

28. 7. 2011

**REPORT BY THE CHAIRMAN OF THE
SPREYDON/HEATHCOTE COMMUNITY BOARD
OF A MEETING HELD ON 19 JULY 2011**

The Board reports that:

PART A – MATTERS REQUIRING A COUNCIL DECISION

1. NOTICE OF MOTION



The following Notice of Motion was submitted by Phil Clearwater.

NOTICE OF MOTION

1.1 Consent for Crematorium in 26 Buchan Street, Sydenham

“That in relation to the Air Resource Consent for a Crematorium in 26 Buchan Street, Sydenham, granted in November 2010 by Environment Canterbury, as there are no legal grounds to make an application for a judicial review of the Ecan decision, that the Christchurch City Council request the Minister for Canterbury Earthquake Recovery to exercise his power under the Canterbury Earthquake Recovery Act to cancel the resource consent granted by Ecan.”

Explanation

The consent is for five caskets and bodies per day and up to 1,200 per year to be burned at a planned crematorium in an existing building. It is understood that the 11 metre chimney will be available in four weeks time.

The crematorium fronts 25 Hawdon Street but also backs on to 26 Buchan Street, Sydenham. In the surrounding area a play centre is located some 50 metres from the crematorium and Sydenham Square some 80 metres. Other activities in the area are mostly light industrial in accordance with the underlying zoning. Although the crematorium is unlikely to be immediately obvious from the Sydenham Square and play centre sites it has an 11 metre chimney which will be visible. Also the crematorium is 100 metre from the suburban commercial Business 2 zoning which incorporates sites fronting Colombo Street.

In November 2010 there was no legal ability for the Council to not refuse a building consent under the Building Act. Within the City Plan a crematorium is a permitted activity in the Business 3 (Inner City Industrial) Zone (which primarily provides for light industry) where 26 Buchan Street is situated. Restrictions in the zone apply only to retail and residential activities, and every other activity is deemed to be permitted subject to compliance with performance standards which the crematorium meets. So no land use consent is required from the City Council for the crematorium. Without the discharge to air consent the crematorium could not operate.

A discharge to air resource consent has also been obtained from Environment Canterbury. This was granted non-notified as the adverse effects were considered by Ecan to be less than minor. It has been noted by Council staff that the consideration for this consent is confined to the adverse effects from the discharge (ie odour and other contaminants discharged to air), and not the activity of a cremator.

It is noted that the Woodlawn Memorial Gardens crematorium at 455 Linwood Avenue is situated approximately 80 metres from the residential houses across Linwood Avenue. However this crematorium was established over 40 years ago and there is also a large garden area there as part of the background. The Linwood crematorium is in a very different environment than Sydenham which is also in a post-earthquake rebuilding era.

1 Cont'd

- 1.2 That in relation to the Sydenham Centre Suburban Recovery Plan, that the Christchurch City Council support the staff (28 July meeting) recommendation that the Council ask the Minister to direct the Council effectively not to process building or resource consent applications in the areas covered by the CBD, Lyttelton and Sydenham recovery plans until the respective plans are formally approved.

Explanation

It is understood that this process would be quicker than a City Plan change and a good first step to resolve issues when the Recovery Plans are not compatible with consents which would currently be allowed by the City Plan.

Since the September 4 earthquake the business and local community have been very involved in the Sydenham Suburban Centre Recovery Plan; there is interest in Colombo Street having a mixture of retail, business (including cafes and restaurants) and residential, with other industry being in streets adjacent to Colombo Street. It is understood that by August or September the Plan will become an "Implementation Strategy".

While Buchan and Hawdon Streets, Sydenham are zoned "Light Industrial or Business 3" any similar industries can potentially be built legally with any design or "light use". This potentially jeopardises the Sydenham Centre Suburban Recovery Plan as there is no protection from haphazard or clearly "insensitive" developments.

What is urgently needed is that the Minister be asked to direct the Council effectively not to process building or resource consent applications in the areas covered by the CBD, Lyttelton and Sydenham Recovery Plans until the respective plans are formally approved.

- 1.3 That the Spreydon/Heathcote Community Board requests the Council to assist in locating an alternative to Hawdon Street/Buchan Street, Sydenham for the Eco-Coffins' business.

Explanation

If the Council supports this potential option the Community Board would enter into discussion with the owner who has said he would be amenable to this course of action.

Further the regulation 3(3) of the Cremation Regulations 1973 as follows should be taken into consideration:

(3) Without prejudice to subsection (2) of section 41 of the Act, the Minister may at any time, by notice in the Gazette, direct that a crematorium, other than a crematorium situated within the boundaries of a closed cemetery or closed burial ground or a crematorium to which subsection (3) of that section applies, be closed if—

(b) The local authority within whose area the crematorium is situated so requests and the Minister is satisfied that such closure is expedient in the interests of health or by reason of a change in the character of the locality.

1 Cont'd

On the agreement of the mover and with the consent of the meeting the notice of motion was altered as follows:

NOTICE OF MOTION

Introductory explanation

Since the 22 February 2011 earthquake, the Council has embarked on a process to develop a regeneration Masterplan for Sydenham. Part of this involves a proposed plan for a mixed residential / commercial shopping development at the southern end of Buchan Street. Establishing a new crematorium is incompatible with this new plan, even though a crematorium is a permitted activity under the current City Plan.

