

CHRISTCHURCH CITY COUNCIL AGENDA

THURSDAY 27 MAY 2010

9.30AM

COUNCIL CHAMBER, CIVIC OFFICES

AGENDA - OPEN

CHRISTCHURCH CITY COUNCIL

**Thursday 27 May 2010 at 9.30am
in the Council Chamber, Civic Offices**

Council: The Mayor, Bob Parker (Chairperson).
Councillors Helen Broughton, Sally Buck, Ngaire Button, Barry Corbett, David Cox, Yani Johanson,
Claudia Reid, Bob Shearing, Gail Sheriff, Mike Wall, Sue Wells, Chrissie Williams and Norm Withers.

| ITEM NO | DESCRIPTION |
|---------|--|
| 1. | APOLOGIES |
| 2. | CONFIRMATION OF MINUTES - COUNCIL MEETINGS OF 22 APRIL 2010, 12 MAY 2010 AND 13 MAY 2010 |
| 3. | DEPUTATIONS BY APPOINTMENT |
| 4. | PRESENTATION OF PETITIONS |
| 5. | 2010 LOCAL GOVERNMENT NEW ZEALAND CONFERENCE |
| 6. | OLD PORT LEVY ROAD – ROAD FORMATION APPLICATION AND GATE ISSUES – ATTACHMENTS SEPARATELY CIRCULATED |
| 7. | REPORT OF THE HEARINGS PANEL ON THE MONTGOMERY SPUR RESERVE MANAGEMENT PLAN |
| 8. | CHRISTCHURCH SYMPHONY TRUST APPLICATION TO THE METROPOLITAN DISCRETIONARY RESPONSE FUND - 2009/10 FUNDING PERIOD |
| 9. | CHILDCARE CENTRE LEASES |
| 10. | METROPOLITAN STRENGTHENING COMMUNITIES EARLY LEARNING CENTRE FUND 2010-11 |
| 11. | CANTERBURY COMMUNITY TRUST FESTIVALS FUNDING |
| 12. | RICCARTON BUSH TRUST HALF-YEAR REPORT FOR THE PERIOD TO DECEMBER 2009 |
| 13. | REPORT OF THE HEARINGS PANEL ON THE CHRISTCHURCH CITY COUNCIL PROPOSED CRUISING BYLAW 2010 |
| 14. | CONSULTATION ON ADDITIONAL ROADS FOR CRUISING BYLAW 2010 |
| 15. | REPORT OF THE REGULATORY AND PLANNING COMMITTEE: MEETING OF 6 MAY 2010 <ol style="list-style-type: none">1. NOTIFICATION OF COUNCIL PLAN CHANGE 44 TO CITY PLAN – LISTING OF THE LOWLAND KAHIKATEA FOREST REMNANT, WHICH FORMS PART OF THE GREATER RICCARTON BUSH AND HOUSE RESERVE AT 12-16 KAHU ROAD, UNDER VOLUME 3, APPENDIX 4 – HERITAGE/NOTABLE TREES, CATEGORY 2 NOTABLE TREES2. PROPOSED TERRITORIAL AUTHORITY REORGANISATION SCHEME IN THE VICINITY OF TEMPLETON AND OLD TAI TAPU ROAD3. DIRECT REFERRAL OF APPLICATIONS TO THE ENVIRONMENT COURT4. DISTRICT PLAN REVIEW SCOPING REPORT UPDATE5. NATIONAL DEFAULT DISCOUNT POLICY FOR RESOURCE CONSENTS6. PLANNING ADMINISTRATION, BUILDING CONSENT AND LIQUOR LICENSING QUARTERLY REPORT (JANUARY TO MARCH 2010)7. BYLAWS: ANNUAL PERFORMANCE AND DATA ANALYSIS REPORT 2009 |
| 16. | NOTICES OF MOTION |
| 17. | RESOLUTION TO EXCLUDE THE PUBLIC |

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1. APOLOGIES

2. CONFIRMATION OF MINUTES - COUNCIL MEETING OF 22.4.2010, 12.5.2010 AND 13.5.2010

Attached.

3. DEPUTATIONS BY APPOINTMENT

Requests for speaking rights have been received from Richard West, and the Craw Family and their legal counsel in respect of item 6 on the agenda.

4. PRESENTATION OF PETITIONS

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5. 2010 LOCAL GOVERNMENT NEW ZEALAND CONFERENCE

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| General Manager responsible: | General Manager Regulation and Democracy Services, DDI 941-8462 |
| Officer responsible: | Democracy Services Manager |
| Author: | Clare Sullivan, Council Secretary |

PURPOSE OF REPORT

1. The purpose of this report is:
 - To seek approval for elected members to attend the 2010 Local Government New Zealand Conference to be held in Auckland from 25-28 July 2010.
 - To seek the appointment of the Council's voting delegates to the Annual General Meeting.

EXECUTIVE SUMMARY

2. This year's conference will be held in Auckland from Sunday 25 July to Wednesday 28 July 2010.
3. The Council usually authorises 5-6 Councillors to attend the conference. Last year, the Council gave approval for the Mayor and Councillors Helen Broughton, Ngaire Button, Yani Johanson, Bob Shearing and Mike Wall to attend the conference. The Council also authorised Mrs Yvonne Palmer and Mike Mora to attend the conference in 2009, following a request from the National Executive Committee of Community Boards.
4. A request has been received from the New Zealand Community Board's Executive Committee for the Council to authorise that Yvonne Palmer and Mike Mora attend the conference. They are the Zone 5 Chairperson and Deputy Chairperson respectively. One of the sessions is 'Local Boards, are they the model for the future'. The Executive Committee "is keen to encourage wider debate on the new Auckland model and explore whether this approach will have any relevance beyond Auckland."
5. The Christchurch City Council is entitled to appoint one presiding delegate with voting rights for the Annual General meeting, and an alternate voting delegate. The Council is also entitled to have up to four additional Councillors attending, being classed as viewing delegates. It is proposed that the Mayor be the presiding voting delegate, with a Councillor named as the alternate voting delegate. The rules of the New Zealand local Government Association provide that the term "delegate" includes both an elected member and an officer of a member authority. The Annual General Meeting is being held on Wednesday 28 July 2010.
6. All Councillors have been supplied with a copy of the programme for this year's conference, the theme of which is "Building Prosperous Places." The theme carries many interpretations and the emphasis will be on economic development and prosperity. Keynote speakers include:
 - Lord Mayor Campbell Newman from Brisbane
 - Peter Biggs, Managing Director of Clemenger BBDO, Melbourne
 - Greg Clark (UK) City Building, Investment and Strategies
 - Michael Deegan, Director General NSW Department of Transport

The Prime Minister the Honourable John Key, will open the conference.

FINANCIAL IMPLICATIONS

7. Registration fees of \$1,200 excluding GST will be incurred for each voting delegate/observer appointed by the Council. This expenditure can be accommodated within the provision for Mayoral/Councillor conference attendance and travel included in the 2009/10 Annual Plan.

LEGAL CONSIDERATIONS

8. There are no legal implications associated with the appointment of the Council's delegates/observers to attend this conference.

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ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

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

9. Pages 156 and 157 of the LTCCP refer to the provision of support for elected members (which includes attendance at such conferences).

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

10. Not applicable.

CONSULTATION FULFILMENT

11. No consultation is required.

STAFF RECOMMENDATION

It is recommended that:

- (a) The Mayor and such other elected members as may be nominated at the Council meeting, be authorised to attend the 2010 Local Government New Zealand Conference in Auckland.
- (b) The Council appoint the Mayor as the presiding voting delegate and a Councillor as the alternate voting delegate, and up to three Councillors and the Chief Executive attending the conference, as the Council's viewing delegates at the Annual General Meeting.

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6. OLD PORT LEVY ROAD – ROAD FORMATION APPLICATION AND GATES ISSUE

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| General Manager responsible: | General Manager City Environment, DDI 941-8608 |
| Officer responsible: | Asset and Network Planning Manager |
| Author: | Terry Howes, Asset and Network Planning Manager Robert O'Connor, Solicitor, Legal Services Unit |

PURPOSE OF REPORT

1. The purpose of this report is to:
 - (a) Consider an application received from Richard West to form approximately 700 metres of currently unformed Old Port Levy Road to allow access to his farm property at 869 Purau-Port Levy Road, and to a dwelling house intended to be built on that property (for which a building consent has already been granted); and
 - (b) Consider whether any of the five gates currently erected across Old Port Levy Road and used by the M A W Craw Family Trust and C J Craw are “redundant” or constitute an “inconvenience” in terms of section 344(3) of the Local Government Act 1974, and, if so, whether to issue a notice of the Council’s intention to remove any of those gates under that section.

EXECUTIVE SUMMARY

Road Formation Application

2. Old Port Levy Road is legal road vested in the Council as shown on the plan attached to this report as **Annexure A**. From the junction of Old Port Levy Road with Wharf Road, that part of Old Port Levy Road shown as **Area A** on the plan is formed and fenced on either side. Thereafter, Old Port Levy Road is unformed and passes through open fields. That part of Old Port Levy Road which is the subject of the West application is shown as **Area B** on the plan. The unformed part of Old Port Levy Road is presently in its natural state. The unformed road has a continuous fence along its southern boundary, but is unfenced from the land to the north, and it is virtually undistinguishable from the privately owned field of which it appears to be part.
3. As shown on the attached plan, there are essentially two landowners whose properties adjoin Old Port Levy Road in the area affected by the West application. Generally speaking, interests associated with Richard West own the land essentially on the south side of Old Port Levy Road and interests associated with the Craw family own the land to the north.
4. Attached to this report in **Annexure B** are various recent photographs of Old Port Levy Road taken by Council staff.
5. A building consent was granted to the applicant in 2007 for the construction of a new dwelling on his property situated at 869 Purau-Port Levy Road, the approximate position of which is shown on the plan. In the applicant’s building consent application, access to the proposed new dwelling was shown to be via Old Port Levy Road from its junction with Wharf Road, over both the formed part and the unformed part. The Building Act is concerned with compliance with the Building Code, and legal road access to a building site, or lack of it, is not a relevant matter when a local authority considers a building consent application where there are no Resource Management Act issues arising.
6. Shortly after the building consent was granted, the applicant requested that approval be given by the Council as roading authority to form the approximately 700 metre length of currently unformed Old Port Levy Road as is marked B on the plan to provide access to the new dwelling.
7. Council staff initially approved the application to form the road, subject to the applicant agreeing to fund all the costs associated with the formation work and those works being undertaken to specified Council roading standards. However, it subsequently became apparent that Council

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staff did not enjoy the necessary delegated authority to give such approval. A letter withdrawing the Council's approval was subsequently sent to the applicant. In the absence of such delegated authority it is therefore necessary for the application to be decided by the Council.

8. Ideally, such decisions should be made with the guidance of an appropriate council policy developed following full public consultation. Council staff propose to commence the development of such a policy shortly, but given the need for full public consultation, especially on Banks Peninsula, it is likely that it will take 18 months or more before a policy could be adopted. Whilst no such policy currently exists, it is considered by staff that it would be unreasonable, in the current circumstances, to delay a decision on this particular road formation application until such a policy was developed.
9. In the interim, Council staff have developed a set of considerations to assist the Council to decide whether the application should be approved or not. These considerations are detailed in the 'Background' section of this report.
10. Recognising the Council's statutory obligation to consult persons affected by the application, details of the road formation application were forwarded to the landowners with properties adjoining or in the vicinity of the relevant sections of Old Port Levy Road and to the Port Levy Residents Association on 30 March 2010. Submissions were required to be received by the Council by 28 April 2009. Copies of the 62 written submissions received in response are attached to this report in **Annexure D**.
11. The staff recommendation is that the application be granted subject to the applicant agreeing to fund all the costs associated with the formation and the works being undertaken to specified Council standards.

