

# **CHRISTCHURCH CITY COUNCIL AGENDA**

**THURSDAY 23 JUNE 2011**

**9.30AM**

**BOARDROOM, BECKENHAM SERVICE CENTRE,  
66 COLOMBO STREET**

## CHRISTCHURCH CITY COUNCIL

**Thursday 23 June 2011 at 9.30am**  
**in the Boardroom, Beckenham Service Centre, 66 Colombo Street**

**Council:** The Mayor, Bob Parker (Chairperson).  
Councillors Helen Broughton, Sally Buck, Ngaire Button, Tim Carter, Jimmy Chen, Barry Corbett,  
Jamie Gough, Yani Johanson, Aaron Keown, Glenn Livingstone, Claudia Reid, Sue Wells and  
Chrissie Williams.

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**23. 6. 2011**

- 1. APOLOGIES**
  
- 2. CONFIRMATION OF MINUTES - COUNCIL MEETING OF 26.5.2011, 1.6.2011 AND 9.6.2011**  
Attached.
  
- 3. DEPUTATIONS BY APPOINTMENT**
  
- 4. PRESENTATION OF PETITIONS**

## 5. APPOINTMENTS TO OUTSIDE BODIES

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services
<b>Officer responsible:</b>	General Manager Regulation and Democracy Services
<b>Author:</b>	Peter Mitchell, General Manager Regulation and Democracy Services

**PURPOSE OF REPORT**

1. The purpose of this report is for Council to consider whether or not it wishes to make appointments to the outside bodies referred to in the report below.

**BACKGROUND**

2. At its meeting on 16 December 2010 the Council considered a report regarding appointments to outside bodies. The Council made appointments to a number of outside bodies and also resolved:

*“that the following appointments to outside bodies be considered in the New Year:*

- (i) Art Centre of Christchurch Trust.*
- (ii) Christchurch City Garden Trust.*
- (iii) Christchurch Heritage Trust.*
- (iv) Keep Christchurch Beautiful.*
- (v) Music Centre of Christchurch Trust.*
- (vi) Nga Hau e Wha National Marae Charitable Trust.*
- (vii) Orana Wildlife Trust Board.”*

3. These organisations had not been dealt with at the 16 December 2010 Council meeting. There where issues over whether or not the organisations had received written correspondence from the Council asking the organisation to advise the Council whether or not it wished to continue having the Council make appoints to their organisations. In some instances the Council had not been advised of changes to postal addresses which had led to some confusion on this matter.
4. Since the 16 December 2010 Council meeting staff have contacted all of the organisations noted in i – vii above and there positions have been made clear, as can be seen in the table attached to this report. The Council has the right to appoint 1 Councillor to each of the organisations.
5. Regarding the Art Centre of Christchurch Trust, Councillors met with the Trust Board on Thursday 27 January 2011.

**STAFF RECOMMENDATION**

That the Council gives consideration to whether or not it wishes to make appointments to the outside bodies mentioned in paragraph 2 above.

## 6. APPOINTMENT OF TRUSTEES TO ROD DONALD BANKS PENINSULA TRUST

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services
<b>Officer responsible:</b>	Legal Services Manager
<b>Author:</b>	Nadine Daines, Solicitor

**PURPOSE OF REPORT**

1. The purpose of this report is to recommend that the Council appoint seven people to serve as Trustees of the Rod Donald Banks Peninsula Trust from 1 July 2011.

