act 2002 and therefore should be revoked.
- (b) That the attached statement of proposal and summary be adopted and made available for public inspection at all Council Service Centres, Council libraries and on the Council's website.
- (c) That public notice of the proposal be given in 'The Press' and in the "Christchurch Star" newspapers and on the Council's website on 21 June 2006.
- (d) That the period within which written submissions may be made to the Council be between 21 June 2006 and 9 August 2006.
- (e) That the Council appoint a Hearings Panel to consider and where necessary hear any submissions on these bylaw revocations and other bylaws being considered at a similar time.

## 9 Cont'd

**BACKGROUND ON REVIEW OF ANIMALS (OTHER THAN DOGS) BYLAW 2000 AND THE KEEPING OF POULTRY, ANIMALS AND BEES BYLAW OF BANKS PENINSULA DISTRICT COUNCIL**

12. The Local Government Act 2002 [section 158] requires that Council bylaws must be reviewed. Bylaws that were made under the Local Government Act 1974 and in force on 1 July 2003 (when the Local Government Act 2002 came into force) continue in force but the 2002 Act requires that they must be reviewed within five years of 1 July 2003. So they must be reviewed by 30 June 2008. Bylaws made under the 2002 Act itself must be reviewed within five years after the date they were made. Once reviewed bylaws must be reviewed 10 yearly. The Act requires the Council to use the special consultative procedure in reviewing each bylaw and the Council must, before beginning the formal review process, "*determine whether a bylaw is the most appropriate way of addressing the perceived problem.*" [section 155(1) Local Government Act 2002]
13. In the normal course of events the Animals (Other than Dogs) Bylaw would be due for review sometime before June 2008. However, the Council at its meeting on 30 June 2004 on the draft Long Term Council Community Plan decided:
- (b) *That staff review the current bylaw with a view to including provisions for the control of the number of cats that a household may retain and to effective penalties for breaches of the bylaw.*<sup>5</sup>
14. In the case of a review all the matters included in section 155 must be considered, including whether a bylaw is the most appropriate way of addressing the problem. As any reviewed bylaw is likely to remain in force for a period of at least five years, but could be as long as 10 years following review, this opportunity has been taken to re-examine all provisions. In undertaking these bylaw reviews the approach that has been taken follows that of the Ministry of Economic Development *Code of Good Regulatory Practice*.<sup>6</sup>
15. Some of the relevant matters included in the above, fit well into the requirements for decision-making adopted by this Council, and include *efficiency* in adopting only regulations for which costs to society are justified by benefits to society and achieving objectives at lowest cost taking into account alternative approaches to regulation. *Effectiveness* includes designing the regulation to achieve the desired policy outcome including reasonable compliance rate i.e. it is able to be effectively enforced and that it is compatible with the general body of law. *Transparency* includes clearly defining the nature and extent of the problem and identifying how the regulation aids in reaching compliance.<sup>7</sup>

**The Control of the Keeping of Animals**

16. The general bylaw making power is contained in section 145 of the Local Government Act 2002 and covers bylaws for the purposes of *protecting the public from nuisance; protecting, promoting, and maintaining public health and safety; and minimising the potential for offensive behaviour in public places*. Section 146(a)(v) specifically allows for the making of bylaws for the *keeping of animals, bees, and poultry*.
17. The Legal Services Manager, in a legal opinion<sup>8</sup> in relation to possible bylaw controls over "NOS shops" stated:
- Council may pass bylaws to protect the public from "nuisance". A public nuisance is one which inflicts damage, injury, discomfort, or inconvenience on all members of the public who come within the sphere of its operation. The question of whether the number of persons affected is sufficient to render the nuisance public, one which the Council should address this is a question of fact and degree.(sic)*

<sup>5</sup> *Annual Plan Subcommittee Report*, clause 24, Christchurch City Council, 30 June 2004

<sup>6</sup> Ministry of Economic Development, *Code of Good Regulatory Practice*, Quality of Regulation Team, Competition and Enterprise Branch, November 1997

<sup>7</sup> Ministry of Economic Development, 1997 *op cit*

<sup>8</sup> Chris Gilbert, Legal Services Manager, Christchurch City Council, Legal Opinion, 3 May 2005



## 9 Cont'd

18. The Health Act 1956 also contains the power, under section 64(1) to make bylaws for:

*(a) [Improving, promoting, or protecting] public health, and preventing or abating nuisances:  
(m) Regulating, licensing, or prohibiting the keeping of any animals in the district or in any part thereof:*

These specific Health Act powers relate to areas broadly termed environmental health matters and the use of the term nuisance in this case would, more than likely<sup>9</sup>, to be in relation to offensiveness or matters injurious to health. Section 29 of the Health Act defines "nuisances" for the purpose of that Act, and contains the following provisions relate to the keeping of animals.

*(j) Where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:*

*(k) Where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:*

*(ka) Where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:]*

19. The provisions of the Health Act 1956 place a duty on local authorities, and they are empowered and directed *If satisfied that any nuisance, or any condition likely to be injurious to health or offensive, exists in the district, to cause all proper steps to be taken to secure the abatement of the nuisance or the removal of the condition;*<sup>10</sup> The Act provides the following means of requiring abatement of any nuisance. Under section 33 the matter may be considered in the District Court and the Court may require the owner and the occupier to abate the nuisance effectively, can prohibit the recurrence of the nuisance, and specify the works to be done and the time within which they shall be done. An offence under the Act is committed if any person fails to comply with an order made under section 33. If the default consists of not doing the works to abate the nuisance or prevent its recurrence the local authority shall do the works at the expense of the owner and occupier who are jointly and severally liable for the costs. Until paid they will be a charge on the land on which the premises are situated. Section 34 enables abatement of a nuisance without notice by the Engineer or Environmental Health Officer of the local authority where immediate action is required. The costs are similarly recoverable from the owner or occupier of the premises.
20. The bylaw currently in force, as introduced in 2000, consolidated similar titled bylaw provisions previously in force in the territorial authorities that were amalgamated into the present Christchurch City in 1989. At the time of developing the bylaw the opportunity was taken to simplify the provisions compared with previous bylaws but still retain a bylaw applying over the whole city. At the time it was realised that central government legislation, introduced since previous bylaws had been made, regulated many of the matters which had been the subject of bylaw controls. The City Plan, then notified, also contained matters that previously would have been included in such bylaws. While these provisions existed and minimised the need for a bylaw the Council considered a consolidated bylaw covering the amalgamated city was most appropriate at that time.
21. The District Plan, for example, contains controls restricting the boarding of animals in Living Zones to four in charge of a registered veterinarian for medical or surgical purposes only and controls in Rural Zones over intensive livestock management (including pigs and poultry) are included. The latter relate to required distances from site and residential boundaries.

<sup>9</sup> See for example the discussion in the opinion of Simpson Grierson in *Nitrous Oxide/Party Pill Sales: Health Act 1956:Bylaws*, 3 May 2005

<sup>10</sup> Health Act 1956, section 23

## 9 Cont'd

22. The legislation which covers many of the bylaw provisions includes the Animal Welfare Act 1999; the Building Act 2004; The Agricultural Pests (Exemption of Domestic Rabbits) Order 1994; Wildlife (Farming of Unprotected Wildlife) Regulations 1985; Animal Products Act 1999; Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998. A legal opinion is as follows on the matter of covering matters covered by central government legislation. *Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, for Council to make a bylaw duplicating those offences.*<sup>11</sup> Attachment 1 *Matters Regulated Under the Animal Control Bylaws* sets out statutory and other than bylaw provisions related to such matters.

23. The bylaw currently includes the following provision related to the keeping of any animal. Sub-clauses 5(a) and 5(b) are captured by the provisions of the Health Act 1956 above and the provisions of subclause 5(c) are further discussed below:

**5. GENERAL CONDITIONS OF KEEPING ANIMALS**

*No person shall keep, or suffer to be kept, any animal or bees in a manner that:*

*(a) is or is likely to become a nuisance; or*

*(b) is or is likely to become offensive, injurious to health, or dangerous.*

*(c) every person keeping animals as permitted by this bylaw shall ensure that the animals have access to sufficient food, water and, where appropriate adequate exercise.*

24. Section 10 of the Animal Welfare Act 1999 requires that physical, health and behavioural needs of the animal are met by owners and of persons in charge of animals in a manner that is in accordance with both (a) Good practice; and (b) Scientific knowledge. The definition of "physical, health, and behavioural needs" in section 4 includes:

*(a) Proper and sufficient food and water;*

*(b) Adequate shelter;*

*(c) Opportunity to display normal patterns of behaviour;*

*(d) Physical handling in a manner which minimises the likelihood of unreasonable or unnecessary pain or distress;*

*(e) Protection from, and rapid diagnosis of, any significant injury or disease, - being a need which in each case, is appropriate to the species, environment, and circumstances of the animal.*

25. Offences [relating to the above] under section 12 of the Animal Welfare Act 1999 expose the individual on conviction to imprisonment for up to six months or a fine not exceeding \$25,000 or both. A corporate body could be fined up to \$125,000.

26. The National Animal Welfare Advisory Committee established under the Act issues codes of welfare which have legal effect. These codes are deemed to be regulations and contain minimum standards. They may also contain recommended practice but only the minimum standards have legal effect. Failure to meet the minimum standard may be used to support a prosecution under the Act.

27. The Animal Welfare Act 1999 is administered by the Ministry of Agriculture and Forestry and the Minister may declare organizations to be approved organisations for the purposes of the Act. Apart from inspectors appointed under the State Sector Act and police officers, only approved organizations can recommend persons as inspectors with powers to deal with matters covered by the Act. The Minister appoints inspectors under the Act. The Royal New Zealand Society for the Protection of Animals is an approved organisation and may recommend persons for appointment as inspectors who must have completed the National Certificate in Compliance and Regulatory Control (Animal Welfare). The approved organization must have as its primary purpose the promotion of animal welfare and is given the powers under the Act to impound animals, to seize and destroy animals, and inspectors may issue enforcement orders under the Act. **Territorial authorities do not meet the criteria for approved organizations.**

<sup>11</sup> Chris Gilbert, 3 May 2005, *op cit*

## 9 Cont'd

28. As these provisions exist, in regard to care of kept animals, it is considered not appropriate to include such a provision in bylaws of a territorial authority, nor should indeed that officers of a Council be involved in such matters. These should be dealt with by inspectors appointed under the Animal Welfare Act 1999 who are trained and qualified to address the problems associated with lack of care of animals.

**Complaints or Requests for Action**

29. Some indication of the significance of problems related to the keeping of animals can be obtained by examining the complaints received by the Council over a two year period. The table below sets out an analysis of these complaints:

<b>Complaints – Animals/Stock</b>	<b>No.</b>	<b>Premises</b>
Rabbits	16	14
Sheep/Lamb	12	11
Pigs	10	10
Cats *	8	7
Cats – direct calls	40	33
Horses	6	6
Goats	6	6
Cows	2	2
Rats	1	1
Totals	101	90
% of total complaints	32.7	32.3
<b>Complaints – Poultry/Birds</b>		
Crowing roosters	95	86
Poultry fouling/smells/nuisance	32	26
Poultry not confined	14	14
Others – bird noise	8	8
Totals	149	134
% of total complaints	48.2	48.0
<b>Complaints – Bees/Wasps</b>		
Ants	1	1
Bee hives #	26	22
Bee nests	9	9
Bee swarms	14	14
Wasp nests †	9	9
Totals	59	55
% of total complaints	19.1	19.7
Overall Total Complaints	309	279

Source: Environmental Services Unit May 2003 to May 2005

Notes:

\* These do not include direct calls to the Environmental Effects Team comprising 40 complaints at 33 properties. Dealt with by officers under the Health Act 1956 nuisance provisions as needed.

# Only 3 referred to fouling washing or house paintwork.

† Wasps are pests under Pest Management Strategies and not kept in terms of bylaws.

30. In the two years the Environmental Services Unit has dealt with 309 complaints related to animals, bees and poultry as above. About half of these referred problems with poultry or birds; about a third regarding animals or stock; and 20 per cent regarding bees or wasps. The total complaints referred to 279 properties over the city over the two years, or 0.21 per cent of the estimated 135,000 households at June 2005. It is therefore not a significant issue in Christchurch City. On the basis of the examination of the problems caused by the keeping of animals it appears these are generally minimal.

## 9 Cont'd

31. The recommended revocation of the bylaws will not mean the Council does not retain the ability to respond to genuine complaints about the keeping of animals causing nuisance. As pointed out sufficient controls [see Attachment 1] exist under central government legislation enforced by the Council to deal with the few problems that occur.
32. As the decision on the review has occurred subsequent to the amalgamation of the Banks Peninsula District Council (BPDC) and the Christchurch City Council the opportunity has been taken to include consideration of the BPDC bylaw.
33. The BPDC bylaw is New Zealand Standard 9201, Chapter 13:1972 and as such reflects the time it was prepared by the Standards Association of New Zealand. It contains prescriptive requirements for matters such as licensing of the keeping of pigs; construction of pigsties; cleanliness of pigsties, and the disposal or transport of manure and pigswill. The use of stables for human habitation is not permitted, and conditions regarding poultry keeping including structures for such purposes are set down. These matters are covered by the provisions of the Health Act 1956 regarding nuisances or the Building Act 2004 in regard to structures. Licensing of the keeping of bees in other than rural areas is included in the bylaw. In regard to the latter issue experience has been that there are limited, if any problems, from the keeping of bees that would create a nuisance. It is costly to introduce licensing provisions for such minor matters and generally concerns expressed are more likely to be of a private rather than public nuisance. It is unlikely that licensing would meet the efficiency criteria of the *Code of Good Regulatory Practice* on a cost/benefit basis. These are matters that were taken out of the Christchurch City Council Bylaw in the 2000 review.
34. It has been difficult to obtain information of the number of complaints received by BPDC, but anecdotally they appear to have been limited, at least in recent times. Given the form of the bylaw it is unlikely that such conditions would still exist in modern settlements.