Gates Issue

12. There are presently five gates located at the various points along Old Port Levy Road, as are shown on the plan. Accordingly to information supplied by Mr Craw, these gates were originally erected by persons unknown (presumably a previous owner of the Craw property) prior to Mr Craw's purchase of the property 25 years ago and appear to have been in place for at least 53 years. Mr Craw has continued to use the gates and has maintained and replaced them as they have required maintenance and replacement over the years. The Craw property adjoins that part of Old Port Levy Road which is the subject of the road formation application discussed in this report. Photographs of the various gates are attached to this report as **Annexure F**.
13. A dispute has arisen between Richard West and members of the Craw family concerning the gates. The Craws regard the gates as an essential element of the management of their farming operation, whilst Mr West considers them an impediment to his lawful use of Old Port Levy Road. Discussions between the West and Craw interests over the gates issue have been on-going for sometime, but without resolution.
14. As a consequence of this disagreement, the Council has received a complaint from Mr West concerning the gates. In response to the West complaint, Council staff invited the Wests and the Craws to an informal meeting held at the Civic Offices in Tuam Street on 26 March 2010 to discuss and to attempt to reach an agreement between them and the Council as to the gates issue. Subsequent to that meeting the Legal Services Unit facilitated detailed discussions between the parties in an attempt to bring them to an agreed solution in relation to the gates. Those discussions included the possibility of certain gates being removed and certain gates being retained. The gates to be retained were to generally be kept open, but to be available to be closed when required by the Craws for stock control purposes. The need to fence the legal boundary between the road, if formed, and the neighbouring land owned by the Craws was discussed, together with the possibility of erecting additional gates in that fence to facilitate access to the Craw land. Unfortunately, the Wests and the Craws were unable to agree on a scheme of arrangement concerning the gates.

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15. Whilst the gates issue is allied to the road formation issue, the existence of express statutory provisions dealing with it mean that it must be dealt with separately. Section 344 of the Local Government Act 1974 provides a specific process for resolving this issue if the Council considers that the gates are either "redundant" or an "inconvenience".
16. For the reasons discussed in the 'Background' section of this report, the staff recommendation is that the gates are not "redundant" and do not cause an "inconvenience" in terms of section 344 of the Local Government Act 1974. Accordingly, it is recommended that no notice be issued by the Council under that section at this time.

FINANCIAL IMPLICATIONS

17. It is recommended that any formation of the unformed section of Old Port Levy Road as approximately shown on the plan by the applicant be undertaken at the applicant's expense. In that event, the Council would be liable for the future maintenance of the formed section of the road in accordance with the current Road Network Activity Management Plan. Given that any approval to form Old Port Levy Road would be given on the condition that the road formation works are completed to Council's standards, it is not expected that any maintenance work will be required for some years, and that given the limited public use of the road that any maintenance over the longer term is likely to be minimal.

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

18. As it is recommended that any formation of the unformed section of Old Port Levy Road as approximately shown on the plan by the applicant be undertaken at the applicant's expense, no costs in respect of those works would be incurred by the Council. In the event the road is formed, the Council would be liable for the future maintenance of the formed section of the road in accordance with the current Road Network Activity Management Plan.

LEGAL CONSIDERATIONS

Road Formation Application

19. Under common law the public has a right of passage over legal road and adjoining owners have a right of access (called 'frontager rights') to the road from all points on their frontage. However, there is nothing in law which confers a right on members of the public to form an unformed road.
20. Section 319(a) of the Local Government Act 1974 confers on local authorities a power "to construct, upgrade and repair all roads with such materials and in such manner as the Council thinks fit". This sections confers a *power* to construct, upgrade and repair, rather than a *duty* to do so. Accordingly, there is no general obligation on local authorities, statutory or otherwise, to either maintain or form an unformed road.
21. Section 357 of the Act prohibits any person undertaking any work on a road without the consent of the responsible Council.
22. Thus, if a local authority is considering whether to form a road, that decision is ultimately a matter of the Council discretion, to be exercised in accordance with the decision making requirements of the Local Government Act 2002. It is up to the Council to decide the most appropriate course of action based on the considerations relevant in the particular instance, including financial considerations, allocation of resources, how often the road would be used and what type of traffic it might generate etc.
23. However, where a subdivision of land relies in part or in whole on an unformed legal road for legal access to new allotments, and the Council approves the subdivision under the Resource Management Act 1991, it is likely that the Council would be considered to have given consent to the formation of the unformed road for that purpose. The granting of a land use consent to carry out a development on land which relies on an unformed road for vehicular access would have a similar result. These arguments do not arise in the current circumstances.

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24. Notwithstanding, the comments contained in paragraph 23, it could not legitimately be assumed that a Council, by granting a building consent under the Building Act 2004, has impliedly agreed to the formation of an unformed legal road.
25. Formally stopping the road is not considered by Council officers to be a practical method of dealing with Old Port Levy Road. There are two statutory processes available to stop legal road. The first, under section 116 of the Public Works Act 1981, is essentially only available to be used where all parties adjoining the road provide written consent to such stopping. In the current circumstances, that it not thought that could be achieved. The second process, under the Local Government Act 1974, involves a full public consultation process, which would, if employed, be likely to give rise to objections. If the Council were to allow any of the objections received, the road could not be stopped. If the Council disallowed any of the objections received, the matter must then be referred to the Environment Court for final decision. Given the landowner and public interest in Old Port Levy Road, the Legal Services Unit is of the view that the Council would be required to use the Local Government Act procedure & that an attempt to stop the road using that procedure would be unlikely to be successful.

Gates Issue

26. This Council has no record of approval having been granted to the M A W Craw Family Trust, C J Craw, or any other person, to erect the five gates across Old Port Levy Road that currently exist. Council staff have also been unable to establish whether any approval was given by its predecessor Councils, which historically had jurisdiction over the area. Mr Craw has indicated that the gates were already in place when he acquired his property 25 years ago and appear to have been in place for over 53 years.
27. In the absence of any record relating to the gates, Council staff have therefore proceeded in their consideration of this issue on the assumption that some form of consent to erect that gates may have been given at some time in the past to a prior owner of the property. That form of consent could (if given) have taken the form of a consent under the relevant statutory provision applying at the time (currently section 344 of the Local Government Act 1974 or those provisions applying prior to the enactment of section 344 referred to in section 344(12)) or, perhaps more likely, a licence issued by the Council at the time as landowner. The Legal Services Unit is of the view that it is arguable that a licence to erect gates which stipulated very minimal and only occasional interruptions to the right of public access along the road could have been lawfully given.
28. The Legal Services Unit is of the view that if a new application was received under section 344 to erect new gates across Old Port Levy Road at those points where Gates 3, 4 and 5 are erected it could not be granted, but could be granted in respect of Gates 1 and 2. Section 344(1) has the effect of only allowing gates where "in the Council's opinion it is not practicable or reasonable to fence the road" or where it is necessary to fence an "outer boundary". Neither of these circumstances would apply to Gates 3, 4 and 5 (i.e. the road is fenced by these gates and none of these gates are on an "outer boundary"). This commentary would suggest that a previous Council probably proceeded by way of licence grant, rather than under the then applicable statutory power.
29. Even if the original approval to erect the gates was given by licence, and not under the statutory provisions applicable at the time, the Legal Services Unit is of the view that the current section 344(3) is not limited to approvals given under section 344(1,) or any prior applicable statutory provision, and that section 344(3) will have general application to all arrangements concerning gates erected across legal roads. It is therefore considered reasonable to apply Section 344(3) to the existing circumstances.
30. Section 344(3) provides that if the Council considers that a gate across a road is considered to be either "redundant" or to be an "inconvenience", the Council may serve notice on the person authorised to erect the gate of the Council's intention to remove it. The recipient of such a notice is given 14 days from the service of such notice within which to object in writing. Within 14 days of receiving such an objection the Council is required to hear the objector, if required, and consider the objection. The Council may then either dismiss the objection, decide not to proceed to remove the gate(s) or make such modifications to its proposal to remove the gate(s) as it thinks fit.

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31. Notwithstanding any consent that may have historically been given to erect the gates across Old Port Levy Road, the use of Old Port Levy Road for the movement of stock is subject to the Christchurch City Council Stock Control Bylaw 2008. That bylaw applies to Old Port Levy Road, although not to the part which is "unfenced" (paragraph 6(7) of the bylaw), and requires that certain things must be done when moving stock on roads, including the placement of temporary signage on the road and on a vehicle moving ahead of or behind the stock and other matters.

Significance

32. The Council's capital programme set out in the 2009-19 LTCCP provides for the renewal and replacement of roads. If a decision was made to adopt the staff recommendation, the cost of any work required in respect of the road to be formed by Mr West would be met from that provision. This is not expected to be for some years yet.
33. Because the formation of the road would be paid for by Mr West, the Council would not be incurring any capital expenditure if it adopted the staff recommendation.
34. Therefore it is open for the Council to decide that sufficient consideration has been given to the views of those people affected by or with an interest in the matter without undertaking further consultation. It is the view of the Legal Services Unit that the level of compliance with sections 77 (assessment of options) and 78 (community views) of the Local Government Act 2002, as referred to in this report, meets the Council's obligations under that act.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

35. The Road Network Activity Management Plan states that the Council provides services to manage road use and to provide safe, easy and comfortable access to homes, shops, businesses and recreational and leisure destinations.

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

36. As above.

ALIGNMENT WITH STRATEGIES

37. The Council has a strategic direction to provide a safe, sustainable, responsive, integrated, attractive and affordable transport network.
38. Council approval of the application to form Old Port Levy Road would be consistent with the Banks Peninsula District Council Roading Policy, which was adopted on 10 June 1998 and remains current. In particular paragraph 4.7 of that Policy provides:

"Council does not intend to construct any new roads although will not usually prevent developers or property owners constructing new roads. However if a developer or property owner wishes Council to take responsibility for the maintenance of the new roads, it must be constructed to Council's specifications. Council will consider each request for a new road on a case by case basis".

Do the recommendations align with the Council's strategies?

39. See above.

CONSULTATION FULFILMENT

Road Formation Application

40. The Council is required by section 78 of the Local Government Act 2002 in the course of its decision-making in relation to a matter to give consideration to the views and preferences of

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persons likely to be affected by, or have an interest, in the matter. Accordingly, the Legal Services Unit has advised that, given the local nature of Old Port Levy Road, that the persons who should be consulted are those landowners whose properties adjoin, or which are in the immediate vicinity of those parts of Old Port Levy Road proposed to be formed. In addition, the Port Levy Residents Association has also been consulted.

41. Accordingly, details of the applicant's road formation application were posted to the various affected landowners and the Port Levy Residents Association on 30 March 2010. Submitters were required to deliver their written submissions to the Council no later than 28 April 2010.
42. 62 written submissions have been received and a table providing a summary of the main points of each submission, with staff comments, is attached to this report as **Annexure C**. Full copies of each of the submissions received are attached to this report for the Council's consideration as **Annexure D**.
43. Of the 62 submissions received, one submission has been received in favour of the application, and 61 submissions have been received opposed to the application.
44. In addition, a petition signed by 111 signatures in the following form was presented to the 16 February 2010 meeting of the Lyttelton/Mount Herbert Community Board and to the 8 April 2010 meeting of the Council:

"Petition: Old Port Levy Paper Road.

The road should not be formed since –

1. *It is not needed for vehicular access – the applicant's are able to use their own private land.*
2. *The Council would have to pay –*
 - (a) *all ongoing maintenance costs;*
 - (b) *to maintain other paper roads that are formed unnecessarily".*

A copy of the petition is attached to this report as **Annexure E**.

45. It is further expected that a certain number of the submitters and the applicant may seek to make a deputation to the Council at the meeting at which it considers this report.

Gates Issue

46. Council staff have sought written submissions from the owners of the gates (Craws) and the complainant (West) on whether the gates should be considered to be "redundant" or an "inconvenience". Mr West's submissions on this issue are contained on pages 7 to 10 of his submission on the road application issue attached in **Appendix D**. The Craw submission on the gates issue is attached to this report as **Appendix G**.
47. If the Council was to decide to issue a notice of its intention to remove any of the gates, section 344 of the Local Government Act 1974 effectively provides for a further consultation process with the owner of the gates. Under that section, the person who erected the gates is required to be notified of the Council's intention to remove the gates in question. That person is then afforded a 14 day period by the end of which he or she may object to the Council's notice. The Council is then required to hear that objection before deciding the matter.