**EXECUTIVE SUMMARY**

2. On 24 June 2010, following public consultation, the Council resolved to establish the Rod Donald Banks Peninsula Trust ("the Trust") as a Council Controlled Organisation. The Trust was settled on 12 July 2010. A copy of the Declaration of Trust ("the Trust Deed") **Attachment 1** is attached.
3. The Trust has been registered under the Charitable Trusts Act 1957 and the Charities Act 2005.
4. The Council appointed seven people to serve as the "Initial Trustees" of the Trust. These Initial Trustees are Claudia Reid, Stewart Miller, Garry Moore, Stuart Wright-Stow, Tutehounuku (Nuk) Korako, Nicola Shirlaw and Simon Mortlock.
5. Clause 3.2 of Schedule 3 of the Trust Deed sets out the role of the Initial Trustees, to:
  - (a) *develop a model for the operation of the Trust and the achievement of the Objects;*
  - (b) *investigate options for obtaining further contributions to the Trust Fund; and*
  - (c) *consider appropriate projects for the Trust to support."*
6. The earthquakes of 4 September 2010 and 22 February 2011 have interfered with the work of the Initial Trustees. However, the work undertaken to date includes:
  - Engaging a Masters student from the University of Canterbury to carry out a "Stocktake of Environmental and Recreational Activities on Banks Peninsula". The purpose of this "Stocktake" is to identify current environmental and recreational activities occurring on the Peninsula, the groups involved with these activities and their needs; and to identify potential opportunities for new projects.
  - Preparation of a draft Investment Policy and draft Communications Policy.
  - Investigating, in association with the Department of Conservation, the Josef Langer Charitable Trust and private property owners, options for establishing a coastal walkway on the Peninsula.
  - The appointment of a secretariat for the Trust.
7. Clause 3.1 of Schedule 3 of the Trust Deed states that the Initial Trustees are to hold office until 30 June 2011. The Council therefore needs to make new appointments of Trustees to hold office from 1 July 2011.
8. All Initial Trustees have indicated a desire to be re-appointed from 1 July 2011. The Initial Trustees were selected because of their knowledge of and commitment to the Banks Peninsula area. Their re-appointment would provide continuity in the projects that they have initiated and the contacts that the Trust has developed with related organisations.
9. The Initial Trustees have not received any remuneration for their work for the Trust.

**FINANCIAL IMPLICATIONS**

10. There are no financial implications associated with the recommendations in this report.

6 Cont'd

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

11. Not applicable

**LEGAL CONSIDERATIONS**

12. Clause 2.2 of Schedule 3 of the Trust Deed sets out the Council's authority to appoint Trustees to the Rod Donald Banks Peninsula Trust. The clause states that the Council has the right to:

*"(a) appoint up to 7 of the Trustees for such term of office (not exceeding three years, as provided for in Clause 4) as it sees fit;..."*

13. Part 4 of Schedule 3 states that:

*"4.1 The term of each Trustee is up to 3 years from the date of appointment. Trustees may serve more than one term. No person may hold office as Trustee for more than nine consecutive years.*

*4.2 At the first meeting of the Trustees other than the Initial Trustees, every Trustee shall draw by ballot the length of his or her term of appointment, being either a 1, 2 or 3 year term, the intent being that after the ballot process has been completed the Trustees will be divided equally between 1, 2 and 3 year terms, with membership terms ending as at 30 June in each year. The term of appointment of the first Trustees (other than the Initial Trustees) will end on 30 June 2012, 2013 and 2014 respectively. Trustees whose terms have expired will be eligible for re-appointment".*

14. Under Clause 2.4 of Schedule 3 of the Trust Deed, the Trustees also have the power to co-opt other persons from the Banks Peninsula Region to serve as Trustees. However, there must be no more than 9 Trustees in total. No co-opted Trustees have been appointed to date.

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

15. Yes, as above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

16. Not applicable.

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

17. Not applicable.

**ALIGNMENT WITH STRATEGIES**

18. Not applicable.

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

19. Not applicable.

**CONSULTATION FULFILMENT**

20. There is no requirement for public consultation prior to the appointment of the Trustees.

21. Clause 2.3 of Schedule 3 of the Trust Deed does require that:

*"In exercising its power to appoint and remove Trustees, the Settlor [the Council] will be mindful of the need to provide balanced representation in the Trust, including appropriate representation for relevant interest groups. In exercising such power the Settlor will comply with its policy on the appointment of trustees to a council controlled organisation and endeavour to ensure that the Trustees include persons possessing the generic and specific competencies identified by the Settlor from time to time as being desirable to be possessed by the Trustees."*

6 Cont'd

22. The Council's current Policy on Appointment and Remuneration of Directors ("the Policy") states that the Council will determine the required skills, knowledge and experience for each appointment to a Council Controlled Organisation and will make its appointments accordingly.
23. The Policy states that in general, the attributes required for directors of Council Controlled Trading Organisations will be applicable, but the weightings given to each attribute may vary according to the nature of the appointment.
24. The attributes required for directors of Council Controlled Trading Organisations are:
  - Intellectual ability.
  - Commercial experience.
  - Understanding of governance issues.
  - Sound judgement.
  - High standard of personal integrity.
  - Commitment to the principles of good corporate citizenship.
  - Understanding of the wider interests of the publicly-accountable shareholder.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Appoint Claudia Reid, Stewart Miller, Garry Moore, Stuart Wright-Stow, Tutehounuku (Nuk) Korako, Nicola Shirlaw and Simon Mortlock to continue to serve as Trustees of the Rod Donald Banks Peninsula Trust from 1 July 2011, for terms to be decided by ballot in accordance with Part 4 of Schedule 3 of the Declaration of Trust Relating to Rod Donald Banks Peninsula Trust, Te Pataka o Rakaihautu.