**Licensing the keeping of cats**

35. It is understood that there is no legal impediment to introducing a bylaw to control the number of cats kept per household. It is, however, unclear as to what problems such a requirement would address. Over a number of years such proposals have been put forward by a number of groups and have been associated with requests for provisions for de-sexing cats, identification by micro chipping, the provision of impounding facilities for cats, and restrictions of cat from ecologically sensitive areas.<sup>12 13 14</sup> It should be made clear that a territorial authority has no legal powers to require the de-sexing of cats, or requiring the identification of cats by micro chipping. The matter of providing impounding facilities for cats may be legally moot but the holding of cats for a period of seven days before disposal is not available to local authorities.<sup>15</sup>
36. Restrictions of cats from ecologically sensitive areas may be possible under the provisions of the Resource Management Act 1991, and may also be through bylaws under the Reserves Act 1977. Some Environment Court case law has dealt with the matter in regard to resource consents.<sup>16</sup> Some provisions exist for controls over feral cats under the Canterbury Pest Management Strategy adopted by the Regional Council (aka Environment Canterbury or ECan).
37. The formation of the bylaw when introduced by the Council contained some provisions which have given the impression that the Council can undertake effective enforcement action on matters that are contained in the Animal Welfare Act 1999 and these need to be reconsidered in the review. This has created expectations that the Council will provide a caring for cats programme. There are significant resourcing issues related to this matter.

<sup>12</sup> Forest and Bird Society, *Guarding our natural heritage – A briefing paper for the Environment Committee of the Christchurch City Council on a predator control strategy for Christchurch City*, November 2000

<sup>13</sup> New Zealand Companion Animal Council, *The Community and Companion Animals*, April 2001

<sup>14</sup> Letter from *Cats Unloved*, Christchurch, 21 February 2003

<sup>15</sup> The seven-day holding period is contained in the Animal Welfare Act 1999 (section 141) and applies only to approved organisations under that Act. These do not include local authorities.

<sup>16</sup> Environment Court, Decision No. A78/98, *Oceanview Properties v The Far North District Council*, Auckland, 9 July 1998.

## 9 Cont'd

38. A draft Code<sup>17</sup> covering the welfare of cats has been released and is likely to be formally adopted by the Minister during the year. Among other matters the Code has grouped cats into one of three categories as follows:

*Owned cats live entirely with humans as 'companion' cats; they are dependant on humans to provide their food, water and shelter; their social structure, disease control and opportunity to breed, are largely controlled by humans.*

*Stray/unowned cats have many of their needs indirectly supplied by humans; they usually live in shelter provided by human habitation (eg industrial or residential sites, farm sheds, etc); they acquire food either hunting, scavenging or through having it provided by carers who attend them or their colony they are likely to interbreed with the unneutered domestic cat population.*

*Feral cats have none of their needs provided by humans, and their population size fluctuates largely independently of humans; they do not live around centres of human habitation; the population is self-sustaining and requires no input from the owned cat population.*

39. The Codes of Welfare promote appropriate behaviour, establish minimum standards, and promote best practice for people owning or looking after animals. Recommended best practices in the codes are not legally binding but minimum standards are and failure to meet these can support a prosecution under the Animal Welfare Act 1999. They can also be used as an educational tool for persons keeping animals in addition to assisting with enforcement by officers appointed under the Act.
40. There is certainly limited evidence that significant problems are being caused by the majority of cats kept as pets in Christchurch. The few cases of what could be seen as excessive numbers of cats being kept on residential properties could be largely related to animal welfare issues or, in a few cases, nuisance conditions under the Health Act 1956.
41. Two sources have been used to estimate the number of cats kept in the city. On the basis of a small survey Morgan<sup>18</sup> estimated that there were about 80 cats for every 100 households. If the survey results were applied to the whole city of about 123,000 households the city would have a domestic cat population of almost 100,000. Further information has been obtained from a survey undertaken by Nielsen Media Research<sup>19</sup> on the number of cats per household in Christchurch City. Applying the results to the city overall 60,000 households indicated they had one or more cats. On the basis of this data there could be 88,000 cats being kept in Christchurch. Just over 67% had one cat; 27% had two cats; 3.4% had three cats; 2% had four cats; and less than 1% had 5 or more cats. The number of households with two or more cats was 20,000 equalling approximately 47,000 cats. These figures may not include cats that could be described as strays or unwanted, or the possibly few feral cat colonies within the city boundaries.
42. While it may be possible to introduce a provision in the Animal Control Bylaw limiting the number of cats able to be kept on a property it would be a lengthy process in identifying properties and enforcing such a restriction. Information previously obtained regarding the cost of registering a dog revealed that each dog cost about \$16 to set up and maintain the register alone. A similar process would be involved in the case of cats, without taking into account the costs of identifying premises, inspections and enforcement. Such controls are unlikely to meet either the *efficiency* or *effectiveness* criteria of the Code of Good Regulatory Practice.<sup>20</sup> The costs of setting up a licensing system are considered to be considerably above any benefits to the community and it is likely to be difficult to enforce even if the Council wished to provide for such enforcement. It is not clear what exactly the purpose of licensing, or limiting the number of cats per property would be given the limited number of cases that occur creating nuisance in the city.

<sup>17</sup> National Animal Welfare Advisory Committee, *Animal Welfare (Cats) Code of Welfare 2005*, Public Draft, Wellington, 31 March 2005

<sup>18</sup> Shelley Morgan, personal communication, 11 October 2001

<sup>19</sup> Nielson Media Research, *Cat Incidence and Cat Numbers – Christchurch, Jan – Dec 2003*, 11 August 2004

<sup>20</sup> Ministry of Economic Development, 1997, op cit

## 9 Cont'd

43. The groups that have suggested limits on the keeping of cats have also requested further controls by local authorities including matters such as requiring desexing, impoundment of stray cats, and even disposal. Currently it is considered that no specific statutory authority exists for territorial authorities to undertake such actions. In a previous opinion it was noted that no bylaw making powers existed which would allow territorial authorities to impose such a requirement as a matter of general policy.<sup>21</sup> The opinion considered that there may be limited circumstances in which they could require desexing under powers contained in the Local Government Act 1974 under a clause which has since been repealed. This was only if cat populations increased to the extent that they became a very serious nuisance for which there is no evidence at this time. While a few groups consider there is a problem of over breeding due to a lack of neutering of cats in the city the numbers of cases appear small in the context of the total estimated cat population. It is probable that the majority of "kept" cats in the city are neutered. In regard to the matter of impounding the opinion stated:

*There is no general statutory authority which permits territorial authorities to impound and to subsequently sell, destroy or otherwise dispose of any unclaimed animals other than dogs or stock.*

44. The additional controls over cats being sought result from a relatively small number of cases occurring in the city. In the last year (September 2004 to August 2005) most complaints have related to what have been described as feral, semi feral, or abandoned cats. Such cats would **not** be caught by any bylaw relating to the keeping of animals as they are by definition not owned by any person that could be identified. About 40 complaints at 33 properties have been dealt with by pest control services on behalf of the Council. Given that it is estimated that there are 60,000 households keeping cats and about 20,000 with two or more cats, there are in the order of 88,000 cats kept in the city. The complaint rate is therefore very small about 0.05% of cat keeping households and of the total number of cats. No further controls are therefore considered necessary.
45. In conclusion the evidence for requiring further bylaw controls on the keeping of cats is not available as any serious nuisances can be dealt with under current statutory provisions. The matters regarding animal welfare issues are adequately covered by provisions of the Animal Welfare Act 1999 and actions are able to be undertaken by approved organizations under that Act. Territorial authorities have no powers under that Act and arguably should not be involved in such matters. No powers exist for territorial authorities to require desexing of cats or to undertake impounding of cats. Bylaw controls, of any kind, would be neither efficient nor effective.

## Options

46. **Option 1** - The *Do Nothing* Option would be to retain the current bylaws until required to review prior to 30 June 2008. Given that this current analysis indicates that continuation of such bylaws does not fulfil criteria implied by section 155(1) of the Local Government Act 2002 and the *Code of Good Regulatory Practice* of the Ministry of Economic Development it is difficult to justify such continuance. Legal advice is to the effect: *Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, for Council to make a bylaw duplicating those offences.*<sup>22</sup>
47. **Option 2** - This option could continue the bylaw but to undertake an amendment to remove clause 5(c) on the basis that the provisions are included in the Animal Welfare Act 1999 and more properly dealt with under that legislation. This option would also include the revocation of the Bank Peninsula District Council bylaw (NZS 9201 Chapter 13:1972).

<sup>21</sup> David Rolls, Solicitor, *Funding of Controls in Regard to Cats*, Legal Services Unit, 4 November 2002

<sup>22</sup> Chris Gilbert, 3 May 2005, *op cit*

9 Cont'd

**Preferred Option**

48. **Option 3** - In this case both the Christchurch City Animals (Other than Dogs) Bylaw 2000 and the Banks Peninsula District Council Bylaw *The Keeping of Animals, Poultry and Bees* (NZS 9201 Chapter 13:1972) would be revoked. There is sufficient central government legislation to control the perceived problems which arise from the keeping of animals in the Christchurch City area and overall these problems are not a significant issue.

**ASSESSMENT OF OPTIONS**

**The Preferred Option**

**Option 3.-** Revoke both the Christchurch City Animals (Other than Dogs) Bylaw 2000 and the Banks Peninsula District Council Bylaw *The Keeping of Animals, Poultry and Bees* (NZS 9201 Chapter 13:1972). There is sufficient central government legislation to control the perceived problems which arise from the keeping of animals in the Christchurch City area and overall these problems are not a significant issue

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Sufficient powers exist under central government legislation to control both nuisances and animal welfare issues	Need to maintain FAQs on keeping of animals issues and possibly educational material. Enforcement activities need to be maintained.
<b>Cultural</b>	N/A	N/A
<b>Environmental</b>	Nuisances can be controlled adequately through specific means	Minimal to no increase in costs due to statutory requirements being a duty under central government legislation.
<b>Economic</b>	Not significant	Not significant
<p><b>Extent to which community outcomes are achieved:</b>                      Primary alignment with community outcome a Healthy City                      Also contributes to A Safe City and A Well Governed City</p> <p><b>Impact on Council's capacity and responsibilities:</b>                      None beyond current level of inspection and enforcement activity</p> <p><b>Effects on Maori:</b>                      None apparent</p> <p><b>Consistency with existing Council policies:</b>                      Statutory requirements currently exist already</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b>                      City enforcement staff able to use statutory instruments rather than bylaw provisions in general. General agreement with approach suggested in this option. Wider views will be sought through SCP</p> <p><b>Other relevant matters:</b></p>		

## 9 Cont'd

**Maintain The Status Quo (If Not Preferred Option)**

**Option 1** - The *Do Nothing* Option would be to retain the current bylaws until required to review prior to 30 June 2008. Given that this current analysis indicates that continuation of such bylaws does not fulfil criteria implied by section 155(1) of the Local Government Act 2002 and the *Code of Good Regulatory Practice* of the Ministry of Economic Development it is difficult to justify such continuance. Legal advice is to the effect: *Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, for Council to make a bylaw duplicating those offences.*<sup>23</sup>

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Would enable continuance of bylaw for a further two years.	Require a further review at some cost again in a relatively short period which is unlikely to provide different information.
<b>Cultural</b>	None apparent	None apparent
<b>Environmental</b>	None apparent as central government legislation already used to control problems.	Retention of bylaws will have little effect.
<b>Economic</b>	None apparent	None apparent
<p><b>Extent to which community outcomes are achieved:</b> Primary alignment with community outcome a Healthy City but by repeating statutory provisions are possibly in conflict with A Well Governed City.</p> <p><b>Impact on Council's capacity and responsibilities:</b> Duplication of requirements with that contained in central government legislation</p> <p><b>Effects on Maori:</b> None apparent</p> <p><b>Consistency with existing Council policies:</b> Repeats statutory requirements regarding public and statutory nuisances and animal welfare issues.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b> City enforcement staff using statutory instruments rather than bylaw provisions in general. Wider views will be sought through SCP.</p> <p><b>Other relevant matters:</b></p>		

<sup>23</sup> Chris Gilbert, 3 May 2005, *op cit*



9 Cont'd

**Other Option Considered but not preferred**

**Option 2** - This option could continue the bylaw but to undertake an amendment to remove clause 5(c) on the basis that the provisions are included in the Animal Welfare Act 1999 and more properly dealt with under that legislation. This option would also include the revocation of the Bank Peninsula District Council (BPDC) bylaw (NZS 9201 Chapter 13:1972).

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Limited benefits except clarification of requirements regarding animal welfare matters. Revocation of BPDC bylaw would mean similar requirements over whole city.	Still would require further review prior to 2008 at some cost. Does not fulfil examination undertaken under s 155(1) of the Local Government Act 2002.
<b>Cultural</b>	None apparent	None apparent
<b>Environmental</b>	Central government legislation covers matters of significance in any case so bylaw not necessary.	Repeats matters already controlled so cost of maintaining bylaw unnecessary.
<b>Economic</b>	None apparent	None apparent

**Extent to which community outcomes are achieved:**

Primary alignment with community outcome a Healthy City but by repeating statutory provisions are possibly in conflict with A Well Governed City

**Impact on Council's capacity and responsibilities:**

Duplication of statutory requirements in regard to public and statutory nuisances and specific requirements re the keeping of animals

**Effects on Maori:**

None apparent

**Consistency with existing Council policies:**

Repeats statutory requirements regarding public and statutory nuisances and animal welfare issues.