STAFF RECOMMENDATION

It is recommended that the Council resolves as follows:

- (a) That the Council, having considered the submissions received and deputations made to the Council (if any), approves the application made by Mr Richard West to form that part of Old Port Levy Road as is shown as area B on the plan attached to this report as Annexure A, subject to the following:
 - (i) The applicant paying all costs associated with the road formation; and

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- (ii) The road formation works being completed in accordance with the Council's engineering and other requirements as determined by the Asset and Network Planning Manager; and
 - (iii) The applicant obtaining and complying with any regulatory consents required (if any).
- (b) In relation to the issue of the five gates erected across Old Port Levy Road and used by C J Craw and the M A W Craw Family Trust as shown on the plan attached to this report as **Annexure A**, having considered the submissions received and the deputations made to the Council (if any), that the Council considers that for the purposes of section 344(3) of the Local Government Act 1974 that the said gates are not redundant and do not constitute an inconvenience on the basis that the gates are managed on the following basis:
- (i) Gate 1 – is to be usually left open, but may, if stock are required to be retained in the lower paddock adjoining Gate 1 for inspection purposes, be closed (but not locked) periodically, but for no more than a total of 10 days in a calendar year and for no more than a single day at a time.
 - (ii) Gate 2 – is to be generally closed (but not locked at all times) to contain stock within the paddock to which it provides access.
 - (iii) Gates 3 & 4 – are to be usually left open, except if stock are required to be moved or controlled when they may be closed (but not locked) for no more than for up to two hours at a time and no more than once in each week.
 - (iv) Gate 5 – is to be usually left open, except if stock are required to be moved or controlled when it may be closed (but not locked) for no more than on one hour and no more than once in each calendar month.
 - (v) That the signage required by section 344(2) of the Local Government Act 1974 is immediately erected by the M A W Craw Family Trust and C J Craw.
 - (vi) That the requirements of the Christchurch City Council Stock Control Bylaw 2008, where applicable, be complied with at all times.
 - (vii) That the Council reserves its position to review these arrangements in the event that further complaints concerning the gates are received.
 - (viii) That, if any grant of a licence made or found to have been made by the Council, or its predecessors, to the M A W Craw Family Trust and C J Craw, or their predecessors, to erect the gates on Old Port Levy Road is found to be unlawful then that licence shall be deemed to be terminated without compensation and the gates will be immediately removed.
- (c) That an appropriate road sign be erected at the junction of Wharf Road and Old Port Levy Road identifying Old Port Levy Road as a public road.

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BACKGROUND**Road Formation Application**

48. In 2007 a building consent for an additional dwelling to be erected by Mr Richard West on his property at 869 Purau-Port Levy Road (Lot 2 on Deposited Plan 313725) was issued under the Building Act 2004. The Building Act is concerned with compliance with the Building Code, and legal road access to a building site, or lack of it, is not a relevant matter when a local authority considers a building consent application where there are no Resource Management Act issues arising. The total area of the property at 869 Purau-Port Levy Road is approximately 83.78 hectares and the property is zoned rural.
49. The West property at 869 Purau-Port Levy Road has two road frontages. There is an existing dwelling erected on another part of the West property, which is accessed to the south from another formed road, Purau - Port Levy Road. The second road frontage for the property is the unformed Old Port Levy Road to the north.
50. Mr West has applied to the Council for consent to extend the formation of Old Port Levy Road some 700 metres from where the existing formation ends to provide vehicular access to the new dwelling and the upper part of his farm. The applicant has indicated his willingness to be responsible for all the costs associated with the road formation works and to complete the works in compliance with the Council's engineering and other requirements.
51. A possible alternative access route exists through the West property to connect the new dwelling to Purau-Port Levy Road. However, this alternative access route would be extremely challenging from an engineering point of view to construct and would be prohibitively expensive to form. The terrain on that part of the West property takes the form of a very steep "V" shaped valley as shown on the photographs attached to this report in **Annexure H**. The access road following this route would also need to cross a small watercourse. Also, it is estimated that the length of the access way using the alternative route would be at least some 1700 to 1800 metres, which is over twice the length of the access way sought to be formed on Old Port Levy Road.
52. The unformed portion of Old Port Levy Road is considered by Council staff as suitable to be formed. It is expected that the unformed road will be formed to provide a 3.5 metre wide metal road with a 1.0 metre wide shoulder on both sides. Surface water run off will be contained in and dispersed by a typical roadside swale system. These requirements are typical of the standard requirements for rural roads.
53. Asset & Network Planning Unit staff have developed the following criteria which have been used to formulate the staff recommendation contained in this report:

Considerations for (in no particular order):

- (a) Old Port Levy Road, whilst unformed, is legal road which the public and neighbouring landowners (including the applicant) are entitled to use and access as of right.
- (b) Building Consent has been approved by the Council for the proposed dwelling planned to be built on the applicant's property adjacent to Old Port Levy Road. The Building Act is concerned with compliance with the Building Code, and access to a building site, or lack of it, is not a relevant matter when a local authority considers a building consent application.
- (c) The proposed dwelling is sited on land comprised in a fee-simple land title fronting Old Port Levy Road. Accordingly, the landowner is entitled to access Old Port Levy Road from all points of his property as a legal frontager.
- (d) Given that public access along Old Port Levy Road cannot be denied, and that it is being used by members of the public, it is considered necessary to ensure that the integrity of the road corridor is not compromised by its use as a road.

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- (e) The applicant is prepared to form the road at his cost and to the Council's specifications in terms of road construction and mitigation of any additional storm-water run-off generated.
- (f) Given that any approval to form Old Port Levy Road would be given on the condition that the road formation works are completed to Council's standards, it is not expected that any maintenance work will be required for some years, and that given the limited public use of the road that any maintenance over the longer term will be minimal.
- (g) As discussed in paragraph 48 of this report, the alternative route running through the West's property would be challenging from an engineering point of view to construct and would be prohibitively expensive to form.
- (h) The physical conditions and the gradient of the land is such that they do not present any undue difficulties in forming the road to Council standards.
- (i) Council approval of the application to form the road would be consistent with the current Banks Peninsula District Council Roading Policy, paragraph 4.7 of which provides: *"Council does not intend to construct any new roads although will not usually prevent developers or property owners constructing new roads. However if a developer or property owner wishes Council to take responsibility for the maintenance of the new roads, it must be constructed to Council's specifications. Council will consider each request for a new road on a case by case basis"*.
- (j) Initial advice from Environment Canterbury is that a resource consent for the road formation is unlikely to be required.

Considerations against (in no particular order):

- (a) The formation of the road in essence provides access for a single property only.
 - (b) The proposal to form the unformed road may have negative impacts on the neighbouring landowners.
 - (c) The Council would be committed to future additional maintenance costs should the road be formed, however these costs are likely to be minimal as any maintenance would be of a very low level and should not be required for some time providing construction is undertaken to appropriate standards stipulated by Council.
54. It is estimated that there are 2000 km of unformed roads within the City boundaries. These roads were created to provide road frontages for sections historically.

Gates Issue

55. Mr West's submissions on this issue are contained on pages 7 to 10 of his submission attached in **Annexure D**. The Craw submission on the gates issue is attached to this report as **Annexure G**.
56. Essentially, in their submission the Crows have detailed their use and management of the gates as follows:
- (a) Gate 1 - is to be usually open, but may, if stock are required to be retained in the lower paddock adjoining Gate 1 for inspection purposes, be closed (but not locked) periodically, but for no more than a total of six days in a calendar year and for no more than a single day at a time.
 - (b) Gate 2 – is to generally closed (but not locked at all times) to contain stock within the paddock to which it provides access.
 - (c) Gates 3 & 4 – are usually left open, except if stock are required to be moved or controlled when those gates may be closed (but not locked) for no more than for up to two hours at a time and no more than once in each week.

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- (d) Gate 5 – is usually left open, except if stock are required to be moved or controlled when it may be closed (but not locked) for no more than on one hour and no more than once in each calendar month.
- 57. In his submission, Mr West submits that the cumulative effect of the five gates erected along a length of approximately 1200 metres is inconvenient. He states that he believes that “the number and positioning of gates can be rationalised to suit all stakeholders”. He further states that “some of the gates can be considered to be redundant as they do not contain stock within the boundaries of a field, but serve as a method to control stock on the public road.”
- 58. Mr West details an alternative proposal for resolution of the gates issue on pages 9 and 10 of his submission contained in Annexure D. Specifically, he proposes the following:
 - (a) Gates 1 & 2 – to be relocated into a new fence line to be constructed by him on the northern side of the road as shown on Attachment 4 to his submission. New gates to be erected as shown on that plan. All work to be completed at his expense.
 - (b) Gates 2, 3, 4 & 5 – these gates to remain in place, but to remain open at all times except where required to be closed for the “immediate and direct management of stock” but with the proviso that no more than 2 gates may be shut at any one time.
- 59. At the meeting between the Crows and the Wests facilitated by staff held at the Civic Offices on 26 March 2010, the parties discussed at length the possibility of an agreed solution as to the gates issue. The proposal contained in Mr West’s submission is not dissimilar to the arrangements that were discussed at the 26 March 2010 meeting and subsequently. Unfortunately, the parties were unable to agree on a solution to be presented to the Council for approval.
- 60. In the absence of agreement between the parties, and a complaint by Mr West, section 344 of the Local Government Act 1974 requires the Council to consider whether the gates are “redundant” or constitute an “inconvenience”.
- 61. The recommendation of staff is, given the current management of the gates detailed in paragraph 56 of this report, that the existing gates do not, in all of the circumstances, constitute an inconvenience to either Mr West, or the general public, nor are they redundant. In the circumstances of a narrow partially formed shingle country road, Council staff do not consider that the presence of one gate which, will generally be closed but unlocked, and the presence of four others that may be closed at very limited times and for very limited periods to facilitate stock movements, do not constitute an inconvenience to an extent that would warrant the issuing by the Council of a notice to remove the gates. Council staff are also of the view that the gates are not redundant, as they are required for the movement and control of stock.
- 62. Alternatively, if the Council was minded to refer the matter back to the Wests and the Crows to explore the alternative proposal made by Mr West, it would need to delay determining whether the existing gates constitute an inconvenience or are redundant under section 344.
- 63. In the circumstances of Council staff having no delegated authority to determine matters under section 344 of the Local Government Act 1974, it is necessary to refer this issue to the Council for decision.

THE OPTIONS – ROAD FORMATION APPLICATION

Option 1

- 64. Grant the road formation application.

Option 2

- 65. Decline the road formation application.

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6 Cont'd

PREFERRED OPTION – ROAD FORMATION APPLICATION

Option 1

66. Grant the road formation application.

ASSESSMENT OF OPTIONS – ROAD FORMATION APPLICATION

The Preferred Option

67. Option 1 – Grant the road formation application.

| | Benefits (current and future) | Costs (current and future) |
|---|--|--|
| Social | Improved access to the applicant's proposed new dwelling house and the higher parts of his farm property. Improved access for the public along Old Port Levy Road. Improved access for neighbouring farmers to their farms | Potential negative impacts on neighbouring landowners and their farming operations. |
| Cultural | N/A | N/A |
| Environmental | Nil | Road formation will generate additional storm-water run off, which will be mitigated by requiring the road to be formed to Council standards and compliance with any consents required (if any). |
| Economic | Improved access to the applicant's proposed new dwelling and the higher parts of his farm property. Improved access for neighbouring farmers to their farms. | Nil to the Council in terms of construction cost, as this would be funded by the applicant. Future maintenance costs will arise, however these costs are likely to be minimal as any maintenance would be of a very low level and should not be required for some time providing construction is undertaken to appropriate standards stipulated by Council. Potential negative impacts on neighbouring landowners. |
| <p>Extent to which community outcomes are achieved: Unformed roads provide an important role in providing access to remote rural areas to support - a city for recreation, fun and creativity - a city of people who value and protect the natural environment</p> <p>Impact on the Council's capacity and responsibilities: Future maintenance costs will arise, however these costs are likely to be minimal as any maintenance would be of a very low level and should not be required for some time providing construction is undertaken to appropriate standards stipulated by Council.</p> <p>Effects on Maori: Nil.</p> <p>Consistency with existing Council policies: Consistent with the current Banks Peninsula District Council Roading Policy, paragraph 4.7 of which provides: <i>"Council does not intend to construct any new roads although will not usually prevent developers or property owners constructing new roads. However if developer or property owner wishes Council to take responsibility for the maintenance of the new roads, it must be constructed to Council's specifications. Council will consider each request for a new road on a case by case basis"</i>.</p> <p>Views and preferences of persons affected or likely to have an interest: A summary table of the submissions received is attached as Annexure C. Copies of the written submissions received in are attached to this report for the Council's consideration as Annexure D. A copy of the petition received by the Council is attached to this report as Annexure E.</p> <p>Other relevant matters: Nil.</p> | | |

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6 Cont'd

Other Option

68. Option 2 – Decline the road formation application

| | Benefits (current and future) | Costs (current and future) |
|--|--|---|
| Social | Potential negative impacts on neighbouring landowners would be avoided. | Improved access to the applicant's proposed new dwelling house and the higher parts of his farm property would not be achieved. Improved access for the public along Old Port Levy Road would not be achieved. Improved access to neighbouring farms would not be achieved. |
| Cultural | N/A | N/A |
| Environmental | Additional storm-water run-off resulting from the road formation would not arise. | Nil – status quo would be maintained. |
| Economic | The imposition of future maintenance costs on the Council would be avoided. The potential negative impacts on neighbouring landowners would be avoided. | Improved access to the applicant's proposed new dwelling house and the higher parts of his farm property would not be achieved. Improved access to neighbouring farms would not be achieved. |
| <p>Extent to which community outcomes are achieved: Unformed roads provide an important role in providing access to remote rural areas to support – a city for recreation, fun and creativity - a city of people who value and protect the natural environment</p> <p>Impact on the Council's capacity and responsibilities: Nil. The Status quo would remain.</p> <p>Effects on Maori: Nil.</p> <p>Consistency with existing Council policies: Potential inconsistency with the current Banks Peninsula District Council Roading Policy, paragraph 4.7 of which provides: <i>"Council does not intend to construct any new roads although will not usually prevent developers or property owners constructing new roads. However if developer or property owner wishes Council to take responsibility for the maintenance of the new roads, it must be constructed to Council's specifications. Council will consider each request for a new road on a case by case basis"</i>.</p> <p>Views and preferences of persons affected or likely to have an interest: A summary table of the submissions received is attached as Annexure C. Copies of the written submissions received in are attached to this report for the Council's consideration as Annexure D. A copy of the petition received by the Council is attached to this report as Annexure E.</p> <p>Other relevant matters: Nil.</p> | | |

THE OPTIONS – GATES ISSUE

Option 1

69. Resolve that the gates, or some of them, constitute either an "inconvenience" or are "redundant" in terms of section 344(3) of the Local Government Act 1974, and to issue a notice of the Council's intention to remove the gates.

