

24. 7. 2008

**REGULATORY AND PLANNING COMMITTEE  
3 JULY 2008**

**A meeting of the Regulatory and Planning Committee  
was held on Thursday 3 July 2008 at 9.30am**

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

**APOLOGIES:** Apologies for absence were received and accepted from  
Councillors Sally Buck and Norm Withers

The Committee reports that:

**PART A - MATTERS REQUIRING A COUNCIL DECISION**

**1. PROPOSED PRIVATE PLAN CHANGE 34 TO CITY PLAN – REZONING 8 MANNING PLACE,  
WOOLSTON, FROM LIVING 2 TO BUSINESS 1**

<b>General Manager responsible:</b>	General Manager, Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	Team Leader, City Plan
<b>Author:</b>	Anita Hansbury, Planning Officer, City Plan & Consultant Planners, Boffa Miskell Ltd

**PURPOSE OF REPORT**

1. The purpose of this report is to provide advice to the Council in order for it to give its decision on Private Plan Change (Plan Change 34) request to the City Plan.

The Council may either decline or approve the change with reasons.

**EXECUTIVE SUMMARY**

2. Planning consultants Planit and Associates have lodged a private plan change request to rezone 8 Manning Place in Woolston from Living 2 to Business 1. No changes are proposed to any of the Business 1 zone standards.
3. At its meeting on 27 March 2008 the Council resolved to publicly notify this private plan change at the applicant's cost. The Plan Change and the applicant's Section 32 Assessment, including the Transportation Assessment, are appended to this report as **Attachments 1, 2 and 3** respectively.
4. The plan change was publicly notified in the Christchurch Star on 11 April 2008 and The Press on 12 April 2008 giving the public an opportunity to lodge submissions on the proposal. The neighbours and affected parties were informed by letter. The submission period ran from 12 April to 12 May 2008. No submissions were received.
5. The request conforms with the Council's policy on applications for plan changes in that:
  - the costs incurred by the Council in processing the application will be recovered from the applicant
  - the application does not involve an important strategic or policy issue
  - the proposed plan change does not affect a significant area of land that would pre-empt options for urban growth
  - the site is not within a Priority 1 Area Plan.

## 1 Cont'd

6. The analysis of the Section 32 assessment, carried out by Boffa Miskell, consultants on the Council's behalf, is detailed in the body of this report. The analysis concludes that the plan change achieves the relevant objectives and policies in terms of:

**Urban growth:** The proposed rezoning affects only a single property of 629m<sup>2</sup> and therefore has a negligible impact on urban growth policies when considered as part of a wider City scenario. At a local level the rezoning from Living 2 to Business 1 can be considered to support policies which seek to achieve urban development which is characterised by cost effective servicing and accessibility to a residential neighbourhood and a main transport route. In this case, the site is already efficiently serviced and is adjacent to a residential neighbourhood and Ferry Road.

**Transportation:** The proposal conforms with the City Plan objectives and policies for a safe and efficient transport network. Although the site could potentially be part of a larger redevelopment with adjoining Business 1 zoned sites and involve access from Ferry Road (already characterised by heavy traffic volumes), the City Plan has in place a rule for a maximum of 250 vehicles per day for a site access. Traffic volumes over this threshold would trigger a resource consent application in relation to traffic effects. Any potential adverse effects created by additional vehicle movements would therefore be addressed as part of this process.

The site does lie within easy walking distance of public transport on Ferry Road, and is accessible to the community along Manning Place and Hart Street. There is also potential to provide on-site car parking.

**Residential amenity:** The amenity of the residential area will be maintained through existing rules in the City Plan controlling setbacks and access to sunlight. In addition, the subject site currently supports a sub-standard dwelling the removal of which and subsequent redevelopment of the site may improve its overall appearance. The scale of the proposed rezoning is small and involves a regularisation of the zone boundary making it consistent with the alignment of the adjoining living/business zone boundary to the west. Accordingly, the proposed rezoning is unlikely to conflict with the City Plan objectives and policies in relation to residential amenity.

**Residential cohesion:** The rezoning affects only a single site which is already adjoined on two sides by business zoned land. The size and location of the land proposed to be rezoned does not result in any adverse impacts on residential cohesion and no dwellings will be left isolated from the adjoining residential area.

**Business:** The proposed rezoning provides for greater efficiency in land use and potential for redevelopment of the site. This would include redevelopment as part of the adjoining Business 1 Zone. The proposal is consistent with the business objectives and policies of the City Plan for accessible and convenient commercial activity and if undertaken in accordance with the City Plan rules should maintain the existing amenity values of the locality.