## 7. TRIENNIAL AGREEMENT BETWEEN LOCAL AUTHORITIES IN THE CANTERBURY REGION

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services
<b>Officer responsible:</b>	Legal Services Manager
<b>Author:</b>	Ian Thomson, Solicitor

**PURPOSE OF REPORT**

1. The purpose of this report is to put before the Council for consideration the triennial agreement currently in force between local authorities in the Canterbury region (**Attachment 1**). Also attached is the Canterbury Mayoral Forum Charter of Purpose (**Attachment 2**).

**EXECUTIVE SUMMARY**

2. Section 15 of the Local Government Act 2002 requires all local authorities within a region to enter into an agreement containing protocols for communication and co-ordination among them during the period until the next triennial general election.
3. The agreement must be entered into no later than 1 March 2011.
4. The Local Authorities in the Canterbury region agreed to use the Canterbury Mayoral Forum for discussions on the terms of their triennial agreement.
5. At its meeting on 28 February 2008 the Christchurch City Council agreed to enter into the current triennial agreement. This was after the document was reviewed by the Canterbury Mayoral Forum.
6. After 1 March 2011, but before the next triennial general election, all parties to the agreement may meet and agree to amendments to the protocols. An agreement remains in force until replaced by another one.

**FINANCIAL IMPLICATIONS**

7. There are no financial implications for the participating councils. The triennial agreement contains protocols for communication and co-ordination among them.

**LEGAL CONSIDERATIONS**

8. Section 15 of the Local Government Act 2002 states as follows:
  - (1) *Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement containing protocols for communication and co-ordination among them during the period until the next triennial general election of members.*
  - (2) *Each agreement must include a statement of the process for consultation on proposals for new regional council activities.*
  - (3) *After the date specified in subsection (1), but before the next triennial general election of members, all local authorities within each region may meet and agree to amendments to the protocols.*
  - (4) *An agreement remains in force until replaced by another agreement.*

**CONSULTATION FULFILMENT**

9. There has been no indication so far that any of the parties to the triennial agreement wish to make amendments to it. However, if amendments are sought then a meeting will need to be arranged for these to be discussed and agreement reached.



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**STAFF RECOMMENDATION**

1. It is recommended that the Council consider the terms of the current triennial agreement with the other local authorities in the Canterbury region and the contents of any resolution that Councillors wish to make.
2. If the Council is satisfied with the attached triennial agreement that it adopt it as the 2010–13 triennial agreement and advise the other local authorities accordingly.

**BACKGROUND (THE ISSUES)**

10. The first triennial agreement was entered into by local authorities within the Canterbury region in late 2003. The document reflected discussions held by the Canterbury Mayoral Forum and was based on advice provided by Local Government New Zealand. It was the view of the participating councils at the time that the agreement be a simple and straightforward document that did not aim to break new ground.
11. The local authorities that have entered into the triennial agreement are committed to keeping each other informed about matters which may have cross-boundary implications or which could potentially lead to disagreement between them. It also defines the process to be followed should the Canterbury Regional Council consider proposals for undertaking new activities. Local authorities are not prevented from entering into other agreements amongst themselves or outside their region to facilitate their responsibilities.
12. The current triennial agreement was reviewed by the Canterbury Mayoral Forum at a meeting in December 2007. The forum agreed that the terms of the document should remain unchanged.
13. In order to comply with the provisions of Section 15 of the Local Government Act 2002 the Council should decide to enter into the triennial agreement before 1 March 2011.