Option 2

70. Decline to resolve that the gates constitute an "inconvenience" or are "redundant" in terms of section 344(3) of the Local Government Act 1974 and decline to issue a notice of the Council's intention to remove the gates.

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6 Cont'd

PREFERRED OPTION – GATES ISSUE**Option 2**

71. Decline to resolve that the gates constitute an “inconvenience” or are “redundant” in terms of section 344(3) of the Local Government Act 1974 and decline to issue a notice of the Council's intention to remove the gates.

ASSESSMENT OF OPTIONS – GATES ISSUE**The Preferred Option**

72. Decline to resolve that the gates constitute an “inconvenience” or are “redundant” in terms of section 344(3) of the Local Government Act 1974 and decline to issue a notice of the Council's intention to remove the gates.

| | Benefits (current and future) | Costs (current and future) |
|----------------------|---|---|
| Social | There will be no negative impact on the Crows as the status quo would essentially be maintained | Potential negative impacts on the Wests |
| Cultural | N/A | N/A |
| Environmental | Nil – as the status quo will remain | Nil – as the status quo will remain |
| Economic | No disruption to the operation of the Crow farm. | Possible negative economic impacts on the Wests, although if terms of the recommended Council resolution are complied with by the Crows, these impacts should be minimal. |

Extent to which community outcomes are achieved:

Not applicable

Impact on the Council's capacity and responsibilities:

Nil

Effects on Maori:

Nil.

Consistency with existing Council policies:

No existing applicable policies.

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

Mr West's submissions on this issue are contained on pages 7 to 10 of his submission attached in **Annexure D**. The Crow submission on the gates issue is attached to this report as **Annexure G**.

Other relevant matters:

Nil.

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6 Cont'd

Other Option

73. Resolve that the gates, or some of them, constitute either an "inconvenience" or are "redundant" in terms of section 344(3) of the Local Government Act 1974, and to issue a notice of the Council's intention to remove the gates.

| | Benefits (current and future) | Costs (current and future) |
|--|--|---|
| Social | Potential positive impacts on the Wests in terms of ease of access to the higher parts of their farm and their proposed new dwelling. Possible public benefits in terms of unrestricted access along Old Port Levy Road. | Potential negative impacts on the Crows. Potential increased public use of Old Port Levy Road. |
| Cultural | N/A | N/A |
| Environmental | Removal of gates will provide improvement in so far as obstructions could be removed & possibly result in less use of the road for the movement of stock. | Nil |
| Economic | Improved access along Old Port Levy Road for the Wests and members of the public, although impediment occasioned by the gates, if managed correctly, is minimal. Possible improved access for the Crows to the higher parts of their farm. | Potential negative impacts on the operation of the Crow farm as a result of the reduction in their ability to manage their stock. |
| <p>Extent to which community outcomes are achieved:</p> <p>Not applicable</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>Such a resolution would require the Council to issue a notice under section 344 of the Local Government Act 1974 and undertake a hearings and decision making process an objection was received.</p> <p>Effects on Maori:</p> <p>Nil.</p> <p>Consistency with existing Council policies:</p> <p>No existing applicable policies</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Mr West's submissions on this issue are contained on pages 7 to 10 of his submission attached in Annexure D. The Crow submission on the gates issue is attached to this report as Annexure G.</p> <p>Other relevant matters:</p> <p>Nil.</p> | | |

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7. REPORT OF THE HEARINGS PANEL ON THE MONTGOMERY SPUR RESERVE MANAGEMENT PLAN

| | |
|-------------------------------------|--|
| General Manager responsible: | General Manager City Environment Group, DDI 941-8608 |
| Author: | Montgomery Spur Reserve Management Plan Hearings Panel |

PURPOSE OF REPORT

1. The purpose of this report from the Hearings Panel, is to seek approval from the Council for the revised Montgomery Spur Reserve Management Plan to be adopted as the operative plan.

EXECUTIVE SUMMARY

2. A draft Montgomery Spur Reserve Management Plan was prepared in 2008–09, following public consultation in 2007. The Spreydon/Heathcote Community Board approved the public release of the draft plan at their meeting on the 19 May 2009. The draft plan was available for public consultation from 29 July 2009 to 9 October 2009. A total of 103 submissions were received.
3. A hearing was held on 9 November 2009 where 12 submitters made oral submissions. The panel reconvened on 1 March 2010 and 20 April 2010 to deliberate and decide on the extent to which submitters' comments would be put before the Council as the Hearings Panel recommendations.
4. The decisions of the Hearings Panel have been incorporated into the revised management plan, attached both in the tracked changes format (**Attachment 1**) and clean copy (**Attachment 2**).

FINANCIAL IMPLICATIONS

5. The management plan contains a number of projects that will be put forward for consideration in the 2012-22 LTCCP. The plan clearly states that the projects are subject to approval through the LTCCP process.

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

6. Yes, as above.

LEGAL CONSIDERATIONS

7. The management plan has been prepared in accordance with the requirements of the Reserves Act 1977.
8. The management plan has to be sent to the Department of Conservation for inspection as the land is held as a scenic reserve under the Reserves Act 1977. This to occur following the approval of the plan by Council.

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

9. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. The Montgomery Spur Reserve management plan comes under the activity of Regional Parks in the LTCCP and Activity Management Plans.

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

11. Yes, as above.

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ALIGNMENT WITH STRATEGIES

12. The Council strategies relevant to the management plan include, Biodiversity Strategy 2008, Christchurch Active Living Strategy 2004, Climate Change Policy 1995, Draft Climate Smart Strategy 2010-2025, Physical Recreation and Sport Strategy 2002, Recreation and Sport Policy 1996, Christchurch City Council Dog Control Bylaw 2008, Draft Public Open Space Strategy 2010-2040

Do the recommendations align with the Council's strategies?

13. Yes.

CONSULTATION FULFILMENT

14. Yes, consultation has exceeded the requirements of the Reserves Act 1977.

HEARINGS PANEL RECOMMENDATION

It is recommended that:

- (a) The Council approves the Montgomery Spur Reserve Management Plan, with the changes shown as tracked changes in the draft plan and incorporated in the final version of the plan, as the operative plan.

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8. CHRISTCHURCH SYMPHONY TRUST APPLICATION TO THE METROPOLITAN DISCRETIONARY RESPONSE FUND - 2009/10 FUNDING PERIOD

| | |
|-------------------------------------|--|
| General Manager responsible: | General Manager Community Services, DDI 941-8607 |
| Officer responsible: | Community Support Manager |
| Author: | Lincoln Papali'i, Community Development Manager |

PURPOSE OF REPORT

1. The purpose of this report is for the Metropolitan Funding Committee to consider an application from the Christchurch Symphony Trust for \$61,000 to the 2009/10 Metropolitan Discretionary Response Fund.

EXECUTIVE SUMMARY

2. In 2009/10, the total pool available for allocation for the Metropolitan Discretionary Response Fund is \$160,072. At the time of writing, there is \$130,820 remaining in the Metropolitan Discretionary Response Fund for 2009/10.
3. The purpose of the Fund is to assist community groups where the project and funding request falls outside other council funding criteria and/or closing dates. This fund is also for emergency funding for unforeseen situations.
4. Applications requesting over \$15,000 require consideration by the Metropolitan Funding Committee. Staff have the delegated authority to consider and approve applications up to and including \$15,000.
5. The application from the Christchurch Symphony Trust seeks \$61,000 and therefore requires consideration and decision from the Metropolitan Funding Committee. **Attachment A** provides the Decision Matrix giving details of the applicant's funding request.
6. Staff recommend that the Metropolitan Funding Committee funds the application from the Christchurch Symphony Trust, subject to the Trust being able to confirm that it has raised the additional amount of \$250,000 that it requires, along with the Council grant of \$61,000, to complete its recapitalisation.
7. Accepting staff recommendations would leave the amount of \$69,820 available in the Discretionary Response Fund for the remainder of the 2009/10 funding year.

FINANCIAL IMPLICATIONS

8. None.

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

9. Yes.

LEGAL CONSIDERATIONS

10. None.

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

11. Not applicable.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Yes, Community Support.

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

13. Yes, Community Grants.

ALIGNMENT WITH STRATEGIES

14. Strengthening Communities Strategy.

Do the recommendations align with the Council's strategies?

15. Yes, Strengthening Communities Strategy.

CONSULTATION FULFILMENT

16. Not applicable.

STAFF RECOMMENDATION

Staff recommend that the Metropolitan Funding Committee approve the Discretionary Response Fund application of \$61,000 from the Christchurch Symphony Trust subject to the Trust confirming, to the Council, that it has raised the total of the remaining balance of \$250,000 that it requires to complete its recapitalisation programme as submitted in their application to the Council.

It is further recommended that the Christchurch Symphony Trust provides quarterly financial reports and its audited financial statements for the 2010 year to the Council's Corporate Finance Manager for review.

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BACKGROUND

Discretionary Response Fund

17. The Council adopted the Strengthening Communities Strategy on 12 July 2007. The Strengthening Communities Grants Funding Programme comprises four funding schemes:
 - (a) Strengthening Communities Fund.
 - (b) Small Projects Fund (now Small Grants Fund).
 - (c) Discretionary Response Fund.
 - (d) Community Organisations Loan Scheme.
18. The purpose of the Discretionary Response Fund is to assist community groups where the project and funding request falls outside other council funding criteria and/or closing dates. This fund is also for emergency funding for unforeseen situations.
19. The Discretionary Response Fund opens each year on 1 July and closes on 30 June the following year, or when all funds are expended. There is currently \$130,820 in the Metropolitan Discretionary Response Fund available to allocate.

Application from Christchurch Symphony Trust

20. Please see **Attachment A** for detailed information on this application.
21. The Christchurch Symphony Trust (the Trust) has applied to the Council for funding to assist its recapitalisation programme for 2010. The recapitalisation is sought to enable it to undertake its 2010 programme and to implement some strategic development opportunities to ensure that it has the operational capability to initially provide a breakeven position in 2010 and setting the base for it to generate and sustain incremental operating surpluses.
22. In reaching this decision, the Trust has noted that its traditional revenue streams from gaming and charitable trusts have been impacted by the economic downturn and that investment derived donor income is also under pressure and is likely to remain so for some time.
23. The Trust has undergone an internal review and it has concluded that with the current funding pressures and the pressing need to implement strategic measures to ensure the long-term viability of the orchestra, that it must recapitalise the Trust in order to undertake these opportunities within the 2010 year.
24. The Trust states that it requires \$311,000 to recapitalise. The Trust is confident that if it is able to recapitalise now, that it will be able to implement measures within the 2010 year to breakeven for the 2010 period.
25. The Trust seeks a \$61,000 funding contribution from the Council towards its \$311,000 recapitalisation funding requirement. The Trust is also seeking funding for the remaining balance of \$250,000 from other sources, including Creative New Zealand, the Friends of the Christchurch Symphony Trust and other community benefactors.
26. The Trust has stated that they expect to be in a position to raise the required balance of \$250,000 from other sources, including the friends of the orchestra and Creative New Zealand.
27. It is noted that the Discretionary Response Fund does not cover debt servicing costs. In this application, the Trust is seeking funding from the Council to provide additional revenue to give the Trust greater liquidity to finance their 2010 programme activities rather than monies to pay interest or principal repayments on term loans that they may owe to lenders of debt finance.