## FINANCIAL IMPLICATIONS

7. As the proposed plan change is a private request, the property owner is funding the preparation and the processing of the Plan Change. This includes public notification, review of the plan change, Council reports and staff time. Therefore, there should be no direct costs to the Council as these will be recovered.
8. However, there may be costs incurred by the Council if the applicant chooses to challenge the Council's decision in the Environment Court.

## Do the Recommendations of this Report Align with 2006-16 LTCCP Budgets?

9. The recommendation will have no cost to the Council. Therefore it will not impose on the LTCCP budget.

1 Cont'd

**LEGAL CONSIDERATIONS**

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

10. There is a legal process set out in the Resource Management Act which must be followed. It includes initial consideration of how the plan change is to be processed, followed by notification, submissions, reporting, hearings, decisions and possible appeals. It is a process which is very familiar to the Council and should create no particular risks or liabilities if followed correctly.
11. If the Council approves the private plan change it will result in the plan change coming into effect and the City Plan being amended accordingly.
12. Under the provisions of the Resource Management Act 1991, schedule 1, clause 29(6), a Council decision to decline this plan change, can be challenged by the applicant in the Environment Court.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

13. City Development - ongoing programme of improvements (page 145 of the LTCCP) to enhance the planning documents of the city, to ensure an attractive built environment and minimise adverse effects on the environment.

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

14. Yes.

**ALIGNMENT WITH STRATEGIES**

15. Yes.

**Do the recommendations align with the Council's strategies?**

16. Yes.

**CONSULTATION FULFILMENT**

17. The plan change was publicly notified in the Christchurch Star on 11 April 2008 and The Press on 12 April 2008 giving the public an opportunity to lodge submissions on the proposal. The neighbours and affected parties were informed by letter. The submission period ran from 12 April to 12 May 2008. No submissions were received.
18. The applicant had also carried out previous consultation with the residents in February 2008 and directly contacted the owners of adjoining properties by way of a letter. Immediate adjoining neighbours to the south (the residential property at 10 Manning Place), and the north (a business property at 6 Manning Place) both expressed verbal support for the proposal.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Decide, pursuant to Clause 29(4) of the First Schedule to the Resource Management Act 1991, to approve the Private Plan Change 34 for the reasons set out in the "Explanation" of the private Plan Change 34 document (**Attachment 1 to this report**).
- (b) Delegate to the General Manager Strategy and Planning the authority to determine the date on which the provision becomes operative.

**COMMITTEE RECOMMENDATION**

That the staff recommendation be adopted.

2. **REVIEW AND SUGGESTED REVOCATION OF CHRISTCHURCH CITY COUNCIL REFUSE BYLAW 1995 AND BANKS PENINSULA DISTRICT REFUSE BYLAW 2002, AND ADOPTION OF CHRISTCHURCH CITY COUNCIL WASTE MANAGEMENT BYLAW 2009**

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941 8608
<b>Officer responsible:</b>	City Water and Waste Unit Manager
<b>Author:</b>	Zefanja Potgieter

**PURPOSE OF REPORT**

1. To recommend confirmation of the review and revocation of the above mentioned bylaws; the making of one new bylaw, and the commencement of the statutory special consultative procedure.

**EXECUTIVE SUMMARY**

2. The Christchurch City Council Refuse Bylaw 1995 and Banks Peninsula District Refuse Bylaw 2002 must be reviewed and it is intended to replace them with one comprehensive bylaw. In terms of the provisions of the Local Government Act 2002 the two bylaws are in force up to 30 June 2010. The Council's new wheelie bin kerbside collection service is scheduled to start in February 2009, and it is planned that the new bylaw will come into effect on 1 February 2009.
3. The provisions included in the draft bylaw deal with the following issues:
  - (a) A requirement that using the Council's kerbside collection services requires compliance with specific terms and conditions to be determined by Council resolution, and the powers for dealing with non-compliance.
  - (b) A requirement that using the Council waste collection points (for those areas with no kerbside collection services) requires compliance with specific terms and conditions to be determined by the Council by resolution, and the powers for dealing with non-compliance.
  - (c) Prevention of unauthorised removal of recyclable materials from containers.
  - (d) Provisions for the Council to prohibit the disposal of certain identified wastes or materials.
  - (e) Provisions to prohibit placing waste in another person's container.
  - (f) Provisions to prohibit placing waste arising from domestic or business premises into public places bins.
4. **Attachment A** is a Statement of Proposal (incorporating the draft bylaw and a table analysing the new bylaw provisions in relation to section 155 of the Local Government Act 2002) and **Attachment B** is a Summary of Information, as required in terms of the Local Government Act 2002, for formal approval by the Council.
5. A report on the terms and conditions relating to the use of the Council's kerbside collection services and waste collection points mentioned in paragraph 3 above, is scheduled for the September 2008 meeting of the Council.
6. The review process in this instance is as follows:
  - (a) The Council resolves that the two previous bylaws are no longer required because of the changes proposed by it in relation to the new wheelie bin kerbside collection service, and that a bylaw is the most appropriate way to address the perceived problems identified in the draft bylaw concerning the management of municipal waste. The Council also resolves that the proposed bylaw is in the most appropriate form, and that there are no inconsistencies with the New Zealand Bill of Rights Act (see recommendations below);