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

City enforcement staff using statutory instruments rather than bylaw provisions in general. Wider views will be sought through SCP

**Other relevant matters:**

**10. REVIEW OF FIRE PREVENTION BYLAWS**

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI: 941-8177
<b>Officer responsible:</b>	Strategy Support Manager (or Programme Manager)
<b>Author:</b>	Rochelle Hardy

**PURPOSE OF REPORT**

1. The purpose of this report is to provide a summary of the review of the Christchurch City Council Fires Bylaw (1991) and the Banks Peninsula Fire Prevention Involving Vegetation Inside Urban Fire Areas (1994) Bylaw. The review is undertaken in accordance with s.158 of the Local Government Act 2002.

**EXECUTIVE SUMMARY**

2. This paper reports on a review undertaken on the Christchurch City Council Fires Bylaw (1991) and the Banks Peninsula Fire Prevention Involving Vegetation Inside Urban Fire Areas (1994) bylaw, in accordance with s.158 of the Local Government Act, 2002 (LGA. 02). Section 155 of the LGA 02 states that bylaws must be reviewed to establish whether a bylaw is the most effective way of addressing the perceived problem.
3. The object of the Christchurch City Fires Bylaw ("the City Bylaw") is the conservation of public safety by preventing danger from fire. The City Bylaw was implemented in accordance with the Clean Air Act 1972 (repealed) and the Local Government Act 1974. Conservation of public safety is achieved by restricting and/or prohibiting open air fires during specific times.
4. The object of the Banks Peninsula Bylaw is to prevent the spreading of fires involving vegetation by restricting open air fires in the "urban fire district". There is no set time prohibiting open air fires in the bylaw; restrictions are generally imposed at the same time as restrictions in rural areas in the Peninsula.
5. The purpose of the bylaws is to ensure that, where permitted, fires do not create any danger to persons or properties. As such, it is not a question of 'what' is burnt, but when open air fires are undertaken and in what manner. Since the bylaws were enacted more stringent standards on outdoor burning in residential areas have been implemented. This is due to an improved understanding of the impacts on health from discharges to air and growing concern with air quality in Christchurch City. Additional provisions contained in the City Bylaw on indoor fires and chimneys, have also been superseded by more recent fire and building regulations.
6. Discharges to air are now covered by central and regional planning mechanisms. Open air fires are subject to the relevant provisions of these documents. The proposed Regional Air Plan<sup>24</sup> ("the Plan") controls the discharge of contaminants into air in Canterbury. Under the Plan, outdoor burning is a discretionary activity in residential areas of Canterbury and in the Christchurch Clean Air Zone 1 (see Attachment 1 for map). Winter burning in these areas is non-complying. The bylaws have a specific role in regulating open air fires to prevent the risk of fire spreading in the CCC territorial area, but are inconsistent with external controls on discharges to air.
7. From May 2003 to May 2005 the Christchurch City Environmental Services Unit dealt with 240 complaints related to open air fires including nine complaints relating to the storage of waste which the complainant considered posed a fire risk. Just over 90 per cent of complaints were directly related to open air fires. The total number of complaints referred to 199 properties within the city, or 0.15 per cent of the estimated 135,000 households at June 2005. The former Banks Peninsula District Council did not maintain a complaints register for fire-related issues but reported low numbers of complaints.

<sup>24</sup> Proposed Natural Resources Regional Plan Chapter 3: Air Quality

**10 Cont'd**

8. It is difficult to justify controls on all of the matters covered by the current fire Bylaws. However, a bylaw is considered an appropriate method for dealing with open air fire matters, as written in its attached form, and is consistent with the New Zealand Bill of Rights Act. A more succinct bylaw incorporating conditions that are consistent with recent air discharge provisions is deemed most appropriate. This is likely to equate to a ban on open air fires in urban and residential areas and controls on cooking fires such as barbecues.

**FINANCIAL AND LEGAL CONSIDERATIONS**

9. Certain aspects of the Christchurch Fire Prevention Bylaw and Banks Peninsula Bylaw are inconsistent with regional policies and rules on open air fires.

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the bylaws be consolidated and contents updated. This will ensure consistency with external, legislative documents. In particular conditions regarding indoor fire standards and open air fires in residential areas be revoked. Fires will still be permitted (subject to regulations and restrictions) in areas outside the Clean Air Zone 1 and residential areas.
- (b) That the contents of the bylaws be simplified so that they reflect the purpose of the bylaw. This translates to retaining the conditions on barbecues and traditional cooking fires.
- (c) The inclusion of provisions relating to 'owner-responsibility' are recommended and will allow the Council to retain some control over the potential risk and promoting good practice.
- (d) That the attached statement of proposal be adopted and made available for public inspection at all Council Service Centres, Council libraries and on the Council website.
- (e) That further discussions be held with the Canterbury Regional Council to confirm enforcement procedures relating to overlaps in rules on open air fires.
- (f) That public notice of the proposal be given in "The Press" and in the "Christchurch Star" newspapers and on the Council's website on 21 June 2006.
- (g) That the period within which written submissions may be made to the Council be between 21 June 2006 and 9 August 2006.
- (h) That the period within which oral submissions will be heard by the Council be between 18 September 2006 and 22 September 2006.
- (i) That the Council appoint a panel of three of its members for the purpose of hearing the oral submissions.

The recommended amendment and consolidated Bylaw are attached to this report as Attachment 2.

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**BACKGROUND ON REVIEW OF FIRE PREVENTION BYLAWS**

10. In accordance with s.158 of the Local Government Act 2002 (LGA 02) the Council must review existing bylaws. Bylaws made under the Local Government Act 1974, and in force at 1 July 2003, continue in force but must be reviewed within five years of 1 July 2003. Any new bylaw made under the LGA 02 is subject to an initial review within five years of the date it is made. Once a bylaw has been reviewed, the next review must be carried out within 10 years.
11. Where bylaws are reviewed the Council must use the special consultative procedure in reviewing each bylaw [s.158]. Prior to the formal review process the Council must "determine whether a bylaw is the most appropriate way of addressing the perceived problem" [s.155(1) LGA]. If a bylaw is considered appropriate to address the problem, then before making (or amending) the bylaw, it must define whether it is the most appropriate form and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.
12. The general bylaw-making power is contained in s.145 of the LGA 02 and covers bylaws for the purposes of protecting the public from nuisance; protecting, promoting, and maintaining public health and safety; and minimising the potential for offensive behaviour in public places. Specific bylaw-making powers apply including prevention of the spread of fires involving vegetation<sup>25</sup>. Bylaws may also be implemented to conserve public health, and preventing or abating nuisances under s.64(a) of the Health Act, 1956.
13. The City Bylaw was implemented in accordance with the provisions of s.55A of the Clean Air Act 1972 (repealed) and the Local Government Act 1974. The object of the City Bylaw is the conservation of public safety by preventing danger from fire.
14. The City Bylaw is consistent with protecting public safety, prohibiting open air fires within the City of Christchurch during the months of November to February inclusive, when the spread of fire is considered greater. The City Bylaw allows for further restrictions on open air fires during March, April, September and October. During periods when open air fire bans are not in place individuals are responsible for minimising the risks associated with outdoor burning. Winter burning (May until August) is controlled by the Canterbury Regional Council under the Transitional Regional Plan and proposed Natural Resources Regional Plan.
15. There are no restrictions on the size of fires in the City Bylaw. However, guidance notes provided by the Council recommended that rubbish fires do not exceed one square metre in size. Additional restrictions apply in Bottle Lake and Chaney's Road and are managed separately to the bylaw.
16. Arguably, the City Bylaw is not consistent with maintaining public health or protecting it from nuisance in that the bylaw allows the burning of material in residential areas. Outdoor burning of household, garden and farm rubbish can cause localised nuisance problems, including impacts on amenity, from smoke and smell.<sup>26</sup> Smoke can also generate potentially hazardous compounds, for example, hydrogen chloride, sulphur oxides, volatile organic compound and dioxins, depending on what is burnt (MfE, 2003) .
17. The BP Bylaw applies to the "urban fire district" which incorporates small settlements and residential areas as defined in the Banks Peninsula District Plan. This includes Lyttelton, residential areas at Cass Bay, Corsair Bay, Church Bay, Governors Bay, Diamond Harbour, Duvauchelles and Akaroa. The scope of the BP Bylaw is complementary to the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 1979, which also apply to areas outside of the 'urban fire district'.

<sup>25</sup> S.146 (c) subject to sections 20 to 22 of the Forest and Rural Fires Act 1977.

<sup>26</sup> ECan state that the nuisance effects resulting from "backyard burning" of rubbish in Christchurch are the main source of air quality complaints received by Environment Canterbury. The Christchurch Clean Air Zones specifically address discharges to air from outdoor burning that may exacerbate Christchurch's wintertime air pollution problem by up to 33% (Ecan, Chapter 3: Air Quality NRRP).

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18. The BP Bylaw is more general compared with the City Bylaw. Fires are controlled on three levels: permitted, restricted and prohibited. Open air fires are only permitted during the "open fire season" or during the "restricted fire season". The timing of the open fire season is not specified, instead it is set annually, and publicly notified. Conditions may be outlined through the public notice. The "prohibited fire season" allows for the prohibition of fires during periods of extreme risk. Exemptions, including special events, can be applied for.
19. Under the City Bylaw barbecues and hangis are subject to similar conditions as open air fires, but are exempt from buffer zones and time restrictions. The definition of barbecues includes equipment for cooking food. Clause 7 of the City Bylaw, outlines conditions for lighting barbecues and hangis but does not include other traditional cooking methods such as umu; the BP Bylaw includes all traditional cooking fires. Both impose good practice conditions. These should be retained in any amendments to the bylaws.
20. Both bylaws are indicative of the distinction made between open air fires in urban areas as opposed to rural areas. Urban fires tend to be undertaken to burn waste, whereas open air fires in rural areas are considered a land management tool. Outdoor fires in urban areas are no longer considered an acceptable waste management option in urban and residential areas and are inconsistent with waste minimisation goals. However, in some of the smaller settlements of Banks Peninsula there may be limited options for alternative waste management tools at this time.
21. In addition, the Department of Conservation (DOC) is responsible for preventing and controlling fires on public conservation land, all unoccupied crown land (including crown riverbeds) and within one kilometre of these lands. A year round restricted fire season applies to all public conservation lands and within one kilometre of these lands. Any fire lit in the open in these areas requires a fire permit from DOC.

**Redundant Provisions**

22. A number of provisions in the City Bylaw are considered redundant because they are regulated by national or regional legislation, or deemed to be inconsistent with the object of the Bylaw.
23. Clause 10, *Fires in Buildings*, restricts the lighting of fires within buildings. Clause 11, *Fires in Chimneys*, aims to prevent chimney fires by ensuring chimneys and flues are in adequate condition. These matters are regulated by other legislation. Part I, 7 of the Fire Safety and Evacuation of Buildings Regulations, 1992 controls 'open flames' in buildings. In accordance with the Regulations:

**7. Control of open flames**

*(1) Any appliance that gives an open flame or is fuelled by any flammable liquid or gas shall not be used unless the appliance is so constructed, secured, and protected as to minimise risk of fire to the building or its contents.*

*(2) No fire shall be lit within the building other than in*

*A fireplace that conforms to any bylaws in force at the time of its construction or to the building code, as the case may be: or An appliance maintained in proper repair.*

*(3) No chimney shall be used for a smithy, furnace, foundry or other similar use unless the chimney is constructed for such purpose and is properly maintained.*

*(4) For the purposes of subclause (3) of this regulation "chimney" includes any flue, vent, or stove pipe installed or provided to allow the escape of smoke, fumes, heat, or other products of combustion.*

**10 Cont'd**

The Regulation also requires that, in accordance with the First Schedule of the Building Regulations, 1992, Clause C1.2:

*In buildings fixed appliances using the controlled combustion of solid, liquid or gaseous fuel, shall be installed in a way which reduces the likelihood of fire.*

24. In addition, Building Code Compliance Documents C to C4 cover fire safety. Acceptable Solution C/AS1 part 9 covers outbreak of fire. In accordance with s.18(1)(a) of the Building Act bylaws may not be achieve performance criteria that are additional to, or more restrictive than, the performance criteria prescribed in the building code in relation to that building work.
25. In effect, indoor fireplaces and chimneys are adequately addressed in legislation relating to the design and management of these appliances. Clauses 10 and 11 are not considered relevant to the open air fires bylaws and are outside the scope of the bylaw. In addition, discharges to air, for example from open air fires and chimneys, are controlled through regional planning mechanisms. Chapter 3 of the proposed Natural Resources Regional Plan controls discharges to air from existing and proposed open fires and wood-burners (as discussed below).
26. Clause 13 outlines conditions to safeguard premises from the spread, danger or evacuation of buildings in the event of fire and on the storage of goods on premises that may constitute of create a fire hazard. The Fire Safety and Evacuation of Buildings Regulations 1992 (s.9) address these matters.
27. The City Bylaw includes clauses on preventing fire hazards posed by the storage of goods with specific mention of hay and timber. "Goods" are defined as: "all kinds of combustible personal property and includes combustible wastes of any kind". A general clause on precautions against fire would capture all types of materials to assist prevention of fire hazards. There are no comparable clauses in the Banks Peninsula Bylaw. Again, these matters are adequately covered by the Fire Safety and Evacuation of Buildings Regulations 1992 (s.9).
28. Clause 17 of the City Bylaw prohibits the use of explosives in non-designated areas. This clause is considered redundant. The importation, manufacture and use of explosives is now regulated under the Hazardous Substances and New Organisms (HSNO) Act 1996. HSNO replaces the Explosives Act, 1957 under which licences for storage and manufacture were issued. Test certificates are required under HSNO for storing and handling explosives in quantities above certain trigger levels. In addition, the Christchurch City Plan contains rules on hazardous substances including limits on explosives.
29. Additional powers to remove fire hazards are embodied in s.183 of the LGA 02. Section 183 empowers territorial authorities to "cut down, eradicate, or remove any growth on the land or to remove or destroy any matter on the land if the growth or matter is likely to become a source of danger from fire" and recover costs. Section 184 provides a right of District Court appeal of a section 183 notice.
30. As such, there is some duplication between the various regulations and the Bylaw. While a reference to a precautionary approach to lighting fires and storing goods is consistent with the object of the Bylaw it is not considered necessary in light of the provisions contained in the Fire Safety and Evacuation of Buildings Regulations 1992.