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9. CHILDCARE CENTRE LEASES

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager Community Services DDI 941-8607 |
| Officer responsible: | Unit Manager Community Support |
| Author: | Kathy Jarden, Leasing Consultant |

PURPOSE OF REPORT

1. The purpose of this report is to provide information on the lease renewal process for 11 Council owned independently operated childcare facilities and seek a resolution from the Council providing a delegation to staff to conclude new leases for each of them.

EXECUTIVE SUMMARY

2. The Council currently owns 11 childcare facilities independently operated under leases as detailed in the attached schedule (**Attachment 1**). Two of the 11 centres are on land designated as reserve with the balance on fee simple land.
3. The properties are spread across six wards within the city. Therefore, to ensure consistent decision making and processes by the Council, this matter is being reported in this one generic report submitted to the relevant Boards for their recommendations to the Council for a single consideration and decision.
4. The leases for the 11 properties all expire on 30 June 2010. Negotiations have commenced with the existing individual lessees for a new lease. The rationale for dealing unilaterally with the existing lessees on expiry is set out in this report.
5. The proposed lease term is six years with one right of renewal for a further six years in the form of Council's generic lease. This would result in a final expiry date of 30 June 2022 if the right of renewal is exercised.
6. The proposed rents are based on independent current market valuations. The decision to use market based rent was established by the Council in 2002 in response to a report on the setting of rents for childcare facilities.
7. This report recommends proceeding with the grant of new leases to the existing operators on the terms and conditions set out in the report and seeks a delegation to staff to finalise those leases.

FINANCIAL IMPLICATIONS

8. Independent valuation advice has been sought and the valuation for each childcare facility has taken a commercial view of the rental. Simes Limited. has assessed each of the these centres acknowledging the improvements the centre has funded.
9. Each childcare centre currently receives an operating grant from the Council to cover the annual rent charged under the lease. For the period from 1 July 2010 the centres can apply for funding assistance using the Council's Strengthening Communities Grants process.
10. The proposed rents will ensure that Council properly manages its assets.

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

11. Yes

LEGAL CONSIDERATIONS

12. The Community Boards do not have the delegated authority to authorise the granting of the proposed leases on fee simple land; that decision needs to be made by the full Council. The Community Board does have powers to make recommendations to the Council.

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13. The Fendalton/Waimairi and Shirley/Papanui Community Boards do have delegated authority to enter into leases for the Bishopdale Community Crèche at 129 Farrington Avenue and Redwood Early Childhood Centre Incorporated at 339 Main North Road, respectively, as these two are on reserve land. However for the purposes of consistent decision making and process, staff are recommending that these two Community Boards attend to those two leases in a similar manner as the other nine leases on fee simple land and do not exercise their delegation; thus leaving all 11 lease renewals for a single decision by the Council.
14. On 13 May 2002 a report to the Strategy and Finance Committee was tabled that recommended *"that the Council confirm its requirement that a system of grants and leases as outlined in the report be put in place."* That report stipulated that the rent for *"each building is assessed at a market rental level in accordance with current Council policy"*. The recommendation was adopted by Council on 23 May 2002. The method of rent subsidy for the childcare centres in Council-owned buildings was by an internal transfer of funds. This method has subsequently been made more transparent with the childcare centres making application for funding through the Strengthening Communities fund.

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

15. Council's Legal Services Unit have advised on all aspects of the leases and associated issues.
16. Council's generic lease for early education childcare facilities will form the lease document.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. Yes

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

18. Yes

ALIGNMENT WITH STRATEGIES

19. Council's support for the provision of childcare centres is highlighted in the Early Childhood Education Strategy (2001). Council provides support to early childhood education through a variety of means. In these instances assistance is provided through the provision of a Council-owned building and a council funded operating grant. As part of the Council's approved process for entering into formal lease arrangements with early childhood education providers the rent for the Council-owned building is assessed at a market rental. As part of a separate process, early childhood education providers are entitled to apply for financial assistance. Funding requests are assessed against a range of criteria including the location's socio-economic status and whether or not the provider may be able to pay rent. Funding requests are made through the Council's Strengthening Communities fund.

Do the recommendations align with the Council's strategies?

20. Yes

CONSULTATION FULFILMENT

21. Not applicable.

STAFF RECOMMENDATION

Staff recommend that the Community Boards recommend to the Council that the Council adopts a resolution in the following form:

- (a) That the existing lessees for the childcare centres as listed in the attached schedule be offered a new lease upon expiry of their existing lease terms on 30 June 2010.

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9 Cont'd

- (b) That the new leases be generally on the Council's generic lease terms and conditions.
- (c) That the initial term of the leases be six years with one right of renewal for a further six years, which provides for a final expiry date of 30 June 2022 if the right of renewal is exercised.
- (d) That the market rentals as set out in the attached schedule be adopted from lease commencement, with market related rent reviews at three yearly intervals.
- (e) That the Corporate Support Unit Manager be granted delegated authority to conclude and administer the leases, as generally set out in the above resolutions.

| <u>Centre</u> | <u>Legal Description</u> | <u>Current Rent</u> | <u>Proposed Market Rent 2010</u> |
|--|---|---------------------|--|
| Kidsfirst Early Learning Centre 284 Breezes Road, Aranui | LOT 1 DP 27621 | \$23,467 | \$30,000 |
| New Brighton Community Preschool 109 Beresford Street, New Brighton | LOT 25 DP 100 | \$18,000 | \$14,600 |
| North Beach Community Child Care Centre 102 Marriotts Road, North Beach | LOT 3 DP 6151 | \$27,600 | \$27,200 |
| Bishopdale Community Crèche 129 Farrington Ave, Bishopdale (13 Bishopdale Courts) | LOT 10 DP 42896 | \$28,500 | \$45,000 |
| 136 Aldwins Road, Linwood | PT RS 347 DIST CANTERBURY | \$40,800 | \$36,000 |
| Woolston Community Child Care Centre 52 Glenroy Street, Woolston | LOT 1 DP 63343 | \$40,800 | \$39,000 |
| Springs Community Preschool 10 Weaver Place, Sockburn | PT LOT 1 DP 23275 | \$20,400 | \$33,250 |
| Redwood Early Childhood Centre 339 Main North Road, Redwood | RS 41271 | \$28,800 | \$34,000 |
| St Albans Edu-care Centre 3 Thames Place, St Albans | PT LOT 63 DP 3115 and PT LOT 64 DP 3115 | \$15,600 | \$31,500 |
| Hoon Hay Community Preschool 113 Mathers Road, Hoon Hay | LOT 2 DP 30805 | \$16,800 | \$17,000 |
| Sydenham Community Preschool 113 Huxley Street, Sydenham | LOT 1 DP 72739 | \$26,400 | \$28,500 |

BOARD CONSIDERATION

This report was considered by the Burwood/Pegasus, Fendalton/Waimairi, Shirley/Papanui and Spreydon/Heathcote Community Boards in May. Recommendations from these four Boards will be separately circulated. Recommendations from the Riccarton/Wigram and Shirley/Papanui board follow:

Riccarton/Wigram Community Board

That the staff recommendation be adopted.

Shirley/Papanui Community Board

That the staff recommendation be adopted with the following addition to recommendation (c):

- (i) That staff be requested to have discussions with St Albans Edu-care on a mutually acceptable lease arrangement

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BACKGROUND**Burwood/Pegasus Ward**

22. The Canterbury Westland Free Kindergarten Association Inc is a not-for-profit society operating the Kidsfirst Early Learning Centre at 284 Breezes Road, Aranui. The land is described in Certificate of Title 11K/595 as being Lot 1 DP 27621 and was vested in the Christchurch City Council for the purpose of a crèche. The property is a 1940's bungalow that was converted by the Council. The childcare facility is currently licensed for 33 children.
23. The New Brighton Community Preschool & Nursery Incorporated is a not-for-profit society operating the New Brighton Community Preschool at 109 Beresford Street, New Brighton. The land is described in Certificate of Title CB26B/643 as Lot 25 DP 100 and held as fee simple for crèche purposes. The property is a traditional pre-war bungalow that has been extensively extended and converted by the tenant. The childcare facility is currently licensed for 39 children.
24. North Beach Community Childcare Centre Incorporated is a not-for-profit society operating the North Beach Community Childcare Centre at 102 Marriotts Road, North Beach. The land is described in Certificate of Title CB375/138 as Lot 3 DP 6151 and held as fee simple for crèche purposes. The building is a former church hall which has been converted to a childcare centre by the Council. The tenant has been responsible for the establishment of the outdoor play area. The childcare facility is currently licensed for 34 children.

Fendalton/Waimairi Ward

25. Bishopdale Community Preschool Association Incorporated is a not-for-profit society operating the Bishopdale Community Crèche at 129 Farrington Avenue (13 Bishopdale Courts), Bishopdale. The land is described in Certificate of Title CB20F/1396 as Lot 10 DP 42896 and held as local purpose (community centre) reserve. The building is a 1970's concrete block building originally used as library storage. The tenant converted the building into a pre-school and it is licensed for 50 children.

Hagley/Ferrymead Ward

26. New Beginnings Preschool Incorporated is a not-for-profit society operating the New Beginnings Preschool at 136 Aldwins Road, Linwood. The land is described in Certificate of Title CB245/193 as being Part Rural Section 347. The building is a modern, purpose-built pre-school constructed by the Council. The centre is currently licensed for 36 children.
27. Woolston Preschool Incorporated is a not-for-profit society operating the Woolston Community Child Care Centre at 52 Glenroy Street, Woolston. The land is described in Certificate of Title CB37B/959 as being Lot 1 DP 63343. The building is a purpose built preschool constructed by the Council. The centre is currently licensed for 39 children.

Riccarton/Wigram Ward

28. Springs Community Early Learning Centre Incorporated (SCELC) became registered as a not-for-profit society in November 2009.
29. The land is described in Certificate of Title 18A/1036 as being Lot 1 DP 25336 and Part Lot 1 DP 23275 and is the site of a childcare centre and social housing complex.
30. The current lease is with Affinity Child and Family Services who operate the Springs Community Preschool at 10 Weaver Place, Sockburn through Springs Community Preschool. The preschool operations were handed over to SCELC as a "going concern" in December 2009.

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31. Springs Community Pre-School has operated for 21 years under the management of voluntary trusts and committees and church groups. The centre is currently licensed for 35 children.
32. SCELC has not been able to provide financial information for the previous three years as that was filed by Affinity Child and Family Services. They have however provided a five-year cash flow projection and projected registrations. As this group, in various forms, has operated the childcare centre, it is believed they have the practical experience to carry forward but it would be recommended that their financial position and business plan are reviewed on a regular basis to ensure they can continue to operate.

Shirley/Papanui Ward

33. Redwood Early Childhood Centre Incorporated is a not-for-profit society operating the childcare centre at 339 Main North Road, Redwood. The land is described in Certificate of Title CB244/204 as Rural Section 41271, Rural Section 41272 and Rural Section 42037 and held as recreation reserve. Rural Section 41271 is classified by way of Gazette Notice as a local purpose (community centre) reserve. The property is a 1970's building originally constructed as a hall and converted by the Council into a childcare centre. The centre is currently licensed for 40 children.
34. St. Albans Edu-Care Centre Incorporated is a not-for-profit society operating the childcare centre at 3 Thames Place, St Albans. The land is described in Certificate of Title CB293/37 as Part Lot 63-64 DP 3115 and held for crèche purposes. The property is a 1940's bungalow that was converted and extended by the Council in 1985. The childcare centre is currently licensed for 35 children.

Spreydon/Heathcote Ward

35. Hoon Hay Community Crèche Incorporated Society is a not-for-profit society operating the Hoon Hay Community Preschool at 113 Mathers Road, Hoon Hay. The land is described in Certificate of Title CB17K/1312 as being Lot 2 DP 20805. The property is a 1970's community hall that was converted by the current tenant into a childcare centre. The centre is licensed for 36 children.
36. The Sydenham Community Pre-school Incorporated is a not-for-profit society operating the Sydenham Community Preschool at 113 Huxley Street, Sydenham. The land is described in Certificate of Title CB42A/668 as being Lot 1 DP 72739 for the purpose of a crèche. The property is a 1960's house that was converted into a childcare centre by the Council. The centre is licensed for 30 children.