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- (b) The Council approves the statement of proposal and summary of information and publicises it for public submissions, and appoints a hearings panel to hear submissions (see recommendations below);
- (c) The special consultative procedure be from 6 August 2008 to 10 September 2008;
- (d) The hearing of submissions take place on the week commencing 13 October 2008; and
- (e) The Council receive a report from the hearings panel in November 2008 to consider the recommendations of the panel.
- (f) The proposed date for the bylaw to come into effect is 1 February 2009.

**FINANCIAL IMPLICATIONS**

- 7. The review and revocation of the existing bylaws and the introduction of the new bylaw will not have an impact on rates and charges, other than those already identified through the LTCCP amendment process in relation to the introduction of the new wheelie bin kerbside collection service.

**Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?**

- 8. Not affected by the proposed changes.

**LEGAL CONSIDERATIONS**

- 9. Section 145 of the Local Government Act 2002 (the Act) provides a general bylaw making power, which includes for the purposes of protecting the public from nuisance and protecting, promoting, and maintaining public health and safety. Section 146 of the Act provides a specific bylaw making power for the purposes of regulating solid wastes and waste management. In addition the Local Government Act 1974 still contains current bylaw making powers which could be used to make these bylaws (and are the provisions under which the old bylaws were made). It is considered appropriate to make the new bylaw jointly under both acts, but to rely on the enforcement powers in the 2002 Act for any enforcement of the bylaw.
- 10. The Local Government Act 2002 contains provisions for the review of bylaws made under the Act (see section 158). Section 160 requires that in reviewing a bylaw a local authority must make the determinations required by section 155. After the review, if a local authority considers the bylaw should be amended, revoked, or revoked and replaced, then it must use the special consultative procedure.
- 11. Section 155 of the Act requires the Council to determine whether the making of a bylaw (and the review of an existing bylaw) is *"the most appropriate way to address the perceived problem"*. The problem in this particular instance is the regulation of the management, including collection, of municipal waste. The purpose of this bylaw is to prevent the contamination of waste and maximise the recovery of reusable resources. It is also to ensure that waste is collected in a safe and efficient manner, and that waste does not cause a nuisance. Provisions have been included in the new bylaw that deals with all of these matters. In this case, because the proposal for the new wheelie bin kerbside collection service means the old bylaws could not be continued with, a general review under section 155 of the old bylaws, as to whether a bylaw is the most appropriate way to manage municipal waste, has been made, and a detailed analysis has been made of the new bylaw clauses.
- 12. Section 77 of the Act requires the Council, in the course of a decision making process, to seek to identify and assess all reasonably practicable options for the achievement of the objectives. The following options exist:

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- (a) Do nothing ie permit the management, including collection, of municipal waste with no regulatory powers. The Council's existing two bylaws worked well but under section 158 of Local Government Act 2002 the provisions need to be reviewed and in doing so certain improvements and changes are necessary, as a result of the Council's new wheelie bin kerbside collection service.
  - (b) Seek voluntary cooperation. This was presumably deemed impractical by the two respective Councils because they enacted bylaws rather than seek voluntary cooperation, and the bylaws have generally proved to work well.
  - (c) Make a bylaw regulating management, including collection, of municipal waste. This option was recommended respectively in 1995 and 2002 when the previous bylaws were made. It is considered that a bylaw is still required in 2009 to provide appropriate regulation around the management, including collection of municipal waste, particularly in relation to the proposed new wheelie bin kerbside collection service. It is considered that this option addresses these issues more effectively than either of the other options above. It is therefore proposed that the draft 2009 bylaw be authorised for special consultative procedure purposes.
13. The regulatory framework for councils has changed since the adoption of the two existing bylaws, but the need to retain a bylaw regulating these matters still exists. The relevant legislation is either the Local Government Act 1974 or the Local Government Act 2002, and it is considered appropriate to use the powers under both Acts to make this Bylaw. There is also a need to update the bylaws to recognise that the new Christchurch City district includes the Banks Peninsula area. It is considered that a new bylaw is in the most appropriate form.
14. There are no provisions in the New Zealand Bill of Rights Act 1990 which have a bearing on the draft Christchurch City Council Waste Management Bylaw 2009 and therefore there are no inconsistencies between the draft bylaw and the statute.
15. The special consultative procedure under the Act requires that the Council prepare a Statement of Proposal that must include:
- “(a) as the case may be,—
    - (i) a draft of the bylaw as proposed to be made or amended; or
    - (ii) a statement that the bylaw is to be revoked; and
    - (iii) the reasons for the proposal; and
    - (iv) a report on any relevant determinations by the local authority under section 155.”
16. The Act also requires the Council to determine the form of the Summary of Information. Section 89(c) requires that it be distributed "*as widely as reasonably practicable (in such a manner as is determined appropriate by the local authority, having regard to the matter to which the proposal relates)...*". Section 83(e) of the Act also requires that the Council must give public notice of the proposal and the consultation being undertaken. Due to the fact that a bylaw dealing with the management of municipal solid waste affects all ratepayers as well as tenants, it is proposed that the summary of information be published through the local newspaper/s, which will also serve as public notice of the proposal, as required under section 83(e). Copies of the consultation documents will also be available from the Civic Offices, and all Council service centres and libraries.

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

17. See above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

18. Yes.

2 Cont'd

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

19. Yes.

**ALIGNMENT WITH STRATEGIES**

20. The Council's Solid and Hazardous Waste Management Plan 2006 applies, as well as the subsequent adoption by Council of a new kerbside collection system.

**CONSULTATION FULFILMENT**

21. The statutory special consultative procedure will follow the adoption of the recommendations of this report.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Resolve that a bylaw is the most appropriate way to manage and regulate the management of municipal solid waste.
- (b) Resolve that there are no inconsistencies between the draft Christchurch City Council Waste Management Bylaw 2009 and the New Zealand Bill of Rights Act 1990, and that the draft bylaw is in the most appropriate form (including that it will revoke the Christchurch City Council Refuse Bylaw 1995 and Banks Peninsula District Refuse Bylaw 2002).
- (c) Resolve that the attached Statement of Proposal (which includes the draft bylaw) and the Summary of Information be adopted for consultation and made available for public inspection at all Council Service Centres, Council libraries and on the Council's website, and that the Summary of Information be published in a daily newspaper, or other newspaper that has at least an equivalent circulation to a daily newspaper, circulating in the Council's district.
- (d) Appoint a hearings panel to consider submissions on the draft bylaw.

**COMMITTEE RECOMMENDATION**

It is **recommended** that the Council:

- (a) Resolve that a bylaw is the most appropriate way to manage and regulate the management of municipal solid waste.
- (b) Resolve that there are no inconsistencies between the draft Christchurch City Council Waste Management Bylaw 2009 and the New Zealand Bill of Rights Act 1990, and that the draft bylaw is in the most appropriate form (including that it will revoke the Christchurch City Council Refuse Bylaw 1995 and Banks Peninsula District Refuse Bylaw 2002).
- (c) Note that the Terms and Conditions for the Operation of the kerbside collection service and the Council waste collection points are not part of the bylaw and will be reviewed by the Zero Waste Working Party and reported to Council.
- (d) Resolve that the attached Statement of Proposal (which includes the draft bylaw) and the Summary of Information be adopted for consultation and made available for public inspection at all Council Service Centres, Council libraries and on the Council's website, and that the Summary of Information be published in a newspaper having a wider circulation in the Council's district.
- (e) Appoint a hearings panel to consider submissions on the draft bylaw.

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**PART B - REPORTS FOR INFORMATION**

**3. WORK PROGRAMME FOR COMMITTEE/WORKSHOP TIMETABLE**

The Committee **decided** to amend its forward programme as follows:

**August 2008**

1. City Plan 2008/09
2. Cost breakdown on City Plan
3. Bylaw improvements - Action

**September 2008**

1. Possible legislation Committee establishment
2. L3 and L4 zoning requirements

**Future**

1. B2 zoning requirement

**Workshops**

2. Resource Consents Processes
3. Best Practice training for Resource Consent Panels
4. City Plan changes
5. Liquor control issues
6. Brothels location and signage

The meeting concluded at 10.57am.

**CONSIDERED THIS 24TH DAY OF JULY 2008**

**MAYOR**