**Regulatory Overlaps**

31. The Canterbury Regional Council Transitional Regional Plan includes restrictions on burning and incorporates the Christchurch City Council bylaw<sup>27</sup> controls on winter burning. At present ECan and Christchurch City Council work co-operatively to enforce the summer and winter bans. Generally, the Christchurch City enforces summer fire bans. Stricter restrictions are proposed in the Natural Resources Regional Plan.

<sup>27</sup> Christchurch City Fires Bylaw 1991 became part of the Transitional Regional Plan by virtue of section 368(e) of the RMA

## 10 Cont'd

32. In accordance with s15(2) of the RMA, no person may discharge any contaminant into the air, or into or onto land, from any place in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent. Amongst other controls, the proposed Natural Resources Regional Plan (NRRP) prohibitions on burning certain types of materials and includes a number of rules on discharges to air. Chapter 3 (Air Quality) was notified in June 2002 and clarifies the existing situation regarding outdoor burning and introduces discretion regarding open air burning in residential areas. It does not restrict barbecues or hangis. Policy AQL 4 aims to restrict outdoor burning by promoting good practice and restricting the burning of certain materials. Policy AQL 21 restricts outdoor burning in the Christchurch Clean Air Zones 1 and 2 (see Attachment 6). Any outdoor burning will be assessed in accordance with Policy AQL 4. Policy AQL 21(b) constrains outdoor fires during winter months (May and August inclusive) in the Christchurch Clean Air Zones 1 and 2.

33. The NRRP introduces a number of rules restricting open air burning in the Christchurch Clean Air Zone 1 and residential areas. Specifically, rule AQL 29 restricts the discharge of contaminants into air from outdoor burning of vegetation, paper, cardboard and untreated wood in all residential areas. Burning of these materials is permitted outside residential areas provided certain conditions are met. As noted by ECan (2005), the combined effect of permitted activity conditions is to:

*...exclude outdoor burning of vegetation, paper, cardboard and untreated wood from residential areas; require separation between the fire and dwellings (notional boundary), residential areas, public amenity areas and places of public assembly; control the effect at the property boundary; and limit the source of the material to be burnt.*

34. Under Rule AQL29 outdoor burning of vegetation, paper, cardboard and untreated wood is not permitted in residential areas, or areas 100 m upwind or 50 m in any other direction of any sensitive activity. By definition in the plan, sensitive activities include dwellings, residential areas and public amenity areas. This rule applies to the entire Canterbury region. In essence a resource consent is required to burn waste from September to April in residential areas. Under rule AQL 35, outdoor burning during winter, is a non-complying activity in both Clean Air Zones<sup>28</sup>.

35. The bylaws are inconsistent with the NRRP in allowing open air fires in residential areas, at certain times of the year. In the City Council's submission<sup>29</sup>, Councillors expressed individual views ranging from a support for a total prohibition of burning garden vegetation to support for similar provisions as contained in the existing bylaw. However, the Council was vague in what it sought from its submission on Policy AQL 4 stating it:

*Supports either a total prohibition of outdoor burning of garden vegetation on residential properties, or past provisions allowing the burning of such vegetation for four months of the year.*

As such, no specific outcome was sought and the submission was rejected by ECan.

36. Seventeen public submissions were made in relation to Rule AQL 29, condition 2. Eleven submissions requested that the condition be deleted. One submitter requested an exemption for Living Hills Zones and low density areas where properties exceed 1000 square metres. Hearings on the NRRP reconvened on 30 January 2006, submissions on rule 29 and related matters have been heard but no decision has been made.

<sup>28</sup> Banks Peninsula is outside of these zones

<sup>29</sup> Dated 30<sup>th</sup> August 2002

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Table 1. Summary of Open Air Fire Rules

Month	BP Bylaw	City Bylaw	NRRP		
			Residential Areas	Clean Air Zone 1 <sup>30</sup>	Clean Air Zone 2
Jan	Subject to notification	Prohibited	Discretionary		Permitted
Feb		Permitted			
Mar					
Apr					
May	Prohibited under the Transitional Regional Plan	Non-complying			
Jun					
Jul					
Aug					
Sept	Subject to notification	Permitted	Discretionary		Permitted
Oct		Prohibited			
Nov					
Dec					

### Complaints Register

37. Between May 2003 and May 2005 the Christchurch City Council Environmental Services Unit dealt with 240 complaints related to open air fires and waste. Over 90% of these referred to problems with open air fires; just under 4% regarded rubbish posing a fire risk; and a similar number regarding indoor fires (the latter are not covered by the Bylaw object). The total complaints referred to 217 properties over the city, or 0.15 per cent of the estimated 135,000 households at June 2005. Complaints regarding open air fires are predominantly of a general nature alerting the Council to a fire on private property. Only a small number of complaints referred to concerns with fire hazards posed by storage of materials (1.6% of total complaints in the category). Smoke and smell were specific concerns for a number of people with 81 of the 220 complaints referring to this aspect.
38. Based on the number of complaints received open air fires may not be considered a significant issue in Christchurch City. Arguably the small number of complaints and incidents of open air fires may illustrate a good understanding by Christchurch residents of the Bylaw and/or restrictions on open air fires.

### OPTIONS

39. **Option 1 - Consolidate the Banks Peninsula and Christchurch City Council Bylaws and revoke redundant provisions.** In accordance with s.83 of the Local Government Act, 2002 a bylaw review, including is subject to special consultative procedures. When a bylaw is to be revoked a statement to that effect must be produced [LGA 02, s.86 (2)(b)].
40. **Option 2 - Retain the Status Quo.** Retain both bylaws as they currently stand.
41. **Option 3 - Retain the Bylaws in their current state and review once the NRRP is operative.** The NRRP is a proposed plan and may change over the life of its development. The bylaws could be retained in their current format and reviewed once the Plan becomes operative. However, under s15(2) of the RMA, no person may discharge any contaminant into the air, or into or onto land, from any place in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent. In addition, in accordance with s.104(1)(b)(iv) of the RMA, applications for resource consents must take proposed plans into consideration. The proposed Natural Resources Regional Plan (NRRP) restricts burning in specific areas covered by the Bylaws.

<sup>30</sup> Burning of agricultural wrap and containers is discretionary however, outdoor burning of vegetation, paper, cardboard and untreated wood is permitted in the Clean Air Zone 1



## 10 Cont'd

## PREFERRED OPTION

## 42. Option 1

## ASSESSMENT OF OPTIONS

## The Preferred Option

43. Option 1. Consolidate the Banks Peninsula and Christchurch City Council Bylaws and revoke redundant provisions. *See Attachment 2*

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Reduced complaints arising from nuisance effects of open air fires.	No specific costs.
<b>Cultural</b>	No specific matters.	No specific costs.
<b>Environmental</b>	Improved, localised air quality in urban and residential areas. Reduction in the risk of fire in urban and residential areas arising from open air fires.	Potential increase in occurrences of dumped green waste from landowners not willing to pay waste disposal costs or lacking composting facilities.
<b>Economic</b>	Reduction in cleaning costs for external surfaces affected by emissions from open air fires. Will still allow for special permits for burning to be issued to landowners outside of the Clean Air Zone 1, provided they are not in residential areas and/or meet all the conditions imposed by the Regional Council.	Potential increase in green waste disposals particularly in more remote locations.
<p><b>Extent to which community outcomes are achieved:</b>            Primary alignment with community outcome for Healthy Environments            Also contributes to Safe City.</p> <p><b>Impact on Council's capacity and responsibilities:</b>            Reduced need to enforce procedures. Open air fires will be controlled under the NRRP in Christchurch Clean Air Zone 1. City Council and other (e.g. Department of Conservation) enforcement procedures continue to apply in Clean Air Zone 2</p> <p><b>Effects on Maori:</b>            No specific effects.</p> <p><b>Consistency with existing Council policies:</b>            This option is consistent with the waste management approaches adopted by Council on landfill and the Solid and Hazardous Waste Management Plan, 2003. A primary focus of the Plan is to remove organic matter from the waste stream and to use it beneficially.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b>            Submitters to the Air Quality Chapter of the Natural Resources Regional Plan (NRRP) are likely to be interested in this matter. Individuals living in hill zones expressed particular concerns with the proposed NRRP rules on open air fires in residential areas.</p> <p><b>Other relevant matters:</b>            This option is consistent with rules outlined in the NRRP.</p>		

## 10 Cont'd

**Maintain The Status Quo (If Not Preferred Option)**

44. Retain both bylaws as they currently stand.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Reduction in the risk of fire in urban and residential areas arising from open air fires	Likely to cause confusion for landowners due to the inconsistency between City Bylaw and NRRP
<b>Cultural</b>	No specific matters	No specific costs
<b>Environmental</b>	Reduction in the risk of fire in urban and residential areas arising from open air fires	Continued impacts on localised air quality and overall air emissions in Clean Air Zone 1
<b>Economic</b>	Reduced waste costs for individual land owners	Costs associated with enforcement procedures and fire protection measures by surrounding land owners
<p><b>Extent to which community outcomes are achieved:</b>            Primary alignment with community outcome safe cities. Does not contribute to any other significant community outcome.</p> <p><b>Impact on Council's capacity and responsibilities:</b>            No significant impacts on capacity and responsibilities. Impact is per current approach</p> <p><b>Effects on Maori:</b>            No effects noted</p> <p><b>Consistency with existing Council policies:</b>            Not considered consistent with the Solid and Hazardous Waste Management Plan, 2003</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b>            Environment Canterbury will have a particular interest. When the NRRP rules become operative, it is our expectation that the discharge to air rules in the Transitional Regional Plan, including the outdoor burning rule, will be withdrawn. ECan expects the decisions on the Air Plan rules to be released mid-2006, and after that will have a clearer idea of when the rules are likely to become operative. Prior to the new rules becoming operative ECan and CCC will need to discuss the implications of the changes to the regulations with Christchurch City Council.</p> <p><b>Other relevant matters:</b>            None</p>		

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Option 3

45. Retain the bylaw and review once the NRRP is operative.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Reduced complaints arising from nuisance effects of open air fires	No specific costs
<b>Cultural</b>	No specific matters	No specific costs
<b>Environmental</b>	Improved, localised air quality in urban and residential areas. Reduction in the risk of fire in urban and residential areas arising from open air fires	Potential increase in occurrences of dumped green waste from landowners not willing to pay waste disposal costs or lacking composting facilities
<b>Economic</b>	Reduction in cleaning costs for external surfaces affected by emissions from open air fires	Potential increase in green waste disposals particularly in more remote locations
<p><b>Extent to which community outcomes are achieved:</b>                      Primary alignment with community outcome safe cities. Does not contribute to any other significant community outcome.</p> <p><b>Impact on Council's capacity and responsibilities:</b>                      No significant impacts on capacity and responsibilities. Impact is per current approach</p> <p><b>Effects on Maori:</b>                      No effects noted</p> <p><b>Consistency with existing Council policies:</b>                      Not considered consistent with the Solid and Hazardous Waste Management Plan, 2003</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b>                      As per option 2 and submitters to the NRRP who supported restrictions on open air fires.</p> <p><b>Other relevant matters:</b>                      Environment Canterbury Officer's report for hearings did not recommend any changes to the Rules relating to open air burning in residential areas or Christchurch Clean Air Zone 1. However, it did recommend deleting Rule AQL30 and AQL31 regarding outdoor burning of polyethylene agricultural wrap. This is not considered to affect the option outlined here.</p>		

## 11. REVOCATION OF THE CHRISTCHURCH CITY DANGEROUS GOODS INSPECTION FEES BYLAW 1990

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	Strategy Support Manager (or Programme Manager)
<b>Authors:</b>	Rochelle Hardy, Terence Moody

### PURPOSE OF REPORT

1. The purpose of this report is to recommend the revocation of the Christchurch City Dangerous Goods Inspection Fees Bylaw 1990 on the grounds that the Act under which it was made has been revoked. Dangerous goods inspections are no longer undertaken by the Council. Adequate provisions for the management of hazardous substances exist under other legislation.