THE OPTIONS

37. To enter into a new lease with the existing tenants as detailed in **Attachment 1**.
38. Not enter into a new lease with the existing tenants and call for expressions of interest for the future use of these facilities.

THE PREFERRED OPTION

39. To enter into a new lease with each of the existing tenants who have maintained the building and land and are fulfilling an important community service.
40. The Council's normal practice is to deal in an open and transparent public manner, with the opportunity to lease the property made available to the general market through tender on expiry of any lease. The Council made a commitment in the Long Term Council Community Plan (LTCCP) to continue the provision of the early childhood facilities. To achieve this, the preferred option, for the reasons set out below, is to deal unilaterally with the childcare centres to negotiate a new lease and set a fair market rental for the property.

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41. The Council has purpose-built some of the facilities and contributed to the upgrade of other facilities in conjunction with significant financial contributions made by the incumbent tenant and the Ministry of Education.
42. The current tenants are meeting the requirements of the Ministry of Education to maintain their childcare licence. The childcare centres own the business as the licences are specific to those organisations.
43. The Council is satisfied with the current operators and recent experience has shown that there is a limited market available if the Council were to seek expressions of interest for the 11 facilities.

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10. METROPOLITAN STRENGTHENING COMMUNITIES EARLY LEARNING CENTRE FUND 2010-11

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager Community Services DDI 941-8607 |
| Officer responsible: | Community Support Unit Manager |
| Author: | Matthew Pratt – Community Grants Team Leader |

PURPOSE OF REPORT

1. The purpose of this report is to provide the Council with the information necessary to consider the applications received from the ten Early Learning Centres that operate from the Council owned buildings that have applied to the Strengthening Communities Fund for a grant.

EXECUTIVE SUMMARY

2. The Council currently owns 11 facilities that are operated by community organisations as Early Learning Centres (ELCs), these are:
 - ***Bishopdale Community Pre-school Association Inc.***
129 Farrington Ave, Bishopdale
 - ***Hoon Hay Community Preschool***
113 Mathers Road, Hoon Hay
 - ***Kidsfirst Early Learning Centre***
284 Breezes Road, Aranui
 - ***New Beginnings Preschool Inc.***
136 Aldwins Road, Linwood
 - ***New Brighton Community Preschool***
109 Beresford Street, New Brighton
 - ***North Beach Community CC Centre Inc.***
102 Marriotts Road, North Beach
 - ***Redwood Early Childhood Centre***
339 Main North Road, Redwood
 - ***Springs Community Early Learning Centre Inc.***
10 Weaver Place, Sockburn (Affinity Trust)
 - ***St Albans Edu-care Centre***
3 Thames Place, St Albans
 - ***The Sydenham Community Preschool Inc.***
113 Huxley Street, Sydenham
 - ***Woolston Preschool Inc.***
52 Glenroy Street, Woolston
3. The Council's role in regard to these ELCs is limited to being the landlord.
4. In 2002, the Council adopted a recommendation that each building be assessed at market rental in accordance with Council policy. As a result, the Council commissioned independent market rent appraisals which it is using to set the revised lease rentals agreements.
5. The new proposed rents are based on independent current market valuations. For some centres, the level of rent will increase (seven centres ranging from eight per cent to 102 per cent increase) and in others it will decrease (four centres ranging from one per cent to 19 per cent decrease). These new rental charges will take effect on 1 July 2010, as the existing agreements expire on 30 June 2010.
6. In previous years, the Council, as landlord, has made a rental charge to the ELCs. Council has then paid, via a line item grant, a grant to the ELCs to offset that rent.
7. In 2009, during LTCCP discussions, the Council reaffirmed its support of early childhood education and it was communicated to the ELCs that currently lease the facilities that they could apply for grants funding through the Strengthening Communities Fund process. The wording from the Council minute is, "***Council may make a grant to those that are in areas of high need on a case by case basis to help offset some or all of their rent. Grants are contestable through the Strengthening Communities Fund.***"

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10 Cont'd

8. Council staff have worked with the ELCs over the past year to ensure that all of the centres have been contacted and are fully informed of the change, as well as the process for applying for Council grant funding through the Strengthening Communities Fund.
9. Of the 11 ELCs, 10 have applied for a grant, requesting a total of \$335,323. These applications have been assessed by the appropriate staff in their respective ward areas.
10. One ELC, the New Brighton Community Preschool, decided not to apply for funding assistance at this time as the committee felt that they would not require additional funding to cover their lease costs this year.
11. Below is a table of the Centres that have applied, please note that the figures showing how much has been recommended exclude GST.

| <i>Name of Applicant</i> | <i>Market Rent (exc. GST)</i> | <i>\$ Req.</i> | <i>\$ Rec.</i> | <i>Previous Grant (exc. GST)</i> |
|--|--------------------------------------|-------------------------|-------------------------|---|
| <i>Bishopdale Community Pre-school Association Inc.</i> 129 Farrington Ave, Bishopdale | <i>\$45,000</i> | <i>\$40,000</i> | <i>\$40,000</i> | <i>\$28,500</i> |
| <i>Hoon Hay Community Preschool</i> 113 Mathers Road, Hoon Hay | <i>\$17,000</i> | <i>\$17,000</i> | <i>\$17,000</i> | <i>\$16,800</i> |
| <i>Kidsfirst Early Learning Centre</i> 284 Breezes Road, Aranui | <i>\$30,000</i> | <i>\$33,750</i> | <i>\$30,000</i> | <i>\$26,400</i> |
| <i>New Beginnings Preschool Inc.</i> 136 Aldwins Road, Linwood | <i>\$36,000</i> | <i>\$42,000</i> | <i>\$36,000</i> | <i>\$40,800</i> |
| <i>New Brighton Community Preschool</i> 109 Beresford Street, New Brighton | <i>\$14,600</i> | <i>\$0</i> | <i>\$0</i> | <i>\$18,000</i> |
| <i>North Beach Community CC Centre Inc.</i> 102 Marriotts Road, North Beach | <i>\$27,200</i> | <i>\$27,200</i> | <i>\$27,200</i> | <i>\$27,600</i> |
| <i>Redwood Early Childhood Centre</i> 339 Main North Road, Redwood | <i>\$34,000</i> | <i>\$34,000</i> | <i>\$34,000</i> | <i>\$28,800</i> |
| <i>Springs Community Early Learning Centre Inc.</i> 10 Weaver Place, Sockburn (Affinity Trust) | <i>\$33,250</i> | <i>\$37,406</i> | <i>\$33,250</i> | <i>\$20,400</i> |
| <i>St Albans Edu-care Centre</i> 3 Thames Place, St Albans | <i>\$31,500</i> | <i>\$31,500</i> | <i>\$31,500</i> | <i>\$15,600</i> |
| <i>The Sydenham Community Preschool Inc.</i> 113 Huxley Street, Sydenham | <i>\$28,500</i> | <i>\$31,667</i> | <i>\$28,500</i> | <i>\$26,400</i> |
| <i>Woolston Preschool Inc.</i> 52 Glenroy Street, Woolston | <i>\$39,000</i> | <i>\$40,800</i> | <i>\$39,000</i> | <i>\$40,800</i> |
| <i>Total</i> | <i>\$336,050</i> | <i>\$335,323</i> | <i>\$316,450</i> | <i>\$290,100</i> |

12. Individual assessment and staff comments for each application are attached as part of a Decision Matrix (in **Appendix A** – Community Grants Metropolitan Strengthening Communities ELC Fund 2010-11 Decision Matrix)
13. The total request from the ten applicants is for \$335,323. Any grants made to the applicants will come from the Metropolitan Strengthening Communities Fund 2010-11.

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10 Cont'd

FINANCIAL IMPLICATIONS

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

14. Yes.

LEGAL CONSIDERATIONS

15. Not applicable.

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

16. Not applicable.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. Yes.

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

18. Yes.

ALIGNMENT WITH STRATEGIES

19. Yes.

Do the recommendations align with the Council's strategies?

20. Yes, Strengthening Communities Strategy, Early Childhood Education Policy and Children's Policy.

CONSULTATION FULFILMENT

21. Not applicable.

STAFF RECOMMENDATION

It is recommended that Council:

- (a) Makes a grant of \$40,000 to the Bishopdale Community Preschool towards rental costs of their Council-owned premises.
- (b) Makes a grant of \$17,000 to the Hoon Hay Community Pre-school towards the rent cost of their Council-owned premises.
- (c) Makes a grant of \$30,000 to Kidsfirst Early Learning Centre Aranui towards rental costs of their Council-owned premises.
- (d) Makes a grant of \$36,000 to New Beginnings Preschool Inc towards rental costs of their Council-owned premises.
- (e) Makes a grant of \$27,200 to the North Beach Community Childcare Centre Inc towards rental costs of their Council-owned premises.
- (f) Makes a grant of \$34,000 to the Redwood Early Learning Centre towards rental costs of their Council-owned premises.
- (g) Makes a grant of \$33,250 to the Springs Community Early Learning Centre Incorporated towards rental costs of their Council-owned premises

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- (h) Makes a grant of \$31,500 to St Albans Edu-care towards rental costs of their Council-owned premises.
- (i) Makes a grant of \$28,500 to the Sydenham Community Pre-School towards rental costs of the Council-owned premises.
- (j) Makes a grant of \$39,000 to Woolston Preschool Inc. towards rental costs of their Council -owned premises.

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11. CANTERBURY COMMUNITY TRUST FESTIVALS FUNDING

| | |
|-------------------------------------|---|
| General Manager responsible: | Acting General Manager Public Affairs, DDI 941-8982 |
| Officer responsible: | Events Development Manager |
| Author: | Jo Blair |

PURPOSE OF REPORT

1. The purpose of this report is to attain a Council resolution to apply for Canterbury Community Trust Festivals Funding for the 2010/11 financial year.

EXECUTIVE SUMMARY

2. Christchurch City Council applies every year for festivals funding from the Canterbury Community Trust towards some of its community events. It has been successful in attracting funding over many years for its community events.
3. Applications were due 20 April 2010 for this 2010/2011 funding requests. All applications must submit a resolution and minutes from the organisation running the event along with their application. In previous years, Christchurch City Council Events Teams have submitted Event Project Team meeting minutes and resolutions. With new trustees on the trust, Canterbury Community Trust have now stipulated that the minutes and meeting resolution must be from Council, not staff.
4. The Council's Events Teams and the Heritage Team have applied for the following funding requests. The Canterbury Community Trust are happy to receive a retrospective resolution following the 27 May Council meeting to officially apply for these funds.
5. The event may request more funding than the Canterbury Community Trust are able to give. The Trust will make decisions in June, and if successful, funding is distributed from 1 July 2010.

| Event | Amount Requested 2010/11 | Amount Received 2009/10 |
|--------------------------------------|---------------------------------|------------------------------------|
| The World Buskers Festival | \$60,000 | \$40,000 |
| ASB Classical Sparks & New Years Eve | \$61,800 | \$50,000 |
| Beca Heritage Week | \$25,000 | \$20,000 |
| TV2Kids Fest | \$61,500 | \$45,000 |
| NZ Antarctic Festival | \$30,000 | \$0 |

FINANCIAL IMPLICATIONS

6. If successful, the funding enables these community events to add additional community initiatives to the event. The funding also helps raise the overall event quality. For example, funding for TV2KidsFest goes towards putting on free community events, and enabling disadvantaged families to attend some of the paid events. The World Buskers Festival funding goes towards developing local acts for the festival. The ASB Classical Sparks and New Year's event request will go towards two large screens and additional technical costs to install the screens.

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

7. Yes – additional to LTCCP budgets.

LEGAL CONSIDERATIONS

8. None.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

9. Events and Festivals Activity Management Plan.

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11 Cont'd**ALIGNMENT WITH STRATEGIES**

10. The Events Strategy. Goal 5: Strong Partnerships drive increasing investment in Christchurch events.

CONSULTATION FULFILMENT

11. None required.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Approve a resolution to apply for funds as outlined below:

| Event | Amount Requested 2010/11 | Amount Received 2009/10 |
|--------------------------------------|--------------------------|----------------------------|
| The World Buskers Festival | \$60,000 | \$40,000 |
| ASB Classical Sparks & New Years Eve | \$61,800 | \$50,000 |
| Beca Heritage Week | \$25,000 | \$20,000 |
| TV2Kids Fest | \$61,500 | \$45,000 |
| NZ Antarctic Festival | \$30,000 | \$0 |

27. 5. 2010

12. RICCARTON BUSH TRUST HALF-YEAR REPORT FOR THE PERIOD TO DECEMBER 2009

| | |
|-------------------------------------|--|
| General Manager responsible: | General Manager Corporate Services, DDI 941-8528 |
| Officer responsible: | Corporate Finance Manager |
| Author: | Diane Brandish |

PURPOSE OF REPORT

1. To present the report for the six months to December 2009 as required under the Riccarton Bush Trust's Statement of Intent.