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**8. APPLICATION FOR GRANTS FROM THE CHRISTCHURCH EARTHQUAKE MAYORAL RELIEF FUND**

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services
<b>Officer responsible:</b>	Democracy Services Manager
<b>Author:</b>	Sarah Owen and Lisa Goodman

**PURPOSE OF REPORT**

1. The purpose of this report is to request the Council to:
  - (a) approve the allocation of a grant of \$49,700 and additional underwriting of up to \$39,760 from the Christchurch Earthquake Mayoral Relief Fund to the Tramway Historical Society, to provide financial assistance towards the construction of a tram storage facility for the city trams at Ferrymead Heritage Park, and
  - (b) note that a donation of \$300,000 has been made to the Christchurch Earthquake Mayoral Relief Fund by a private sponsor on the conditional basis that the funding be used specifically for an International Speakers Series and Event for Christchurch Professionals, to be held as part of the Council's preparation of the Central City Recovery Plan under the Canterbury Earthquake Recovery Authority Act.

**FINANCIAL IMPLICATIONS**

2. Specific financial details for each project/activity are outlined in the Background section of this report. As at 10 June, the balance of the Mayoral Earthquake Relief Fund was \$3,733,214.38.

**LEGAL CONSIDERATIONS**

3. There are no legal implications arising from the recommendations of this report.

**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?**

4. Not applicable.

**ALIGNMENT WITH STRATEGIES**

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

5. Not applicable.

**CONSULTATION FULFILMENT**

6. The request for financial assistance towards the tram storage facility has included discussions with the sub-lessees (Christchurch Tramway Ltd). No other parties have been formally consulted although there has been some media publicity about the need for storing the trams and the fundraising campaign being undertaken by the Society.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) approve a grant of \$49,700 from the Christchurch Earthquake Mayoral Relief Fund towards the costs of Stage One of construction of a tram storage facility for the city trams at Ferrymead Heritage Park, ie towards the building of a Totalspan shelter, and
- (b) agree to the Christchurch Earthquake Mayoral Relief Fund underwriting any shortfall of up to \$39,760 in the balance owed to TotalSpan when due, to be paid back to the Fund once the necessary funds have been raised

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**8 Cont'd**

- (c) note the grant allocation of \$300,000 to be made from the Christchurch Earthquake Mayoral Relief Fund, at the request of a private donor, to fund an International Speakers Series and Event for Christchurch Professionals to be held as part of the Council's preparation of the Central City Recovery Plan under the Canterbury Earthquake Recovery Authority Act.

**MAYOR'S RECOMMENDATION**

That the staff recommendation be adopted.

8 Cont'd

**BACKGROUND (THE ISSUES)**

**Purpose of the Fund**

7. At the Council meeting of 12 May 2011 it was resolved:

*...(b) That the Christchurch Earthquake Mayoral Relief Fund was established, and will continue to be maintained, by the Council as a "public fund" (as described in section LD 3(2)(d) of the Income Tax Act 2007) exclusively for the purpose of providing money for any one or more charitable, benevolent, philanthropic or cultural purposes related to and in particular to provide relief to the people of Christchurch from the adverse effects of the 4 September 2010 and 22 February 2011 earthquakes, and associated aftershocks, by providing money for the any activity or work required as a result of those events that:*

- (i) contributes to the rebuilding of the social and physical infrastructure of Christchurch, and*
- (ii) assists in:*
  - remedying hardship suffered by individuals, groups, community organisations and businesses, and/or*
  - protecting, repairing damage to or enhancing the physical fabric of the city.*

**Request for Grant from Tramway Historical Society**

8. The Tramway Historical Society (THS) and its subsidiary the Heritage Tramways Trust (HTT), both registered as charities, own six of the seven trams that were operating in the city prior to the 22 February 2011 earthquake. The trams are leased to the Christchurch City Council, which in turn subleases them to the tram operator Christchurch Tramway Ltd (CTL).
9. The THS had previously intended to add an extension to the existing main tram barn in order to improve its storage and restoration capabilities. The earthquake resulted in an immediate cessation of tram operations in the city, with four trams isolated outside in Armagh Street and Cathedral Square, and the tram shed unable to be accessed for what appears to be at least a year. The tram shed is damaged though repairable, and the trams have suffered only minor damage. There is damage to the tram tracks, which at this stage appears to be mainly limited to Armagh Street. At the request of Civil Defence, the outside trams were over a period of weeks loaded on to a transporter and relocated to Ferrymead, where they remain outside as no covered storage is available. As the trams will need refurbishment before being returned to service, relocating them to Ferrymead was seen as the appropriate action as the refurbishment can be undertaken at the Ferrymead tram workshop.
10. The Heritage Tramways Trust wrote to the Council in late March raising concern about the trams being stored out in the open. The Trust has a serious concern that the trams will suffer further damage and deterioration unless they can be provided with secure and covered storage. Being constructed partly of wood and canvas, the trams were not designed to be left in the open for long periods. The Trust believes there is an urgent need to resolve their storage before the full onset of winter.
11. While there is an urgent need to provide shelter, there would also be longer term advantages in investing in the erection of a tram shelter at Ferrymead. Representatives of the Heritage Tramways Trust/Tramway Historical Society and Christchurch Tramway Ltd have discussed solutions for storing and protecting the trams at Ferrymead. A number of options for storing the trams have been investigated, including leasing space elsewhere in the city, covering them with tarpaulins, or using a light weight tent type structure. Influencing factors in identifying Ferrymead were: the costs of both leasing short term storage and the further transporting of the trams were they to be moved to and from another site; the difficulties of obtaining space with sufficient height and manoeuvring room; and the need for the trams to be at Ferrymead for refurbishment, where appropriate workshop facilities including 600v DC power are available. Because of the strong wind conditions commonly experienced at Ferrymead, neither the tarpaulins nor the tent options would be satisfactory