### EXECUTIVE SUMMARY

2. This reports on a review undertaken on the Christchurch City Dangerous Goods Inspection Fees Bylaw 1990, in accordance with s.158 of the Local Government Act, 2002 (LGA 02). Section 155 of the LGA 02 states that bylaws must be reviewed to establish whether a bylaw is the most effective way of addressing the perceived problem.
3. The purpose of the Christchurch City Dangerous Goods Inspection Fees Bylaw ("the Bylaw") is to outline the schedule of fees relating to the inspection of dangerous goods, supervision, and testing of plant and equipment for the purposes of the Dangerous Goods Act, 1974.
4. The Banks Peninsula District Council does not have a bylaw covering dangerous goods or hazardous substances and no bylaw review is required for that area.
5. The Christchurch City Bylaw was established under the Local Government and Dangerous Goods Acts 1974. Both Acts have been repealed. That, coupled with the implementation of the Hazardous Substances New Organisms Act (HSNO) 1996, resulted in the revocation of territorial authority inspection powers. In accordance with HSNO the Council no longer issues dangerous goods licences and does not conduct inspections referred to in the Bylaw, nor does it employ a Dangerous Goods Inspector.
6. The Christchurch City Plan provides for the prevention and mitigation of the adverse effects of the use and storage of hazardous substances. This fulfils the Council's functions regarding hazardous substances as per s.31(ii) of the Resource Management Act 1991 (RMA).
7. The Canterbury Regional Council (ECan) proposed Natural Resources Regional Plan also contains policies and rules regarding hazardous substances including the installation and removal of storage tanks for certain hazardous substances. In part, monitoring of regional council resource consents, during installation and decommissioning of hazardous substance facilities, supersedes the role of the Dangerous Goods Act 1974.

### FINANCIAL AND LEGAL CONSIDERATIONS

8. The bylaw has ceased to have effect and is invalid under the provisions of HSNO. However, for the avoidance of doubt it is considered appropriate to formally revoke the bylaw particularly as s.293 of the LGA specifies that bylaws made under the LGA 1974 continue in effect.
9. There are no financial constraints to the revocation.

**11 Cont'd**

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council resolve that it is satisfied that such a bylaw is not necessary in terms of sections 155 of the Local Government Act 2002 and therefore should be revoked.
- (b) That the attached statement of proposal be adopted and made available for public inspection at all Council Service Centres, Council libraries and on the Council's website.
- (c) That public notice of the proposal be given in "The Press" and in the "Christchurch Star" newspapers and on the Council's website on 21 June 2006.
- (d) That the period within which written submissions may be made to the Council be between 21 June 2006 and 9 August 2006.
- (e) That the period within which oral submissions will be heard by the Council be between 18 September 2006 and 22 September 2006.
- (f) That the Council appoint a Hearings Panel to consider and where necessary hear any submissions on this bylaw revocation and other bylaws being considered at a similar time.

11 Cont'd

**BACKGROUND ON REVOCATION OF THE CHRISTCHURCH CITY DANGEROUS GOODS INSPECTION FEES BYLAW 1990**

10. In accordance with s.158 of the Local Government Act 2002 (LGA 02) the Council must review existing bylaws. The relevant sections of the LGA are:

s.293 Bylaws

*1) Bylaws made or having effect under provisions of the Local Government Act 1974 that are repealed by this Act, being bylaws that were in force immediately before the commencement of this section, are deemed to be validly made under this Act and continue in force accordingly if validly made under the Local Government Act 1974*

and

s.158 Review of Bylaws

...

*(2) Bylaws continued by section 293 must be reviewed within 5 years after the date of commencement of this section, unless they cease to have effect before a review would otherwise be required.*

As such, bylaws made under the Local Government Act, 1974, and in force at 1 July 2003, continue in force but must be reviewed within five years of 1 July 2003. The majority of Christchurch City Council bylaws must be reviewed by 30 June 2008. Bylaws that are not reviewed in accordance with s.158 cease to have effect two years after the date on which that bylaw was required to be reviewed [s.160], that being 30 June 2010.

11. Where bylaws are reviewed the Council must use the special consultative procedure in reviewing each bylaw [s.158]. Under s.158(2) a review of the Dangerous Goods Inspection Fees Bylaw 1990 may not be necessary as it ceased to have effect in 2001 and 2004 for new and existing activities, respectively. However, the LGA 02 does not include provisions on how to deal with bylaws that cease to have effect. To date, territorial authorities have included redundant bylaws in special consultative procedures.
12. The Bylaws Act, 1910 prevails over the relevant sections of the LGA 02. In accordance with the Bylaws Act, 1910 a bylaw (or any provision of a bylaw) is invalid if:

*...they are ultra vires of the local authority, or repugnant to the laws of New Zealand, or unreasonable, or for any other cause whatever, the bylaw shall be invalid to the extent of those provisions and any others which cannot be severed therefrom [s.17]*

13. The powers embodied in the Christchurch City Dangerous Goods Inspection Fees Bylaw, 1990 are considered repugnant to the provisions invoked through the introduction of the Hazardous Substances and New Organisms (HSNO) 1996. The Bylaw is therefore invalid; the following provides background information to assist the Council in determining the best approach to deal with the bylaw.

**Dangerous Goods Inspection Fees Bylaw**

14. The objective of the Christchurch City Dangerous Goods Inspection Fees Bylaw, 1990 ("the Bylaw") is to outline the schedule of fees relating to dangerous goods inspections. The Schedule attached at Clause 4 outlines the fees for inspection, supervision, or testing of plant equipment. The Bylaw was established under the Local Government Act, 1974 and the Dangerous Goods Act, 1974.

11 Cont'd

15. The Dangerous Goods Act, 1974 controlled packaging, handling and storage of dangerous goods. Under the Act territorial authorities were deemed licensing authorities with responsibility for provisions contained in the Act. These powers were revoked following the introduction of the HSNO<sup>31</sup>; a transitional period applied until 1 July 2004 for existing uses.
16. The HSNO consolidated controls on hazardous substances and new organisms and established the Environmental Risk Management Authority (ERMA). The majority of dangerous goods and scheduled toxic substances were transferred to the HSNO on 1 April 2004. ERMA are now responsible for approving annual licences for premises and making decisions on applications to introduce hazardous substances and new organisms, including genetically modified organisms. ERMA issue test certificates that verify compliance with various conditions associated with the Act.
17. HSNO provides for Codes of Practice to be approved by ERMA. Codes of practice are used as a method of achieving controls set out under HSNO. The codes act as a means of demonstrating compliance with regulatory requirements which, together with best practice, are intended to eliminate or minimise the risk associated with the management of hazardous substances. Monitoring of hazardous substances (including dangerous goods) falls to the various agencies as stated under s.97 of HSNO.
18. The Bylaw is now considered redundant given the transfer of powers under HSNO and the establishment of ERMA. Information on HSNO and changes to this effect have been available on the Christchurch City Council website for some time<sup>32</sup> and Council officers have acted accordingly.
19. Hazardous substances are also controlled through the City Plan. This fulfils the requirement of s.31(b)(ii) of the Resource Management Act, 1991 (RMA) which requires territorial authorities to prevent or mitigate any adverse effects associated with the storage, use, disposal or transport of hazardous substances. All hazardous substances, when discharged to air, to water, or onto or into land, are contaminants under the RMA.
20. The City Plan provides permitted baselines for hazardous substances in each zone. Hazardous substance manufacturing, use, storage and disposal are permitted where all the relevant zone rules and General City rules, Community, Development and Critical Standards are met. Key conditions include adequate bunding to contain 100–120% of the substances, collection and signage requirements.
21. Section 7 of the City Plan addresses the transportation of hazardous substances and promotes the use of rail, arterial roads and roads in industrial areas, for the transport of hazardous substances. The aim is to minimise the potential for hazards, particularly in areas where there are concentrations of people, or where the environment is dominated by residential occupation.
22. The Christchurch City Council's role in managing hazardous substances – or dangerous goods – is considered to be adequately covered by district planning provisions contained in the City Plan. As noted, the powers to inspect dangerous good facilities have been revoked and the Bylaw is now redundant.

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<sup>31</sup> The Explosives Act 1957, Toxic Substances Act 1979, and the Pesticides Act 1979, were also repealed with the introduction of HSNO

<sup>32</sup> Available at: <http://www.ccc.govt.nz/hazards/hsnoinfo.asp>

11 Cont'd

**Regional Council Role**

23. In addition to the volume-based controls stipulated in the City Plan, the Canterbury Regional Council (ECan), has responsibility for use, manufacture, storage and transport of the following substances:
- Petroleum hydrocarbon (excluding LPG);
  - chlorinated hydrocarbon
  - agrichemicals
  - timber preservatives
  - substances containing arsenic, cadmium, cyanide, lead, mercury or selenium with a HSNO ecotoxicity classification of 9.1A, 9.1B or 9.1C.

These substances are controlled as part of the overall aim of preventing adverse effects on water quality.

24. As with territorial authorities, regional councils do not have an enforcement role under HSNO. However, s.30(v) and s.31(ii) of the RMA are identical with s.30(v) requiring regional councils to prevent or mitigate any adverse effects of the storage, use, disposal or transport of hazardous substances. In effect, ECan are responsible for controlling discharges of hazardous substances into or onto land, air, or water.
25. ECan exercises its s. 30(v) functions through Chapter 17 of the Regional Policy Statement and various chapters of the proposed natural resources regional plan (PNRRP). In particular Chapter 4, Water Quality, includes objectives and policies relating to hazardous substances.
26. The PRRNP was notified on 3 July 2004. The objective of Chapter 4 is to prevent impacts on surface and ground water quality. Certain activities are permitted while others, such as direct discharges to water or onto land where a hazardous substance may enter surface water, are prohibited. Exemptions apply, provided certain conditions are met, for example discharges from pest control and the maintenance of structures in surface water bodies.
27. The purpose of the key policies are summarised below. The relevant sections can be found at Attachment 2. Each policy is interpreted through various rules; sensitive areas such as the Christchurch Groundwater Recharge Zone are subject to more stringent rules than less sensitive areas.

**(i) Policy WQL2 Prevent the discharge of certain contaminants to surface water etc**

ECan states that the purpose of this policy is to prevent discharges that pose a significant risk to surface water quality, or the aquatic environment, by preventing and prohibiting the discharge of certain contaminants into surface water. A number of conditions regarding the siting of hazardous substance, in accordance with HSNO provisions, are listed.

**(ii) Policy WQL8 Prevent the entry of hazardous contaminants to groundwater**

The purpose of Policy WQL8(1) is to avoid locating new solid and hazardous waste landfills over aquifers where the groundwater would be vulnerable to contamination from persistent or toxic contaminants discharged over a long period.

**(iii) Policy WQL12: Avoid the potential for contamination of community drinking water sources**

The aim of Policy WQL12(2) is to avoid contamination of groundwater in Zone 1 of the Christchurch Groundwater Recharge Zone. It restricts certain new activities such as mineral extraction and hazardous substance use, storage and manufacturing. Existing activities must be managed accordingly to protect drinking water sources.



## 11 Cont'd

28. Rules relating to the policies control the use of certain hazardous substances. Of particular note are rules regarding the installation and removal of hazardous substance storage containers (including tanks). ECan must be advised of the removal of underground containers. Specific conditions apply for assessing spent petroleum hydrocarbon storage. Use, including storage in above and under ground containers is permitted, provided all the relevant conditions are met. Piping of hazardous substances is a controlled activity, where all the relevant conditions are met. Good practice, based on ERMA guidance notes and codes of practice, is stipulated for agricultural use.
29. Although the Plan is not yet operative, regard must be given to policies in accordance with s.104 of the RMA. ECan staff use the proposed rules in determining conditions for new activities. In particular, storage tanks are to be designed, constructed and tested in accordance with a standard approved by ERMA. A number of consents now contain rules with these requirements.

### Conclusions

30. The provisions contained in the Christchurch City Dangerous Goods Inspection Fees Bylaw 1990 are now redundant due to the repeal of the Dangerous Goods Act 1974 and the implementation of subsequent legislation. The two principal pieces of legislation that address the management of hazardous substances are the HSNO and the RMA.
31. While local authorities have a role in preventing or mitigating any adverse effects of the storage, use, disposal or transport of hazardous substances local authorities no longer have a role as inspectors of dangerous goods facilities. The Christchurch City Dangerous Goods Inspection Fees Bylaw 1990 may be considered repugnant to the HSNO and is therefore invalid in accordance with s.17 of the Bylaws Act 1910.

### OPTIONS

32. The Council has two options for dealing with the redundant bylaw:

#### **Option 1 - The Council may revoke the bylaw.**

In accordance with s.83 of the Local Government Act, 2002 a bylaw review, including its repeal, will be subject to special consultative procedures. When a bylaw is to be revoked a statement to that effect must be produced [LGA 02, s.86 (2)(b)].

#### **Option 2 - The Bylaw may be left to lapse.**

The bylaw ceased to have effect before a review would otherwise be required (1 July 2008). However, it is unclear in the provisions of the LGA how to address bylaws that fall into this category. It is understood that the bylaw, while redundant, would not lapse until the review date had passed, that being June 2010. Allowing the bylaw to lapse would remove the need to undertake any further review and special consultative procedures.

### PREFERRED OPTION

33. That Option 1 be adopted on the grounds that the bylaw now has no effect and could be considered invalid in terms of the Bylaws Act 1910. It is considered a more efficient method of dealing with the matter than waiting for it to lapse in 2010. The Council does not now operate under the repealed Dangerous Goods Act 1974 and provisions exist under HSNO for the control of hazardous substances previously dealt with by this bylaw.