That the Spreydon/Heathcote Community Board requests staff to provide legal advice by 26 July 2011 regarding all options open to the Council to prevent the operation of a proposed crematorium at 26 Buchan Street. Further that the matters raised in the following draft notice of motion be considered in the legal advice.

1.1 Consent for Crematorium in 26 Buchan Street, Sydenham

"That in relation to the Air Resource Consent for a Crematorium in 26 Buchan Street, Sydenham, granted in November 2010 by Environment Canterbury, as there are no legal grounds to make an application for a judicial review of the Ecan decision, that the Christchurch City Council request the Minister for Canterbury Earthquake Recovery to exercise his power under the Canterbury Earthquake Recovery Act to cancel the resource consent granted by Ecan."

Explanation

The consent is for five caskets and bodies per day and up to 1,200 per year to be burned at a planned crematorium in an existing building. It is understood that the 11 metre chimney will be available in four weeks time.

The crematorium fronts 25 Hawdon Street but also backs on to 26 Buchan Street, Sydenham. In the surrounding area a play centre is located some 50 metres from the crematorium and Sydenham Square some 80 metres. Other activities in the area are mostly light industrial in accordance with the underlying zoning. Although the crematorium is unlikely to be immediately obvious from the Sydenham Square and play centre sites it has an 11 metre chimney which will be visible. Also the crematorium is 100 metre from the suburban commercial Business 2 zoning which incorporates sites fronting Colombo Street.

In November 2010 there was no legal ability for the Council to not refuse a building consent under the Building Act. Within the City Plan a crematorium is a permitted activity in the Business 3 (Inner City Industrial) Zone (which primarily provides for light industry) where 26 Buchan Street is situated. Restrictions in the zone apply only to retail and residential activities, and every other activity is deemed to be permitted subject to compliance with performance standards which the crematorium meets. So no land use consent is required from the City Council for the crematorium. Without the discharge to air consent the crematorium could not operate.

A discharge to air resource consent has also been obtained from Environment Canterbury. This was granted non-notified as the adverse effects were considered by Ecan to be less than minor. It has been noted by Council staff that the consideration for this consent is confined to the adverse effects from the discharge (ie odour and other contaminants discharged to air), and not the activity of a cremator.

It is noted that the Woodlawn Memorial Gardens crematorium at 455 Linwood Avenue is situated approximately 80 metres from the residential houses across Linwood Avenue. However this crematorium was established over 40 years ago and there is also a large garden area there as part of the background. The Linwood crematorium is in a very different environment than Sydenham which is also in a post-earthquake rebuilding era.

1 Cont'd

- 1.2 That in relation to the Sydenham Centre Suburban Recovery Plan, that the Christchurch City Council support the staff (28 July 2011 meeting) recommendation that the Council ask the Minister to direct the Council effectively not to process building or resource consent applications in the areas covered by the CBD, Lyttelton and Sydenham recovery plans until the respective plans are formally approved.

Explanation

It is understood that this process would be quicker than a City Plan change and a good first step to resolve issues when the Recovery Plans are not compatible with consents which would currently be allowed by the City Plan.

Since the September 4 earthquake the business and local community have been very involved in the Sydenham Suburban Centre Recovery Plan; there is interest in Colombo Street having a mixture of retail, business (including cafes and restaurants) and residential, with other industry being in streets adjacent to Colombo Street. It is understood that by August or September the Plan will become an "Implementation Strategy".

While Buchan and Hawdon Streets, Sydenham are zoned "Light Industrial or Business 3" any similar industries can potentially be built legally with any design or "light use". This potentially jeopardises the Sydenham Centre Suburban Recovery Plan as there is no protection from haphazard or clearly "insensitive" developments.

What is urgently needed is that the Minister be asked to direct the Council effectively not to process building or resource consent applications in the areas covered by the CBD, Lyttelton and Sydenham Recovery Plans until the respective plans are formally approved.

- 1.3 That the Spreydon/Heathcote Community Board requests the Council to assist in locating an alternative to Hawdon Street/Buchan Street, Sydenham for the Eco-Coffins' business.

Explanation

If the Council supports this potential option the Community Board would enter into discussion with the owner who has said he would be amenable to this course of action.

Further that regulation 3(3) of the Cremation Regulations 1973 as follows should be taken into consideration:

(3) Without prejudice to subsection (2) of section 41 of the Act, the Minister may at any time, by notice in the Gazette, direct that a crematorium, other than a crematorium situated within the boundaries of a closed cemetery or closed burial ground or a crematorium to which subsection (3) of that section applies, be closed if—

(b) The local authority within whose area the crematorium is situated so requests and the Minister is satisfied that such closure is expedient in the interests of health or by reason of a change in the character of the locality.

The Board received and accepted the Notice of Motion and with the consent of Phil Clearwater the addition of paragraphs one and two. The Notice of Motion was seconded by Karolin Potter and being put to the meeting was declared carried unanimously.

1 Cont'd

BOARD RECOMMENDATION

The Spreydon/Heathcote Community Board recommends that the Council resolves to request staff to provide legal advice by 26 July 2011 regarding all options open to the Council to prevent the operation of a proposed crematorium at 26 Buchan Street. Further that the matters raised in the following draft notice of motion be considered in the legal advice.

PHIL CLEARWATER
CHAIRPERSON

STAFF COMMENT

Staff will provide additional advice at the meeting.