## 8 Cont'd

12. Investing in the erection of a lightweight but permanent steel framed building at Ferrymead adjacent to the existing tram sheds (see **Attachment 1** is considered to be the most viable and sustainable solution. This would be Stage One of the project. Stage Two would be to further develop the basic shelter currently proposed into a fully equipped tram shed which would provide additional space for the existing Ferrymead tram fleet once the city trams are returned to town, and this would both enhance restoration capacity including trams for the city, and allow some further tram bodies earmarked for future city service (but currently still off site) to come to Ferrymead for future restoration. The land on which the tram shelter will be located is occupied by the THS but is currently owned by the Council (formerly by the Ferrymead Trust) and is subject to a subdivision plan which will transfer ownership to the Society.
- For **Stage One**, a suitable standard building design has been identified - a "TotalSpan" portal building 27m x 12m (enclosed shell, no fit out) which can be erected for **\$99,900** (including GST). This size is sufficient for the four trams currently stored outside at Ferrymead but is also large enough to accommodate the other three trams still in the City tram shed, should they need to be re-located. The building suppliers have advised that the construction could be completed within seven to nine weeks of a contract being signed. Volunteer labour will be used for tracklaying and other finishing works. A fully concreted floor is not included in the price and this together with other enhancements such as power, lighting and a fire sprinkler system will be installed at a later date when funds allow. Payment for the building shell is required to be in instalments:
    - (a) \$500 on contract acceptance
    - (b) \$49,701 on building consent approval
    - (c) \$39,761 on completion of footings
    - (d) \$9,940 following completion.
  - **Stage Two** of the project provides a concrete floor, adds rails, power and fire protection (sprinkler system). This cost, allowing for materials and labour, is estimated to be **\$100,993** (including GST). Some materials are on hand, others are expected to be donated, and some labour will be donated but is included in this cost.
13. The THS and HTT made the decision in early April 2011 to undertake a fundraising campaign to find the necessary funding so that the basic building could be erected as soon as possible. As at 4 June 2011, the total has reached \$41,470 in cash and pledges. Some of the pledges involve "drip feeding" over a period of time, eg some donors are paying amounts each month, so the actual funds in the THS accounts for this project are currently \$13,120, which the THS intends to be used in the first instance for consenting fees and any necessary engineering reports.
14. The THS does have \$20,000 in its accounts originally earmarked for the earlier planned building extension, but in the current absence of rental for the trams being paid by Christchurch Tramway Ltd, those funds are being used to assist in the paying of staff wages and materials to allow the completion of the Birney tram restoration project. That tram is being restored for the city tramway and had been due for completion in time for projected completion of Stage 1 of the tram extension in August 2011.
15. The amount of funding support being sought from the Mayoral Earthquake Relief Fund as at 13 June 2011 is:
- (a) a grant of \$49,700 towards the costs of Stage One, i.e. erection of the Totalspan shelter, and
  - (b) the underwriting of any shortfall of up to \$39,760 (including GST) in the balance owed to TotalSpan when due, to be paid back once the necessary funds have been raised. The extent and longevity of the underwrite will depend on the progress of the fundraising at the time each payment is due
16. An urgent application for funding support of \$89,462 has also been made to the Canterbury Community Trust and a response is expected within the next few weeks. Depending on the outcome of the application to the CCT, the proposed underwriting in (b) above may not be required. Any funds received from the CCT above and beyond that shortfall of \$39,761 would be put towards Stage Two of the project.