## 11 Cont'd

## ASSESSMENT OF OPTIONS

## The Preferred Option

39. *That the Council give notice of its proposal to revoke the Christchurch City Dangerous Goods Fees Bylaw 1992 on the grounds that it is repugnant to the Hazardous Substances and New Organisms Act 1996 and invalid in terms of the Bylaws Act 1910.*

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Reduce confusion regarding Council roles in the dangerous goods area.	No costs involved after revocation undertaken.
<b>Cultural</b>	No specific matters	No specific matters
<b>Environmental</b>	No specific matters	No specific matters
<b>Economic</b>	No specific matters	No specific matters
<p><b>Extent to which community outcomes are achieved:</b> None specific to the subject.</p> <p><b>Impact on Council's capacity and responsibilities:</b> None as legislation and duties no longer exist.</p> <p><b>Effects on Maori:</b> None as legislation and duties no longer exist</p> <p><b>Consistency with existing Council policies:</b> Not applicable</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b> Supported by appropriate Environmental Services Unit staff</p> <p><b>Other relevant matters:</b> None known</p>		

## 11 Cont'd

**Maintain The Status Quo (If Not Preferred Option)**

40. *Leave the bylaw in place despite it having no effect and wait for it to lapse automatically in 2010.*

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	No action required at this time.	Retention of bylaw in system will require further consideration leading up to 2010.
<b>Cultural</b>	No specific matters	No specific matters
<b>Environmental</b>	No specific matters	No specific matters
<b>Economic</b>	No specific matters	No specific matters
<p><b>Extent to which community outcomes are achieved:</b> None specific to subject.</p> <p><b>Impact on Council's capacity and responsibilities:</b> None as legislation and duties no longer exist – retention of bylaw until it lapses inefficient as would need consideration at a later date.</p> <p><b>Effects on Maori:</b> None as legislation and duties no longer exist</p> <p><b>Consistency with existing Council policies:</b> None applicable</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b> Supported by appropriate Environmental Services Unit staff</p> <p><b>Other relevant matters:</b> None known</p>		

**12. APPLICATIONS FOR EVENTS SEEDING AND CONFERENCE LOAN FUNDING**

<b>General Manager responsible:</b>	General Manager Community Services, DDI 941-8534
<b>Officer responsible:</b>	Recreation and Sport Manager
<b>Author:</b>	Kevin Collier, Sport and Funding Adviser

**PURPOSE OF REPORT**

1. The purpose of this report is to consider a number of applications for funding from the Council's Events Seeding Fund and its Conference and Similar Events Bridging loan fund.

**EXECUTIVE SUMMARY****Events Seeding**

2. As part of its annual grants to community organisations the Council sets aside funding for the assistance of the establishment of new events in the city. This fund is called the Events Seeding Fund and its primary purpose is to assist new events to establish themselves during the first two to three years of existence.
3. There is \$160,000 available annually and applications are able to be received at any time throughout the year. Applications are assessed under the following headings:
  - Direct economic return to the city
  - Potential for future events
  - Media exposure for Christchurch
  - Potential for self sufficiency
  - Support from relevant organisations (parent body etc)
  - Other available resources and confirmed support
  - Compatibility with existing events
4. Funding is usually provided for one to three years and often on a decreasing scale. This is to encourage the event organisers to obtain funding from other sources such as commercial sponsorship or from possible increased income from patronage.
5. Events seeding funding applications to be considered:
  - Southern AMP
  - Chinese Lantern Festival.

**SOUTHERN AMP – REQUEST: GRANT OF \$70,000****Background**

6. Southern AMP is a one day outdoor music concert which was held for the first time on 26 November 2005 at QEII Park. It is aimed at the youth market and is similar in nature to the Big Day Out held in Auckland.
7. The concert was attended by approximately 3,000 people which was below their target of 5,000, owing to unfavourable weather and another major concert in Wellington on the same weekend.
8. The concert was put together by Scott McCashin and Neil Cox from a company called Size Eight Limited. It was conceived and put together in a very short time frame (approximately four months) but the organisers managed to secure some high profile acts which of course attracted the crowds.
9. It is intended to be an annual event, with this year's event planned for Saturday 11 November 2006. This date was planned to coincide with the end of both the Otago and Canterbury University year and the start of Show week. Performers will be a mix of established international artists, Australian and New Zealand names as well as some emerging local artists on the "Unsigned Canterbury Bands" stage.

**12 Cont'd**

10. The organisers would have approached the Council for last year's event but were unaware of the opportunity so are seeking support now whilst the event is still in its establishment stage. Their target for attendance is 5,500–7,000 people this year and growing to 15,000 over the next three years.

**Risks**

11. The inaugural event made a loss for the organisers which is often the case for new events trying to establish themselves. The Council did not provide any financial support for the 2005 event yet did get income through the hire of QEII Stadium.
12. Should the Council wish to support the 2006 event the level of financial risk to the Council would be limited only to the amount of the grant provided. This risk could be further mitigated through the direct application of the grant funding to the hire of QEII Stadium thereby guaranteeing that the Council is paid should any further losses occur or if the organisers are unable to meet their financial obligations.
13. Further there is the luxury of having already "seen" the 2005 event and the confidence of knowing that the organisers *are* able to deliver, thereby further reducing the inherent risks that normally come with supporting an inaugural event of this type.
14. As with any youth event there are considerations around the risks involved with events which involve alcohol but there are processes and procedures which can be put in place to mitigate this risk and staff at QEII Stadium have close control on this aspect of any events which occur at the stadium so the risks are reduced as far as possible. There were no major incidents reported at last year's event.

**Event Assessment**

15. The 2005 event was a well-run event and the organisers attracted some well known and "sellable" artists. With more lead up time to promote, further word of mouth from those who attended last year, increasing levels of support from sponsors and further fine tuning of the financial aspects of the concert it will become well established and self sufficient with time.
16. There is a need for such an event in the city as is shown by the attendances at the 2005 concert, even considering the very short lead up time and the other factors outlined above. There is a lack of events of this type on the Christchurch calendar at the moment and this should be seen as a good opportunity to support the establishment of a regular, reliable and reputable rock event for Christchurch.
17. The organisers have shown they can put on a good event and the proposed acts in line for the 2006 event indicate a strong future for this event in the city.

**Conclusion**

18. It is recommended that the Council support the 2006 Southern AMP Concert to the total value of \$35,000.

**CHINESE LANTERN FESTIVAL – REQUEST: GRANT OF \$45,000**

19. The inaugural Chinese Lantern Festival held in Victoria Square in February 2005 and was supported by the Council from the Events Seeding Fund to the value of \$20,000. The 2006 event was held on 25-26 February with support from the Council to the value of \$30,000.
20. The 2006 festival was a huge success and it is estimated that 35,000 people attended over the two days.
21. Discussions are being held with the organisers for next year's event and the date has been set for the 10-11 March 2007. This date is slightly later than this year's event in order not to clash with the Council's ASB Bank Starry Nights event. The timing of the festival is linked to the Chinese New Year and therefore there are a limited number of suitable weekends available.

**12 Cont'd**

22. For the 2006 event, Asia:NZ engaged a local event manager for the event. Their feedback on this decision is that whilst this obviously had an associated cost it made the organisation of the event significantly less onerous for their own staff and made the organisation of the event far smoother. They have indicated a desire to employ an independent events manager again for the 2007 event.
23. Given the success of the first two events it can only be assumed that the support and turnout for 2007 will be even stronger and the event itself will be bigger and better. The Chinese Lantern Festival has a strong future in Christchurch.
24. The 2005 and 2006 events were possible only through the support the organisers received from Council and other funding organisations. However, indications are that given the decline in the amount of funding available from the various gaming machine and other charitable trusts that this level of funding may not be available again in the future.
25. As the festival grows there are obviously associated increases in costs to support this growth. Given these factors the applicants have requested an increase in support from the Council for the 2007 event to \$45,000. They have also again made approaches to eventually move the event from a seeded event to a Council core funded event in the longer term. This latter request may be considered in the future but is also dependent on the outcome of the current review of the Council's Events Strategy due to be completed at the end of this year.
26. Certainly the event it is not yet at the point where it is self funding or sufficiently established to secure long-term funding from other avenues. Further it would likely not be able to go ahead at all if the Council were not to provide funding.
27. Given the lack of available funds left in the 2005/06 events seeding budget it is recommended that support be considered from the 2006/07 events seeding fund.
28. It is therefore recommended that the Council provide funding from the 2006/07 Events Seeding Fund for the 2006 Chinese Lantern Festival to \$40,000.

**EVENTS SEEDING BUDGET**

29. Currently there is approximately \$23,000 remaining in the events seeding budget for the 2005/06 financial year.
30. With only a small amount of funding left for 2005/06 it is recommended that the above two applications be allocated funding spread across the 2005/06 and 2006/07 financial years pending approval of the 2006/07 events seeding fund during the annual grants process in August.

**Conference and Similar Events Bridging Loan Fund**

31. The Council has set up the Conference and Similar Events Bridging Loan Fund to assist organisations with funding for up-front costs incurred when hosting significant conferences, symposiums and similar events. The loans are interest free for the period up to the end of the conference and are repaid upon receipt of income from registrations and other income as this comes in.
32. The purpose of the loan fund is to give support to organisers of such events by providing cash-flow to secure venues, brochure and website development and other up-front costs. It is focussed on significant national and international events which involve some economic benefit to the city by way of visitors staying in city accommodation and spending money in the city.

**6<sup>TH</sup> INTERNATIONAL SYMPOSIUM ON ECOHYDRAULICS 2007 – REQUEST: LOAN OF \$40,000**

**Background**

33. The International Association of Hydraulic Engineering and Research (IAHR) has charged the NZ Ecohydraulics Trust with the responsibility of managing the International Symposium on Ecohydraulics in February 2007. The Trust is a registered Charitable Trust and Ecohydraulics is the study of water, its movement and the ecological effects of water management.

**12 Cont'd**

34. The conference is being organised by a professional conference company.
35. The society is requesting a loan of \$40,000.

**The Symposium**

36. The symposium will be held over six days from the 18–23 February 2007 at the Christchurch Convention Centre and it is expected that up to 650 delegates and partners will attend with 80% expected to come from outside New Zealand. It is expected that these visitors will not only stay for the symposium but will spend time before and/or after visiting the region and the country. The organisers are actively promoting partner programmes to local attractions and pre/post-conference tours to areas of interest in the region.
37. The loan is to cover the pre-event costs such as promotion and marketing, securing the venues and general planning associated with the symposium.

**Financial Analysis**

38. The loan is provided interest free and is repaid by way of first call on income from registrations. The level and timing of repayment will be by negotiation with the organisers and in such a fashion that minimises risk to the Council yet still enables the organisers to maintain adequate cash flow.
39. The Conference and Similar Events Bridging Loan Fund Account has a current balance of approximately \$400,000.
40. A detailed budget has been submitted for the symposium which shows a \$24,000 surplus based on an analysis estimating attendance by a minimum of 350 registrants. This is a conservative expectation based on other international conferences of this type previously held.
41. There is however, always a risk that the expected number of registrations will not be realised and income will not be sufficient to reach this break-even. It is unlikely this will happen given the established nature of the symposium although should this be the case, the Council will have already received some repayment of the loan from the registrations received at that time.
42. Of lower possibility yet potentially more significant risk is the scenario of the event not going ahead at all. In this case the Council loan will still need to be repaid in full upon the decision to cancel the Congress. However, the Congress Committee will have already had some outgoings up to the point where such a decision would be made and in this case there will be little or no income from registrations as these will all have to be refunded. In this case the Council may not receive full payment of its loan.

**Recommendation**

43. It is recommended that a loan of \$40,000 be made to the NZ Ecohydraulics Trust to assist with the holding of the International Symposium on Ecohydraulics in February 2007.

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council provide the following grants from its 2005/06 and 2006/07 Events Seeding fund pending approval of that fund for 2006/07:
  - Southern AMP - \$35,000
  - Chinese Lantern Festival - \$40,000
- (b) That the Council provide a loan from the Conference and Similar Events Bridging Loan Fund to the International Symposium on Ecohydarulics 2007 of \$40,000.

## 13. ELECTION SIGNAGE - REVIEW OF COUNCIL POLICY

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8549
<b>Officer responsible:</b>	Secretariat Manager
<b>Author:</b>	Max Robertson

**PURPOSE OF REPORT**

1. The purpose of this report is to request the Council to revoke its present policy relating to promotions and the erection of advertising signs for parliamentary and local body elections. It is proposed, once the policy has been revoked, to replace it with a summary document in an advisory format, based on the provisions of the previous policy. A copy of the present policy is attached.

**EXECUTIVE SUMMARY**

2. In the view of the Council's Legal Services Unit, the policy is largely redundant. Most of its provisions are redundant because the same things are regulated under the City Plan, the Council's Public Places and Signs Bylaw, Land Transport rules or, in the case of parliamentary election advertising, the Electoral (Advertisements of a Specified Kind) Regulations 2005 (these regulations govern the content of parliamentary election signs).
3. In addition, the present policy carries little weight, and in the case of any inconsistency is overridden by the other controls referred to in the previous paragraph.
4. It is therefore recommended that the Council consider revoking the present policy.

**FINANCIAL AND LEGAL CONSIDERATIONS**

5. There are no financial implications associated with the revocation of the existing policy.
6. The 2005 regulations:
  - (a) only control election advertising in relation to parliamentary elections, **not** local body elections; and
  - (b) only apply for the two months before polling day (and any prohibition or restriction in any other enactment, bylaw, etc in relation to the time period for display is overridden by section 221B of the Electoral Act 1993); but
  - (c) during that time they override the provisions of any enactment, bylaw or other instrument that is inconsistent with the 2005 regulations (regulation (4)(d) – provisions in bylaws etc on the content or language used in an election advertisement is also overridden under section 221B); but
  - (d) the 2005 regulations only regulate the shape, colour, design and layout of an election advertisement, **not** the location for the display of the advertisement, the number of advertisements that can be displayed in a location, or the procedures to be followed by a person before they display an election advertisement.
7. The new Land Transport rules, the Traffic Control Devices 2004, (which replace a number of the old regulations in the Traffic Regulations 1976), also contain some provisions that regulate parking, and signs on or visible from roads (see in particular clauses 3.2(5), and 4.7 of the Traffic Control Devices 2004).