EXECUTIVE SUMMARY

2. The Council's subsidiary companies and Council Controlled Organisations (CCOs) are required by statute to present to the Council half-yearly accounts of their performance against the objectives and performance measures set out in their annual Statement of Intent (SOI).
3. The report for the six months to December 2009 is attached as **Appendix 1**.

FINANCIAL IMPLICATIONS

4. There are no financial implications.

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

5. Not applicable.

LEGAL CONSIDERATIONS

6. This action is required under s66 of the Local Government Act.

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

7. There are no additional implications.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. Not applicable.

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

9. No.

ALIGNMENT WITH STRATEGIES

10. Not applicable.

Do the recommendations align with the Council's strategies?

11. Not applicable.

CONSULTATION FULFILMENT

12. No.

STAFF RECOMMENDATION

It is recommended that the Council receive the report.

27. 5. 2010

13. REPORT OF THE HEARINGS PANEL ON THE PROPOSED CHRISTCHURCH CITY COUNCIL CRUISING BYLAW 2010

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager Strategy and Planning, DDI 941-8281 |
| Author: | Proposed Christchurch City Council Cruising Bylaw 2010 Hearings Panel |

PURPOSE OF REPORT

1. This is the report of the Proposed Christchurch City Council Cruising Bylaw Hearing Panel (the Panel). It summarises the submissions received on the Proposed Cruising Bylaw 2010 (the Bylaw) and contains recommendations from the Panel altering the Bylaw in certain respects. The Bylaw (with the recommended changes highlighted) is attached to this report (**Attachment 1**).
2. The report recommends the adoption of the Proposed Christchurch City Council Cruising Bylaw 2010, as attached (**Attachment 2**).

EXECUTIVE SUMMARY

3. A newly created bylaw-making power, introduced by the Land Transport (Enforcement Powers) Amendment Act 2009 into the Land Transport Act 1998, enables the Council to make bylaws for controlling, restricting or prohibiting cruising specifically. This includes the power to specify the section of road or roads on which cruising is controlled, restricted or prohibited. Section 22AB(3) of the Act also specifies that a cruising bylaw may leave any matter or thing to be regulated, controlled, or prohibited by the Council by resolution generally, for any specified classes of case, or in a particular case.
4. At its meeting of 11 February 2010, Council adopted the Proposed Cruising Bylaw 2010 for consultation. Submissions were received from 18 February 2010 and until 25 March 2010. There were 32 submissions received within this timeframe and another four late submissions tabled at the hearing, with four requesting to be heard by the Hearing Panel.¹ The hearings and consideration of all submissions were undertaken on 9 April 2010. The panel was chaired by Mayor Bob Parker and all Councillors were Panel members.
5. The purpose of the Bylaw is to prohibit cruising² in Christchurch City area on certain roads at specified days and times. Council consulted on proposals to resolve that roads where cruising is prohibited are all multi-lane roads under the control of the Christchurch City Council, and on the whole of Main Road (from Ferry Road to Marriner Street, Sumner) and all of the Esplanade (Sumner). New Zealand Transport Authority (NZTA) has advised Council can be delegated the authority to apply cruising bylaw provisions to NZTA administered roads should any anti-social road user issues arise necessitating this action.
6. The Council proposed instating the bylaw on the grounds that an examination under section 155 of the Local Government Act 2002 (LGA02) indicated that the problems associated with cruising activity as defined in the Land Transport Act 1998 could be controlled most appropriately through a bylaw, albeit recognising a bylaw would not present a total solution to those problems. The Traffic and Parking Bylaw 2008 has clause 15 relating to prohibited times on roads, and the Bylaw clarified the purpose of this clause for effective enforcement.
7. Through consultation with the Police, the Council determined that the Bylaw contain the following:
 - (a) The bylaw should apply to all multi-lane roads in the city; and on the whole of Main Road (from Ferry Road to Marriner Street, Sumner) and all of Esplanade, Sumner;
 - (b) The bylaw should empower the Council to determine by resolution the time period that must elapse between repeated use of a section of road by a driver to avoid being regarded as cruising; and,

¹ Anthony Rohan, Scott Lowan (Southern Car Culture), Inspector Al Stewart (NZ Police), Riccarton/Wigram Community Board (who later withdrew the request to appear)

² Cruising means driving repeatedly in the same direction over the same section of a road in a motor vehicle in a manner that—(a) draws attention to the power or sound of the engine of the motor vehicle being driven; or (b) creates a convoy that— (i) is formed otherwise than in trade; and (ii) impedes traffic flow]

27. 5. 2010

13 Cont'd

- (c) The bylaw should empower the Council to determine by resolution the days and times in which cruising is prohibited;\
 - (d) The bylaw should empower the Council to determine by resolution that other roads, on the days and at the times specified in the resolution, can also be subject to a prohibition on cruising Council has been consulting on proposals to resolve that 60 minutes be the period that must elapse between repeated use of a section of road for the driver to avoid being regarded as cruising;
 - (e) In addition, consultation has been undertaken on proposals to prohibit cruising on the following days and times:
 - (i) Thursday to Friday: 10pm – 5am;
 - (ii) Friday to Saturday: 10pm – 5am;
 - (iii) Saturday to Sunday: 10pm – 5am;
 - (iv) Sunday to Monday: 10pm – 5am;
 - (v) Every statutory holiday – commencing at 10pm on the day preceding the statutory holiday and ending at 5am on the statutory holiday.
8. Before making a decision the Council considered four options under which it might control cruising activity. Three options were for bylaws in various forms made under the Land Transport Act 1998, and the fourth option recommended that no bylaw be adopted. The Council adopted the third option as its preferred option, prohibiting cruising activity on all multi-lane roads at set times and on set days as stated in Point 7(e) above.

SUMMARY OF SUBMISSIONS**General**

9. The public consultation period for these documents attracted 32 submissions from individuals and groups or organisations. Sixteen of these submissions supported the Bylaw but the remaining 16 submissions (50%) opposed it. Four late submissions were received and tabled at the Hearing with one supporting the Bylaw and three opposed.
10. The table below shows the themes under which the submissions' comments were analysed. Many submissions made comments on more than one theme.

| Theme | Number of submissions | Percent of submissions |
|---|-----------------------|------------------------|
| Supporting the use of bylaws to prohibit cruising | 17 | 47% |
| Opposing the use of bylaws to prohibit cruising | 19 | 53% |
| Supporting the Proposed Bylaw but would like to see specific roads listed (either in the Bylaw itself or on a register) | 6 | 17% |
| Supporting the Proposed Bylaw but would like to see all days of the week | 1 | 3% |
| Supporting the Proposed Bylaw but would like to see noise limits lowered and stereo noise included | 2 | 6% |
| Concerns over the Proposed Bylaw due to enforcement issues, including the belief current legislation would address the issues | 11 | 31% |
| Concerns over the Proposed Bylaw over displacement of the issue to other roads | 4 | 11% |
| Opposing the Proposed Bylaw as concern over violation of Bill of Rights or personal freedom | 6 | 17% |
| Opposing the Proposed Bylaw due to concerns of Council not focusing resourcing on alternatives including providing venues for car enthusiasts | 5 | 14% |

27. 5. 2010

13 Cont'd

11. The Hearings Panel heard from three submitters:
 - Anthony Rohan (Club K)
 - Scott Lowan & Nadra Gosling (Legal Diesels Inc and Southern Car Culture)
 - Inspector Al Stewart (Canterbury Branch NZ Police)

Submission from Club K

12. The submission was on behalf of Club K, a car enthusiasts club that did make a submission on the national legislation when it was under review. Club K predominantly organises Sunday cruises for its members, and is distinct from the anti-social road users who cause the issues for residents and locals on Friday and Saturday nights. The main concern raised was that the noise levels produced by modified cars would not be addressed by the Bylaw and that banning certain roads would only serve to displace the issue. Additionally, other points raised were that some of this displacement would occur on NZTA roads which have a higher speed limit and that there could possibly be increased fatalities on these roads due to higher speeds of the anti-social road users forced onto these road through the restrictions imposed by the Bylaw. Club K also stated concern that the Bylaw would not prohibit cars being driven in either direction on the prohibited roads and parking up, resulting in increased anti-social behaviour. The submission stated that Council needed to work with car enthusiasts to find common ground and offer positive solutions in order to create a change in culture.

Hearing Panel Response

13. The Hearing Panel expressed its thanks to Club K for the submission.

Submissions from Legal Diesels Inc. and Southern Car Culture

14. The main concerns from these submissions for Legal Diesels Inc. and Southern Car Culture (dedicated car enthusiasts) were about the definitions of the words “convoy”, “repeatedly”, what constitutes as excessive noise, how to deal with sound magnification in quiet areas such as Sumner, and how any future changes to the Bylaw will be publicly notified.
15. The submissions highlighted areas of concern to do with distinguishing the source of excessive noise in a group of cars, how Police discretion will be exercised, and what proof will be used to show convoys are occurring. There was an acknowledgement of the issues caused by anti-social road users (which were estimated to be about 5% of car enthusiasts from around 20 car clubs in Christchurch) and the embarrassment these have caused for genuine car enthusiasts, but suggested existing legislation could be used to target these extreme cases who cause the problems. It was highlighted there is a willingness to work with the Council to look at solutions, such as providing alternative venue options at Ruapuna and making it readily accessible to young car enthusiasts at the times they would like to use it. An opinion expressed by the submissions is the core issue has been about the ease in which young people can purchase powerful cars and make modifications to them.
16. The chair of Legal Diesels Inc. was heard in support of the Legal Diesel submission and reinforced the suggestions made to work with Council to investigate providing options for car enthusiasts to congregate safely in a controlled venue. Previous solutions (i.e. Ruapuna Speedway “burn out pad”) has not been used by anti-social road users or car enthusiasts due to a lack of ready access to the facilities.
17. Staff advised that the Police submission had recommended defining the words “convoy” and “repeatedly” and suggested definitions for the purposes of clarity in enforcement, and the Land Transport Act 1998 has set the noise levels for engines at 95 decibels. Clause 4(5) in the Bylaw states any resolution or amendments to resolutions made under clause 4(3), the Council will consult with the list of key stakeholders specified. Legal advice recommended the inclusion of explanatory notes to define the key terms identified in the submissions (“convoy”, “repeatedly”).

27. 5. 2010

13 Cont'd

Hearing Panel Decision

18. The Hearing Panel recognises the distinction between genuine car enthusiasts and anti-social road users, reiterating the purpose of the Bylaw is to address the issues caused by the latter. Councillor Bob Shearing is continuing open dialogue with Southern Car Culture in an upcoming meeting regarding alternative venues such as Ruapuna for the use of car enthusiasts. The Panel recommends including the definitions of the words "convoy" and "repeatedly" in an explanatory note under the definition of cruising in the Bylaw.

Submission from Canterbury Branch New Zealand Police

19. The Road Policing Manager for the Canterbury District submitted the Police's support of the Bylaw but stated they would like to see a register of roads to assist in enforcement. The Police included in their submission further clarification of the terminology and outlined proposed enforcement options the Police are considering should the Bylaw be adopted by Council. It was acknowledged there will be some trial and error in the implementation of the Bylaw with the technology and intensive resourcing needed, and at this stage it was undetermined exactly how the Police would be enforcing the Bylaw. The Road Policing Manager also acknowledged the concerns around Police discretion are legitimate but assured the Panel professional discretion is core to policing and there are defined boundaries in which Police officers will be using their discretion when it comes to this Bylaw. The flexibility of the Bylaw was identified as a positive factor that would enable the Council to add more streets on an as-needs basis in order to assist the Police to effectively manage any potential problems that may appear due to displacement. It was confirmed a potential issue is the loophole around drivers being able to switch when doing circuits, thereby enabling a vehicle to go down the same stretch of road in the same direction more than once in 60 minutes. As the Land Transport Act 1988 has defined cruising as an activity perpetrated by the driver and not the vehicle, there is no option for Police to exercise any powers over vehicles – enforcement would always apply against the driver. The Police have confirmed they would support a seven-day prohibition, but not a 24hour prohibition. The infringement fees have been set by Ministry of Transport and there can be no demerit points for infringements against the Bylaw.
20. The officer reported that having a register of roads instead of broad descriptions for the purpose of clarity would help with enforcement. Legal advice was to include the terminology definitions within the Bylaw.