8 Cont'd

**“Tagged” Grant For International Speakers Series and Event for Christchurch Professionals**

17. A donation of \$300,000 has been made to the Mayoral Earthquake Relief Fund by a private sponsor on the conditional basis that the funding be used specifically for an International Speakers Series, and an event for Christchurch Professionals – the “48 hour Professional Institutes Challenge”.
18. A number of professional institutes in Christchurch are very keen to be involved with the development of the Central City Plan. An effective way to facilitate this engagement is via a 48 hour challenge event involving those institutes, working in multi-disciplinary teams to solve some of the key issues/themes that are emerging around the Central City Plan. The “48 hour Professional Challenge” scheduled for 1-3 July 2011 will be interspersed with updates/input from the speakers, and at the Challenge’s conclusion the teams will present their solutions with the international experts providing a peer review/critique of the solutions. The solutions could inform the development of the Plan and the most relevant ones could be included in the Plan, or used to promote associated events.
19. Two Christchurch based “Speakers Series” events are being held in the weeks leading up to the Challenge, with both national and international experts invited to participate. These events will essentially be a “warm-up” for the Challenge.
20. Participants will come from a range of professions including architects, landscape architects, planners, engineers and surveyors.
21. The \$300,000 provided by the private sponsor will break down into the following estimated expenditure areas:
  - Project Management - \$27,000
  - Event Management - \$16,000
  - Venue Hire - \$56,000
  - Speaker costs (air fares, accommodation, expenses) - \$100,000
  - Other costs - marketing, materials for event catering, security - \$90,000
  - Contingency - \$9,000.

9. **RICCARTON BUSH TRUST – 2010 ANNUAL REPORT & 2012 STATEMENT OF INTENT**

<b>General Manager responsible:</b>	General Manager Corporate Services
<b>Officer responsible:</b>	Corporate Finance Manager
<b>Author:</b>	Diane Brandish, Corporate Finance Manager

**PURPOSE OF REPORT**

1. To present to the Council the following documents prepared by the Riccarton Bush Trust as follows:
  - (a) Annual Report for the year ended 30 June 2010 **Attachment 1.**
  - (b) Draft Statement of Intent for the year ended 30 June 2012 **Attachment 2.**

**EXECUTIVE SUMMARY**

2. The Council's subsidiary companies and Council Controlled Organisations (CCOs) are required by statute to each submit a draft annual Statement of Intent (SOI) and an Annual Report to Council. An SOI must set out the CCO's objectives for the year and specify performance measures as well as certain other information. An Annual Report must contain the information that is necessary to enable an informed assessment of the operations of the CCO to be made.
3. CCOs are required to submit a draft SOI for comment by the Council prior to 1 March. The Council is required to consider any comments on the draft SOI by 1 May and the organisation is then required to issue a final version by 30 June in respect of the following year.
4. CCOs are required to deliver an Annual Report to the Council within 3 months after the end of each financial year.
5. Due to the recent earthquakes, the 2010 Annual Report and the draft 2012 SOI are only now available to be reported to the Council.

**FINANCIAL IMPLICATIONS**

6. In terms of the draft SOI for the 2012 year, the quantum of the grants and levies quoted is consistent with what is already included in the Annual Plan and LTCCP. The cost is included within the Urban Parks Activity.

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

7. Not applicable.

**LEGAL CONSIDERATIONS**

8. Delivery to the Council of the 2010 Annual report is required by section 67 of the Local Government Act 2002.
9. Consideration by the Council of the draft 2012 SOI is required by Schedule 8 of the Local Government Act 2002.

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

10. Yes, see above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

11. Yes.

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

12. No.

9 Cont'd

**ALIGNMENT WITH STRATEGIES**

13. Not applicable.

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

14. Not applicable.

**CONSULTATION FULFILMENT**

15. Consultation with the Riccarton Bush Trust is only required if the Council was to issue a notice under clause 5 of Schedule 8 of the Local Government Act 2002 requiring modification of the draft SOI.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Receives the Riccarton Bush Trust Annual report for the year ended 30 June 2010.
- (b) Reviews the draft Riccarton Bush Trust Statement of Intent for the year ended 30 June 2012 and advises Council officers of any comment it wishes to make.