13 Cont'd

8. The City Plan provides at clause 3.2.1(a) that:

*“Attention is drawn to the existence of the Christchurch City Public Places and Signs Bylaw 1992 which controls outdoor advertisements displayed in public places such as footpaths and pedestrian malls. Attention is also drawn to Council policies in the policy register regarding election campaigns, signboards in public places and advertising on bus shelters.*

***Where a conflict exists between a rule in the Plan relating to outdoor advertisements and the provisions of the bylaw or the policy register, the rule in the Plan shall be the prevailing control.***

9. It should be noted that none of the Council's requirements can control signs on a state highway (the Transit New Zealand Bylaw 1987/32 applies).
10. Under the City Plan an election sign is likely to be a “temporary outdoor advertisement”. Temporary outdoor advertisements associated with an event such as an election “may be displayed for a continuous period of **up to a maximum of 12 weeks** in any 12 month period. All temporary outdoor advertising shall be **removed within five working days after the event** to which it relates.”
11. For an outdoor advertisement to be a permitted activity (not require consent) it must comply with all the development standards in clause 3.4 and all the critical standards in clause 3.5.
12. These include controls in relation to:
- (a) the maximum area and number of advertisements;
  - (b) their height;
  - (c) the advertising not being illuminated internally or externally by intermittent or flashing lights (or any illumination at all in some areas), and not having any flashing movements or reflective material;
  - (d) support structures not being dominantly visible from roads/public places;
  - (e) verandah related and projecting displays;
  - (f) traffic safety – advertising must not obscure or confuse the interpretation of any traffic signs or controls;
  - (g) the need for a relationship of the advertising to the site it is located at unless it is temporary outdoor advertising, such as for elections.
13. The Bylaw overlaps somewhat with the City Plan because it also contains requirements in relation to the sizes of signs in various places, verandah and projecting signs, affixing signs to buildings etc, but where these are inconsistent with the City Plan then the City plan prevails, as noted above. Consent of the owner or occupier (or the written consent of the Council if the Council is the owner or occupier) is needed before any placard, banner, poster or other material with writing on it is affixed to any premises, structure or tree (clause 4 of the Bylaw). A sign, being “every advertisement or advertising device of whatever nature...visible from any public place” cannot be erected or displayed without a sign permit being obtained from the Council (clause 32 of the Bylaw).

**THE POLICY**

14. The Council's Legal Services Unit has reviewed the current content of the policy to analyse whether the various matters it purports to control are subject to regulation elsewhere, in order to establish whether each provision is still useful and/or relevant. The outcome of this review is summarised below:

## 13 Cont'd

POLICY PROVISIONS	COMMENTS
<b>1 Cathedral Square, City Mall and New Brighton Mall</b>	
(a) No vehicles to be parked in above places for the purpose of political party promotion (prohibition includes caravans).	This is the only provision which does not appear to be covered by any other bylaw, policy or legislative provision. If necessary, it could be included within the Public Places and Signs Bylaw, when the next amendment or review of this Bylaw is made. In the meantime, or alternatively, it can be included in the advisory summary document replacing this policy, or the Council's Parking Policy.
(b) Tables for checking electoral rolls are permissible.	The Council as owner/occupier of these places would need to consent to the tables being there anyway, without the need for it to be included in a policy.
“(c) Some tasteful candidate advertising may be attached to the campaign tables.”	What is “tasteful” candidate advertising? No guidance in policy, but what local or parliamentary candidates can include in their advertising is regulated in part by the two relevant Acts, and probably also under the Advertising Standards Authority Code of Practice, so not necessary to make this statement in a policy.
“(d) No charge will be made for the use of sites in Cathedral Square, the City Mall or the New Brighton Mall.”	The Council can decide this as owner/occupier, but would not necessarily need to include this in a policy, or this (and potentially all of these provisions if thought necessary) could be transferred to another policy (eg the Public Street Enclosures Policy, which covers Cathedral Square, Cashel Mall and New Brighton Mall).
“(e) The Leisure Unit must be advised when such political party promotions are proposed.”	See above comment
<b>2 Advertising Signs (Including Placards, Posters and Banners on or adjacent to Roads)</b>	
(a) Signs less than 3m <sup>2</sup> in area and mounted no higher than 3 metres may be erected on private property.	As noted in this part of the policy – the City Plan has requirements that cover this, including a specific reference to election signs being no more than 3m <sup>2</sup> in area (clause 3.4.1(a)(iii)). This clause of the policy is redundant.
“(b) A Council consent must be obtained before signs are attached to buildings. (Note: This applies to signs of solid framing or backing in excess of 2 square metres.)”	The Bylaw includes provisions relating to signs being affixed to buildings, as does the City Plan, which contain much more detail. This clause of the policy is therefore redundant.
“(c) No advertising signs are permitted on any road structure such as poles or cabinets, trees or on parks and reserves, footpaths, roads, road reserves or other land owned or controlled by the Council.”	If this statement was not included in a policy then clause 4 of the Bylaw would apply because the consent of the owner/occupier is required before any election sign could be erected (this would be a “banner, placard, poster” or other material with written or pictorial representations). In view of this statement the Council would not be likely to give its consent. In addition, even if the Council includes in a policy that it will not permit something, there is case law which provides that a Council cannot blindly follow its policy and must be prepared to depart from its policy in unusual circumstances.

## 13 Cont'd

POLICY PROVISIONS	COMMENTS
<p>“(d) Signs must not be reflectorised or erected in such a location that they will create an obvious conflict with existing road signs. Signs must not imitate or be of a form similar to any traffic signs (this is a requirement in terms of the Traffic Regulations 1976).”</p>	<p>The wording of the policy is now out of date as the Traffic Control Devices 2004 is now applicable. Clauses 4.7 and 3.2(5) cover both of these matters, so this clause of the policy is redundant.</p>
<p>“(e) Signs must not be erected facing into any intersection controlled by traffic signals or roundabouts. Signs erected in the vicinity of other intersections must be placed so that they can be viewed by drivers leaving rather than entering the intersection. Signs erected in these locations shall be parallel to the street boundary of the property on which they are erected. Signs shall not be located so as to be likely to obscure or to confuse the interpretation of any traffic signals.”</p>	<p>The City Plan includes requirements on traffic safety, particularly that “No outdoor advertisement shall be erected within 50 metres of an intersection controlled by traffic signals or a roundabout”, which overrides this provision of the policy. The last sentence in this clause of the policy is also found in the City plan. This clause of the policy is redundant.</p>
<p>“(f) Trailer and other vehicle mounted signs are not permitted (a bylaw provision) unless associated with a street meeting in progress or attached to a parked caravan with people in attendance. (Note: Contravention of this paragraph is an offence under the parking bylaws.) However, the following signs are permitted:</p> <p>(i) Signs mounted on the roof of vehicles, provided they comply with the provisions of the Traffic Regulations 1976.</p> <p>(ii) Signwriting on the bodywork of candidates' vehicles, giving basic information such as the name of the candidate, their party and contact phone number(s).”</p>	<p>This clause of the policy is also redundant, because as it points out itself all of the requirements are included elsewhere (in Bylaws or under the, now, Land Transport Rules).</p>
<p>“(g) Signs must not be displayed for more than three months, and must be removed within seven days after the election if a postal voting system is used; or removed and/or covered prior to election day when the ballot system is used. ...”</p>	<p>This clause of the policy is also redundant because it is overridden by the provisions of the City Plan relating to temporary outdoor advertising such as for elections – it can be displayed for up to 12 weeks and must be removed 5 days after the event.</p>
<p>“(h) Signs erected contrary to these requirements or in a location or manner likely to cause distraction or danger to road users may be removed by the Council without prior notice. Where a sign is removed by the Council in these circumstances, the candidate(s) will then be advised of the action taken and the sign may be recovered from the Council following the payment of a fee of \$50 to cover part of the removal costs.”</p>	<p>A policy cannot give this power to the Council; it would have to exist already under legislation or a Council Bylaw in relation to other land. The General Bylaw (clause 14) provides that notice in writing would have to be given to an owner or occupier to remove something erected contrary to a bylaw, before the Council could remove it. It can also claim the costs of doing so.</p> <p>The Council would have the power to remove signs in relation to land it owns. It can also claim the costs of doing so from any road, public place or reserve (clause 14(b)(ii) of the General Bylaw). If the Council has not given consent for a sign to be on its land then that would be a breach of clause 4 of the Bylaw, and under the General Bylaw, that would be an offence.</p>

**13 Cont'd**

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council revoke the policy originally adopted in 1999 and confirmed by the Council in June 2002, relating to the requirements for promotions and the erection of advertising signs for parliamentary and local body elections.
- (b) That the policy be replaced by a summary document in an advisory format, which can be made available to intending candidates and other interested parties prior to future local authority and parliamentary elections.

**14. CHRISTCHURCH CITY HOLDINGS LTD - DRAFT STATEMENT OF INTENT FOR LYTTTELTON PORT COMPANY LTD**

<b>General Manager responsible:</b>	Bob Lineham, CEO, CCHL
<b>Officer responsible:</b>	As above
<b>Author:</b>	Richard Simmonds, DDI 941-8817

**PURPOSE OF REPORT**

1. The purpose of this report is to seek the approval of the Council of the draft Statement of Intent of CCHL subsidiary company Lyttelton Port Company Ltd ('LPC'), and to briefly comment on its year to date results.

**BACKGROUND**

2. Unlike most other CCC/CCHL subsidiaries, LPC is not a "council-controlled trading organisation" for the purposes of the Local Government Act 2002 (port companies are instead subject to the Port Companies Act 1988), and hence is not statutorily required to deliver a Statement of Intent ('Sol') to its shareholders.
3. The constitution of LPC does, however, require LPC to produce an equivalent document, and this is attached. CCHL is required by the terms of its own constitution to forward the Sols of the trading companies to the Council for final approval.

**LPC STATEMENT OF INTENT**

4. The format and content of the attached Sol is very similar to the previous year's document. Other than for the updating of volume projections and shareholder value figures, the only change is the inclusion of a reference to the adoption of international financial reporting standards in the 2007 financial year
5. While Stock Exchange Listing Rules and securities legislation effectively prevent the company from including forecast financial information in the SCI, it is considered that within these constraints, the document appropriately reflects the priorities of LPC and its shareholders.
6. The company recently reported its half year result. Significant improvements in volumes in LPC's key trades resulted in a 19% improvement in revenue, although net profit after tax was adversely impacted by higher depreciation charges following a revaluation of the company's land, buildings and harbour structures at the last balance date, and higher maintenance costs.

**RECOMMENDATION**

It is recommended that the Council approve the draft Sol of Lyttelton Port Company Ltd.

**15. SHARES HELD BY THE COUNCIL IN ORION GROUP LTD**

<b>General Manager responsible:</b>	Bob Lineham, Strategic Investment
<b>Officer responsible:</b>	As above
<b>Author:</b>	Richard Simmonds, DDI 941-8817

**PURPOSE OF REPORT**

1. The purpose of this report is to recommend that the Council sell to Christchurch City Holdings Ltd the 6,369,000 shares in Orion Group Ltd ('Orion') it acquired following the amalgamation with Banks Peninsula District Council ('BPDC'). The shares represent a 1.65% holding in Orion.

**BACKGROUND**

2. BPDC was dissolved on 5 March 2006. Following dissolution, Banks Peninsula District is included in the area of Christchurch City. Pursuant to the Local Government Act 2002, Christchurch City Council has therefore assumed ownership of all the assets held by the former BPDC.
3. Included in the assets previously held by BPDC are 6,369,000 shares in Orion, made up of 4,389,000 ordinary shares and 1,980,000 redeemable preference shares ('RPS'). The other shareholders are CCHL and Selwyn Investment Holdings Ltd ('SIHL'), a wholly-owned subsidiary of Selwyn District Council.
4. The following table summarises the current shareholdings in Orion:

**Paid up value of shares - May 2006**

	Ord	%	RPS	%
CCHL	233,082,500	87.625%	105,150,000	87.625%
SIHL	28,528,500	10.725%	12,870,000	10.725%
CCC	4,389,000	1.650%	1,980,000	1.650%
Total	<u>266,000,000</u>	100.000%	<u>120,000,000</u>	100.000%

4. For the following reasons it is recommended that CCHL purchase at market value the shares held by the Council in Orion:
  - CCHL's role is to act as the holding company for the Council's equity investments in its CCTOs;
  - It is a way of returning further capital to the Council;
  - It would create accounting complexity and administrative overhead were CCC to retain the shares.
5. The shares should be transferred prior to 30 June 2006, and prior to the payment of Orion's final dividend, to avoid the accounting complexity referred to in the above bullet point.

**VALUATION CONSIDERATIONS**

6. As with the purchase of City Care Ltd and Selwyn Plantation Board Ltd in 2002, the transfer of shares between the Council and CCHL will need to be effected at market value. This will ensure that correct value is exchanged between the two parties, and will avoid any risk of adverse tax consequences arising from transfers between related parties at amounts less than or greater than market value.

**15 Cont'd**

7. The Council and CCHL will in any case be performing their triennial revaluation of their respective investments in CCHL and the operating companies owned by CCHL. This valuation exercise can be used to determine the value of the Council's current holding in Orion.
8. Based solely on the existing market valuation of CCHL's investment in Orion (now two years old) and ignoring any adjustments for minority discount etc, the value of the Council's shareholding would be in the order of \$10 million.