Hearing Panel Decision

21. The Hearing Panel agrees with the suggestions to include a register of roads and to define the terms "convoy" and "repeatedly" through an explanatory note. Additionally, the Panel notes that Police discretion is an integral part of policing work and accepts this will be used in enforcement for the cruising prohibitions.

OTHER MATTERS

22. The Panel discussed at some length the matters raised through submissions and staff discussions, which included the following:
23. The inclusion of additional roads was specifically mentioned in submissions; namely, Manchester Street, Helmores Lane, Rossall Street and the one-lane section of Deans Avenue. Legal advice is to consult with the residents of these streets further to ensure best practice. The Panel proposes to determine the best process to include these streets within the Bylaw.
24. Discussion occurred on the possible legal challenges around violating the NZ Bill of Rights Act (NZBORA). Legal counsel advises the likelihood is the activity of cruising is not considered contrary to the NZBORA as it does not prohibit freedom of movement, but instead limits the types of movement at certain times on certain roads. Hence the proposed prohibitions on cruising are not unreasonable so do not contravene NZBORA. The Panel accepts legal advice that NZBORA has been considered as part of the s155 analysis.

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25. The financial implications for signage for the streets were mentioned specifically within the Bylaw report presented to Council on 11 February 2010. For all multi-lane roads and Main Road in Sumner, there will be a need of approximately 1,000 signs to comply with the Traffic Control Devices Rule 2004 which will be an estimated cost to Council of \$340,000. The necessary resourcing for signage will be sourced from either reallocation of unspent capital funds in the 2009/10 year or through the finalisation of the 2010/11 Annual Plan. Officers advise they are requesting an exemption from Ministry of Transport and NZTA for the number of signs. The Panel recommends a letter be written to Central Government about the concerns over compliance with the Traffic Control Devices Rules on signage.
26. The merits of a city-wide ban to include all streets was mooted. Officers advised there would be significant financial implications for signs to be erected on every Council-controlled road within the city. Legal advice is the Council would not be operating within the spirit or intention of the law if adopting a city-wide ban but only enforcing on some streets with signage, and would not be complying with legal requirements if only putting signs on the streets entering or exiting the city. The Panel notes these matters are prohibitive and a city-wide ban is not recommended at this time.
27. The listing of streets within a register of roads and the ability to alter this register in future was raised. Police and staff support the proposed suggestion and legal counsel advises the register can be altered via resolution with consultation of key stakeholders listed in the Bylaw, but would not require a full Special Consultative Procedure. Officers advise that if in future cruising activity occurs on any NZTA-controlled roads, these may be delegated to Council by NZTA to allow cruising to be prohibited on these roads. The Panel proposes that a register of streets be referred to in the Bylaw and maintained by Council.
28. The Panel considered the move to apply the cruising prohibition to seven days a week. Legal counsel advises it is within the scope of the bylaw process that Council can make this change without further consultation as there was support from Police and in submissions. The Panel agrees that a seven day prohibition on cruising should apply and recommend it be included in the revised Bylaw.
29. The issues were raised about the national legislation requiring intensive signage and the high noise limits set at 95 decibels. The Panel notes that as Christchurch City Council will be the first to implement a cruising bylaw under the new legislation, there is a likelihood that a key action will be to report back to Central Government critical feedback on the issues around implementation under current legislation. The Panel proposes for the Council to write to the Minister of Transport about some of the concerns regarding the current national legislation.

LEGAL CONSIDERATIONS

30. The Special Consultative Procedure took place from 18 February and 29 March 2010. The consultation documents were sent directly to a range of groups, organisations and individuals, as well as public notices appearing in relevant newspapers and the consultation documents being made available at service centres, Christchurch City Council Libraries and on the internet. Additionally, an information session for car enthusiasts was held. The submissions were considered by the Hearings Panel on 9 April 2010.
31. A bylaw hearing panel has no decision-making powers, but can make recommendations to the Council, in accordance with its delegations for that purpose, after considering written and oral submissions. The Council can then accept or reject those recommendations as it sees fit, bearing in mind that the Local Government Act 2002 requires views presented during consultation to be given "due consideration for decision-making".³
32. The Council, as the final decision-maker, must be in as good a position as the hearing panel in terms of being fully aware of the content of the written submissions, and from the report on the oral submissions. As the Special Consultation Procedure was used for this consultation, the

³ Section 82(1)(e). This is also supported by the Council's Consultation Policy, which states "we will receive presented views with an open mind and will give those views due consideration when making a decision".

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Council cannot introduce anything new into the bylaw that has not arisen out of a submission made during consultation.

33. Section 157 of the Local Government Act 2002 requires that Council give public notice of the making of a bylaw as soon as practicable after the bylaw is made. It is recommended by the Panel that the Council resolve and the public notice indicate the Bylaw would come into effect on 1 July 2010, with subsequent notification to the Minister of Transport in accordance with s22AB of the LTA98.
34. The Legal Services Unit considers that the form of the bylaw, as proposed, is the most appropriate form and that the bylaw does not give rise to any implications under the NZ Bill of Rights Act 1990, in accordance with section 155 of the Local Government Act 2002.

HEARINGS PANEL RECOMMENDATIONS:

It is recommended that the Council:

- (a) Adopt the Christchurch City Council Cruising Bylaw 2010, as amended and attached (Attachment 2).
- (b) Amend Clause 4 of the proposed bylaw to add a subclause providing for a register of roads to which the cruising prohibitions apply.
- (c) Add a definition of how the terms 'convoy' and 'repeatedly' will be interpreted by the NZ Police, as an explanatory note to the bylaw under the definition of cruising.
- (d) Amend Clause 4(5) to correct a drafting error.
- (e) Use the best process to add the following streets to the register of roads on which cruising is prohibited:
 - The single lane portion of Deans Avenue.
 - The parts of Manchester Street between Bealey and Moorhouse Aves.
 - Rossall Street.
 - Helmores Lane.
- (f) Resolve, under clause 4(2) of the Christchurch City Council Cruising Bylaw 2010 that the cruising prohibition apply 7 days a week between the hours of 10pm to 5am;
- (g) Resolve under clause 5 of the Christchurch City Council Cruising Bylaw 2010 that the period of time referred to in that clause will be 60 minutes.
- (h) Write to the Minister of Transport to:
 - (i) Register its concern that the application of the Land Transport Rule: Traffic Control Devices 2004 in relation to the Cruising Bylaw provisions of the Land Transport Act 1998 results in an unnecessary proliferation of signs and effectively removes the option of applying the bylaw to the whole of the City (should the Council determined a whole city prohibition is appropriate).
 - (ii) Reinforce its concerns that the application of signage regulations in the Land Transport Rule: Traffic Control Devices 2004 to bylaws in general made under the Land Transport Act 1998 creates an unnecessary proliferation of signs and place an unnecessary burden on Territorial Authorities.
 - (iii) Vigorously advocate for a reduction in the noise limits that apply to vehicles to 80 decibels.

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- (i) Place a public notification of the bylaw becoming effective 1 July 2010.
- (j) Send a copy of the bylaw to the Minister of Transport within one week of the bylaw being made in accordance with s22AB(4) of LTA98.

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14. CONSULTATION ON ADDITIONAL ROADS FOR CRUISING BYLAW 2010

| | |
|-------------------------------------|---|
| General Manager responsible: | General Manager Strategy and Planning, DDI 941-8281 |
| Officer responsible: | Programme Manager Strong Communities |
| Author: | Terence Moody |

PURPOSE OF REPORT

1. To report on the consultation related to including a number of additional roads within the control of the provisions of the proposed Cruising Bylaw 2010 and determine whether the Council wants them included in the register provided for in clause 4 (6) of the bylaw.

EXECUTIVE SUMMARY

2. During the Special Consultative Procedure of the Proposed Christchurch City Council Cruising Bylaw 2010 a number of roads were identified by submitters as seen to need to be included within the cruising controls. These were the single lane portion of Deans Avenue, Manchester Street, Rossall Street and Helmores Lane.
3. The Panel, on the basis of legal advice, determined that best practice to add roads to the register should be by consulting with residents and homeowners adjacent to the roads for their views on the matter. This was undertaken as set out in the attached report on the analysis of the submissions. Seventy-three persons responded by making submissions. The majority supported the provisions of the bylaw being applied to the named roads.

FINANCIAL IMPLICATIONS

4. There are financial implications associated with the provision of signage on these roads as required under the Traffic Control Device Rule. Those rules require signs at the beginning of the road to which the prohibition applies, at each intersection, and at the end. In the case of the four roads it is likely that in the order of 40 signs will be required. An estimated cost per sign and post has been determined at \$340 hence for these roads the cost of signage could be approximately \$13,600 in total.

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

5. No financial provisions have been made specifically for the development of a cruising bylaw in the 2009-19 LTCCP including signage. The costs of implementing the bylaw, including providing signage will need to be included in the 2010-11 Annual Plan.

LEGAL CONSIDERATIONS

6. Section 22AB (3) of the Land Transport Act 1988 specifies that a cruising bylaw may leave any matter or thing to be regulated, controlled, or prohibited by the Council by resolution generally, for any specified classes of case, or in a particular case. The Select Committee, in its report, noted that the addition of this clause "would allow the authority to amend details of the roads affected, and the times at which the prohibition applied, once a bylaw has been made. It would also allow the exemption of an event from the provisions of the Act." The bylaw proposes that the Council can make resolutions to prohibit cruising on other roads in the future, in addition to multi-lane roads, after consulting with the persons listed in the bylaw. The legal view is that the consultation carried out meets the requirements of clause 4 (5) of the bylaw.

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

7. Yes. As above.

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ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. The cruising bylaw aligns to a level of service Maintain Safe City accreditation every five years, next in July 2013, July 2018, July 2024 in the Strengthening Communities Activity Management Plan, and indirectly contributes to a level of service in the Roding Network Activity Management Plan that aims to reduce the number of fatal and serious road accidents in Christchurch.

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

9. As above.

ALIGNMENT WITH STRATEGIES

10. The recommendations align with the Road Safety Strategy 2004 and the Safer Christchurch Strategy 2005.

Do the recommendations align with the Council's strategies?

11. As above.

CONSULTATION

12. Consultation was undertaken through a public information leaflet drop to all residents and addresses in the named roads and organisations who submitted on the original proposed bylaw. The results of this consultation are included in the attached report on analysis of the submissions. The New Zealand Police and the New Zealand Transport Agency were also advised of the proposals.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Adopt (or decline to adopt) the Hearing Panel recommendation to include the single lane portion of Deans Avenue, Manchester Street, Rossall Street, and Helmores Lane within the control of the Bylaw and resolve where adopted, to include the above roads in the register referred to in clause 4 (6) of the Bylaw.

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15. REPORT OF THE REGULATORY AND PLANNING COMMITTEE: MEETING OF 6 MAY 2010

Attached.

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16. NOTICES OF MOTION

17. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

THURSDAY 27 MAY 2010

COUNCIL

RESOLUTION TO EXCLUDE THE PUBLIC

Section 48, Local Government Official Information and Meetings Act 1987.

I move that the public be excluded from the following parts of the proceedings of this meeting, namely items 19, 20, 21, 22 and 23.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| | GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED | REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER | GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION |
|-----|--|--|---|
| 19. | FUTURE HALSWELL LIBRARY AND COMMUNITY FACILITIES LAND ACQUISITION (BY DESIGNATING IF NECESSARY) |)))) | |
| 20. | EVENTS AND FESTIVALS FUNDING RECOMMENDED ALLOCATIONS 2010/11 – 2012/13 |))) | |
| 21. | BIOSOLIDS REUSE AGREEMENT |) | |
| 22. | BURWOOD PEGASUS COMMUNITY BOARD ACCOMMODATION |))) | |
| 23. | LAND ACQUISITION |) | |
| | | GOOD REASON TO WITHHOLD EXISTS UNDER SECTION 7 | SECTION 48(1)(a) |

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

| | | |
|---------|-------------------------|-------------------|
| Item 19 | Conduct of Negotiations | (Section 7(2)(i)) |
| Item 20 | Conduct of Negotiations | (Section 7(2)(i)) |
| Item 21 | Conduct of Negotiations | (Section 7(2)(i)) |
| Item 22 | Conduct of Negotiations | (Section 7(2)(i)) |
| Item 23 | Conduct of Negotiations | (Section 7(2)(i)) |

Chairman's

Recommendation: That the foregoing motion be adopted.

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”