## 10. PROPOSED AMENDMENTS TO ALCOHOL RESTRICTIONS IN PUBLIC PLACES BYLAW

<b>General Manager responsible:</b>	General Manager Strategy and Planning
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Diane Shelander, Senior Policy Analyst; Terence Moody, Principal Advisor Environmental Health; Siobhan Storey, Senior Policy Analyst; and Vivienne Wilson, Solicitor

**PURPOSE OF REPORT**

1. The purpose of this report is to seek the Council's approval to adopt for public consultation the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011. This will amend the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 (the 2009 Bylaw). This report contains an analysis under section 155 of the Local Government Act 2002 (the LGA 02) and an options analysis. It also contains a Statement of Proposal (including the proposed Bylaw) and Summary of Information (as required by sections 83 and 86 of the LGA 02).

**EXECUTIVE SUMMARY**

2. At its 28 April 2011 meeting the Council resolved to initiate consultation on a permanent amendment to the 2009 Bylaw for the Riccarton/Ilam area that, if adopted, would come into effect when the temporary ban lapses on 30 November 2011. The Council also noted that proposals to introduce a temporary or permanent alcohol ban in Merivale and amend the alcohol bans in Papanui and Akaroa would be investigated and reported to the Council.
3. The Council considered preliminary advice on these areas on 26 May 2011. The Council resolved to approve staff undertaking section 155 of the LGA 02 analyses of possible amendments to the 2009 Bylaw for Papanui, Merivale, Akaroa and Okains Bay, in addition to Riccarton/Ilam.
4. The Police had proposed the changes in Papanui and Merivale as a preventative measure. This is because there is an increased patronage of licensed premises in these areas, and with more people present, the potential for increased crime and disorder associated with alcohol consumption may increase. The Police considered it would be desirable to have more wide-ranging alcohol ban areas in place to enable them to have the powers to deal with any potential alcohol related issues that may arise in the future.
5. Staff have undertaken a section 155 analysis and have consulted with chairs of the relevant Community Boards and the New Zealand Police. In determining the matters under section 155 of the LGA 02, analysis has been undertaken on each new area in which the bylaw might apply and the two areas where changes were suggested in previous reports to the Council. The details of the section 155 analysis are **attached** to this report. Section 155 of the Act requires local authorities to determine that the proposed Bylaw:
  - (a) is the most appropriate way of addressing the perceived problems;
  - (b) is in an appropriate form;
  - (c) is not inconsistent with the New Zealand Bill of Rights Act 1990.
6. The analysis indicates that there is some evidence to support permanent alcohol bans in one new area, Riccarton/Ilam. Alcohol-related issues in the Riccarton/Ilam area have been under consideration since the 2009 bylaw was developed. A working party formed in mid-2009 consisting of Councillors Yani Johanson (Chair), Helen Broughton and Bob Shearing, and Beth Dunn as the nominated member of the Riccarton Wigram Community Board found that there were problems in the area associated with alcohol including damage and disorderly behaviour, broken glass and other litter in public places, and noise, with local residents feeling scared and intimidated as a result. The Working Party concluded that there was insufficient evidence to support an alcohol ban. However when the Working Party's findings were considered by the Regulatory and Planning Committee and subsequently full Council it was decided to initiate the process to incorporate a permanent alcohol ban in the Ilam and Riccarton areas.