**FINANCIAL IMPACT**

9. The Council will receive an unbudgeted capital sum which can be factored into the final version of the LTCCP. This will be available as funding for the Council's capital programme. The estimated net financial on revenues will be:

	Interest on \$10 million @ 7%	700,000
Less:	Dividends foregone	(462,000)
	Estimated net annual gain to CCC	238,000

**LEGAL CONSIDERATIONS**

10. While there are pre-emptive clauses contained within the Orion constitution, these are not applicable in the case where shares are transferred to another entity that is 100% owned by the existing shareholder. Clause 10.6(b) provides:

*“Notwithstanding any provision to the contrary contained in this constitution any shareholder may transfer its equity securities to any company which has the same beneficial ownership and control as the shareholder transferring such equity securities and which continues to have the same beneficial ownership and control. Before registering such transfer the board may require the proposed transferor to give such declaration or other evidence as the board in their absolute discretion may think fit to satisfy themselves that the provisions of this clause are being adhered to.”*

11. All parties will be fully advised of the proposed transaction. A formal sale and purchase agreement will be entered into, and the Council's legal team will be fully involved in reviewing the documentation from the Council's perspective.

**RECOMMENDATION**

It is recommended that the Council approve the proposed sale of the Orion shares to CCHL at market value and, subject to the approval of Legal Services manager, authorise the Director of Strategic Investment to complete and sign the necessary documentation.

**16. PANDEMIC PLANNING**

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8656
<b>Officer responsible:</b>	Manager, Civil Defence Emergency Management
<b>Author:</b>	Murray Sinclair

**PURPOSE OF REPORT**

1. The purpose of this report is to provide the Council with an update on what planning is being undertaken internally and within the wider community to ensure service continuity during an influenza pandemic.

**EXECUTIVE SUMMARY**

2. Currently the H5N1 flu strain circulating overseas passes from bird to a human where there is close contact with an infected bird, and possibly in one known case from human to human through close physical contact with an infected person. It is generally accepted that even if H5N1 does not mutate to an airborne human to human virus, a new flu strain will occur at some time in the future and that planning and preparation now is essential to minimising the risks of arrival in New Zealand, spread throughout New Zealand, and reducing the health, social and economic consequences that would follow an outbreak. Current pandemic planning is being driven by the possibility that the H5N1 virus will be the one to mutate to a human to human virus.

**FINANCIAL AND LEGAL CONSIDERATIONS**

3. Nil.

**STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the information be received.
- (b) That the Council recognise the existence of the Pandemic Communications Reference Group, to ensure consistency of communications.
- (c) That elected members support the work of the Pandemic Communications Reference Group by promoting pandemic awareness within their own communities.



16 Cont'd

**BACKGROUND ON PANDEMIC PLANNING**

4. The World Health Organisation is concerned at the potential for an influenza pandemic and they have advised countries to prepare influenza pandemic action plans. While there is no current suggestion that pandemic influenza is imminent, it is worth planning for on the basis that, if it were to occur, most, if not all, communities and workplaces would be affected.
5. The consequences of a pandemic would be largely health-related and possibly affecting up to 1.6 million people, with social distancing, significant absenteeism and disruption to normal living activities commonplace throughout New Zealand. If it occurred, pandemic influenza would be unlike any other form of emergency. It would almost certainly start overseas and would have an impact on the whole country. District health boards, primary health providers, local authorities, and civil defence emergency management (CDEM) groups, all have key roles in preparing local communities for a pandemic, and in responding to it should it arrive. It is a widely-held view that the 'battle' will be won or lost in the local communities, and therefore community leadership and preparedness will be vital elements in the response to the pandemic.
6. The pandemic management strategy has five stages from 'planning for it' through to 'recover from it' (refer Appendix 1 attached). Actions at a local level are likely to be determined by the national interest, particularly during the 'keep it out' and 'stamp it out' phases.
7. The Ministry of Civil Defence and Emergency Management has recently produced a Pandemic Planning Guide for local authorities and CDEM groups. The guide recommends that local authorities establish an in-house pandemic planning team to develop actions necessary in assessing and reducing pandemic risks, and for response and recovery (ie internal focus on the Council's operations). It is also recommended that multi-agency pandemic teams be established to focus on collaborative planning with health authorities, regional representatives, local authorities, and other stakeholders to develop integrated pandemic response and recovery plans.
8. An in-house CCC Pandemic Planning Team has been established to focus on what the Council needs to do internally i.e. to ensure it is able to function to the fullest possible extent during and after an emergency as required under of the CDEM Act 2002.
9. The Council's internal pandemic planning that is currently underway focuses on the following:
  - Development of a pandemic action plan.
  - Ensuring all business continuity plans are updated to include provision for up to 50% staff absences for periods of two to three weeks at the height of the pandemic and lower levels of staff absences a few weeks either side of the peak. Business continuity plans must also identify essential services that must be maintained during a pandemic; 'key' staff and ensuring adequate backup for those 'key' staff; and develop methods for overcoming shortfalls in personnel and supplies.
  - The development of a pandemic communication plan that advises of actions the Council will follow during each of the various stages during a pandemic.
  - The development of a pandemic policy covering issues such as:
    - Ability for 'key' staff to work from home;
    - Workplace closure;
    - Overseas travel;
    - Civil defence responsibilities during a pandemic.

**16 Cont'd**

10. With regard to planning for the health issues that might arise from an influenza pandemic a 'Primary Care Pandemic Reference Group' has been established with representatives from each of the following health sectors:
  - Canterbury District Health Board
  - Community and Public Health
  - Primary Health organisations
  - General Practice
  - Pharmacy
  - Community Nursing
  - Laboratories
  - St John Ambulance
  - 24 Hour Surgery
  - Media and communications
  - City Council
11. This group has been meeting on a fortnightly basis to share and discuss the pandemic health planning arrangements.
12. Furthermore, a 'Pandemic Communications Reference Group' has also been established whose focus is on ensuring consistency of pandemic messages/information and establishing a point where such messages/information can be obtained. The group has representatives from:
  - Canterbury District Health Board
  - Pegasus Health
  - NZ Police
  - Canterbury CDEM Group
  - Christchurch City Council
13. Community leaders, including Councillors and Community Board members, will have an important role in disseminating information to members of the community during the readiness, response, and recovery phases of an influenza pandemic.
14. Staff from the Canterbury CDEM Group Emergency Management Office have been involved in facilitation of planning and readiness preparations by having input into the Canterbury District Health Board and South Island (Pandemic) Health Region planning. Information on planning at this level is being passed to members of the CDEM Group by the Emergency Management Office staff.
15. While the above mentioned reference groups have been established there is a need to establish a further group to focus on how the Council and other non-health organisations will provide support for non-medical care to those affected by the pandemic who can not be cared for in hospital or at a community based assessment centre but will need to be cared for at home. This group will also need to focus on other issues such as maintaining essential services; shortage of supplies etc. There is general support for the establishment of such a group and it is anticipated that by the end of June this group will have been formed.
16. Figure 1 below, identifies the various pandemic planning streams at the national level and within the Canterbury CDEM Group (regional/local) levels. It should be noted that there is some frustration in endeavouring to ascertain what planning has been undertaken at the national level in order that the planning at a regional/local level is consistent.

## 16 Cont'd

Figure 1. Canterbury Pandemic Planning

National Work Stream	Lead Planning Agency	CDEM Group Level	Regional Outputs
Health	Ministry of Health	DHBs	Plans 30 April
Border	NZ Customs	NZ Customs	Plan in place
Economy	Treasury	Canterbury Employers Chamber of Commerce	Briefings commencing May
Workforce	Ministry of Labour	(Group EMO)	Plan August
Welfare/Social	Ministry of Social Development	Work & Income NZ	BCP's June
Education	Ministry of Education	Ministry of Education	
Law + Order	NZ Police	NZ Police [Justice Sector Group]	Plan June
Death Management	Ministry of Justice		Outline plan June
Legislation	Dept. Prime Minister & Cabinet /Crown Law	DHBs	Ongoing
Community Logistics	Ministry of CDEM	Group EMO	Plan August
Communications	Dept. Prime Minister & Cabinet /Ministry of Health	DHBs	Under development
Infrastructure	Ministry of Economic Development	Canterbury Lifelines Group	Ongoing
External	Ministry of Foreign Affairs & Trade	NA	NA

**17. APPOINTMENT OF ADDITIONAL MEMBER OF COUNCILLOR TRAVEL/CONFERENCE ATTENDANCE APPROVAL SUBCOMMITTEE**

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI: 941-8549
<b>Officer responsible:</b>	Secretariat Manager
<b>Author:</b>	Max Robertson

**PURPOSE OF REPORT**

1. The purpose of this report is to seek the appointment of an additional member of the subcommittee previously appointed by the Council with delegated power to approve Councillor attendance at conferences, courses, seminars and training programmes.

**EXECUTIVE SUMMARY**

2. Following the 2004 elections, the Council appointed a subcommittee comprising the Deputy Mayor (Councillor Carole Evans) and Councillor David Cox, with delegated power to approve the attendance of the Mayor, Deputy Mayor and Councillors at conferences, courses, seminars, training programmes or such other matters as resolved by the Council, held both within New Zealand and overseas. Such approval by the subcommittee is subject to compliance with a number of associated conditions, including a requirement that the related registration, travel, accommodation, meal and related incidental expenses can be accommodated within existing budgets.
3. As noted, the subcommittee currently comprises only two members. This causes practical difficulties when one member is absent for an extended period, meaning that the subcommittee is unable to function as intended. To overcome this difficulty, the Council is requested to appoint a third member of the subcommittee, on the basis that the quorum of the subcommittee will remain at two, thus enabling the subcommittee to continue to operate in the absence of the third member.

**FINANCIAL AND LEGAL CONSIDERATIONS**

4. There are no financial implications associated with the appointment of a third member of the subcommittee. Section 23 of Schedule 7 of the Local Government Act 2002 provides that business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted. The quorum at a meeting of a local authority consists of half of the members if the number of members (including vacancies) is even, or a majority of members if the number of members (including vacancies) is odd. Section 45 of the Local Government Official Information and Meetings Act 1987 provides that the word "meeting" includes any meeting of a subcommittee of the local authority.
5. As the subcommittee has been granted delegated power to exercise the powers set out in this report, meetings of the subcommittee are required to be publicly advertised beforehand.

**STAFF RECOMMENDATION**

It is recommended that one additional Councillor be appointed as a member of the Councillor Travel/Conference Attendance Approval Subcommittee, to enable the subcommittee to continue to operate when one member is absent.

17 Cont'd

**BACKGROUND ON APPOINTMENT OF ADDITIONAL MEMBER OF COUNCILLOR TRAVEL/CONFERENCE ATTENDANCE APPROVAL SUBCOMMITTEE**

6. Currently, (and with the approval of the Remuneration Authority) the subcommittee has delegated power to approve:
- (a) Actual and reasonable registration, travel, accommodation, meal and related incidental expenses incurred by the Mayor, Deputy Mayor and Councillors in attendance at conferences, courses, seminars and training programmes or such other matters as resolved by the Council, held both within New Zealand and overseas, provided:
- the related expenditure can be accommodated within existing budgets
  - the major subject of the event (conference, course, seminar or training programme etc) is of significant relevance to the Council, and includes a significant policy/governance content
  - attendance at the event is relevant for obtaining an understanding of policies and initiatives taken by other local authorities relevant to the Council's activities
  - in selecting which members should attend the event, preference is given to those members who have a responsibility for or who take a lead on the issues which the event is related to.
- (b) Actual and reasonable travel, accommodation, meal and related incidental expenses proposed to be incurred by Mrs Yvonne Palmer for purposes associated with her current position as Chairperson of the NZ Community Boards Executive Committee.
7. As both members of the subcommittee must be present when the subcommittee meets to consider such applications, the extended absence of one member causes difficulties in that some applications must be held over until both members of the subcommittee are available. This causes practical problems, in that for a variety of reasons it is often necessary for an early decision to be made eg to take advantage of reduced conference registration fees for "early bird" registrations.

**18. REPORT OF THE AKAROA/WAIREWA COMMUNITY BOARD - MEETING OF 21 APRIL 2006**

Attached.

**19. REPORT OF THE BURWOOD/PEGASUS COMMUNITY BOARD - MEETING OF 3 MAY 2006**

Attached.

**20. REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD - MEETING OF 11 APRIL 2006**

Attached.

**21. REPORT OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD - MEETING OF 26 APRIL 2006**

Attached.

**22. REPORT BY THE CHAIRPERSON OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD REGARDING MILLBROOK RESERVE**

Attached.

**23. REPORT OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD - MEETING OF 1 MAY 2006**

Attached.

**24. REPORT OF THE LYTTELTON/MT HERBERT COMMUNITY BOARD - MEETING OF 12 APRIL 2006**

Attached.

**25. REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 26 APRIL 2006**

Attached.

**26. REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 9 MAY 2006**

Attached.

**27. REPORT OF THE RICCARTON/WIGRAM COMMUNITY BOARD - MEETING OF 12 MAY 2006**

Attached.

**28. REPORT OF THE SHIRLEY/PAPANUI COMMUNITY BOARD - MEETING OF 3 MAY 2006**

Attached.

**29. REPORT OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD - MEETING OF 2 MAY 2006**

Attached.

**30. NOTICES OF MOTION**

Attached.

**31. QUESTIONS**

**32. RESOLUTION TO EXCLUDE THE PUBLIC**

Attached.