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7. Since the February earthquake, Riccarton/Ilam has been one of the entertainment areas in the city. While the central city remains closed, it appears that Riccarton/Ilam will continue to be very popular. With a larger entertainment area and more people present, the potential for increased crime and disorder associated with alcohol consumption also increases. There is clear evidence that there has been a marked increase in alcohol related offences in the period 22 February 2011 to 22 May 2011 when compared with the same period in 2009 and 2010.
8. There is not strong evidence to support a change in the current Northlands Mall Surrounds Permanent Alcohol Ban Area or the Akaroa Permanent Alcohol Ban Area. There is also not strong evidence to support new permanent alcohol bans in Merivale or Okains Bay. From a legal perspective, a preventative approach is not readily defensible. Any bylaw which the Council makes must be reasonable. In looking at the reasonableness of a bylaw, the Courts will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect, the problem it seeks to solve or proposes to remedy and whether public or private rights are unnecessarily or unjustly invaded. The fact that there must be a "problem" is emphasised by the requirement in section 155 of the LGA 02 to determine the perceived problem and determine that a bylaw is the most appropriate way of addressing the perceived problem. The Council needs to apply a certain degree of rigour to this analysis. If the Council makes a bylaw that is designed to deal with a potential problem rather than an actual problem then the bylaw could be unreasonable.
9. However, staff acknowledge that problems may emerge in the Papanui and Merivale areas due to increased alcohol consumption. Staff propose to monitor the situation over the next six months, with Police, and report back to the Council if necessary.
10. This report presents three options for Council consideration:
  - Option one: status quo - retain the current bylaw with its existing Permanent Alcohol Ban Areas;
  - Option two: an Amendment to the Bylaw for a new Permanent Alcohol Ban area in Riccarton/Ilam;
  - Option three: an Amendment to the Bylaw for a new Permanent Alcohol Ban area in Riccarton/Ilam plus one or more additional bans in Papanui, Merivale, Akaroa and/or Okains Bay.
11. Staff recommend option 2 and propose that a permanent alcohol ban apply in Riccarton/Ilam at all times to the same area covered by the existing Temporary Alcohol Ban area. In accordance with section 156 of the LGA 02, a Special Consultative Procedure will be required to amend the 2009 Bylaw. If the proposed amendment is adopted, the permanent alcohol ban will take effect before the temporary alcohol ban lapses on 30 November 2011.

**FINANCIAL IMPLICATIONS**

12. The cost of public notices and other publicity for a Special Consultative Procedure is estimated to be in the order of \$5000. The costs of the publicity and general communications related to the proposed amendment to the 2009 Bylaw can be funded through the existing City and Community Long-term Planning and Policy Activity budget for 2011/12.
13. The costs of signs that would be needed will depend on the coverage chosen. The costs of signage are a capital item. The Strategy and Planning Group has a very limited capital budget for specific items (unrelated to alcohol ban signage) and none in the relevant Activity. For that reason a capital budget would be required for alcohol ban signage. The initial cost of permanent alcohol ban signs is estimated to be \$94 per sign installed. The total cost would relate to the requirements for each particular area. In the case of Riccarton/Ilam the number of signs required by the Police for the temporary alcohol ban was 130. Without taking into account replacements the cost would be just over \$11,000. This would not cover the costs of signage in any of the areas not recommended for inclusion in the 2009 Bylaw.

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

14. See above.

**LEGAL CONSIDERATIONS**

15. Under section 145 of the LGA 02, the Council may make bylaws for one or more of the following purposes:
  - (a) protecting the public from nuisance.
  - (b) protecting, promoting and maintaining public health and safety.
  - (c) minimising the potential for offensive behaviour in public places.
16. In addition, section 147 of the LGA 02 provides that the Council may make a bylaw for liquor control purposes. Section 147 essentially allows a council to make a bylaw prohibiting or otherwise regulating or controlling the consumption, possession and carriage of alcohol in public places, including in vehicles in public places. "Public places" in section 147 is confined to land that is under the control of the Council and open to the public, and includes any road, even if it is not under the control of the Council. It should be noted that the term "road" is capable of a reasonably wide interpretation.
17. The bylaw-making power in section 147 also explicitly exempts the transport of unopened bottles or containers of alcohol to or from licensed premises or private residences in an area covered by a bylaw made for liquor control purposes.
18. The Police are empowered by the Act to enforce the provisions of a bylaw made for liquor control purposes. This is different from all other bylaws, where enforcement is undertaken by warranted Council officers. Section 169 of the Act gives the Police powers of arrest, search and seizure in relation to enforcing liquor ban bylaws. Section 170 sets out the conditions applicable to the power of search in section 169.
19. The process for making, amending or revoking bylaws under the LGA 02 is outlined in sections 83, 86, 155 and 156 of the Act. Section 155 requires local authorities to determine that any proposed Bylaw:
  - (a) is the most appropriate way of addressing the perceived problems;
  - (b) is in an appropriate form;
  - (c) is not inconsistent with the New Zealand Bill of Rights Act 1990.
20. Section 156 of the LGA 02 requires the Council to use the special consultative procedure when amending a bylaw.
21. In addition to the statutory requirements, the law generally requires that any bylaw must be *intra vires* (in other words within the statutory powers that authorise the bylaw), certain, not repugnant to the general laws of New Zealand, and reasonable. There is a considerable body of case law on what constitutes reasonableness in the bylaw context. The Courts have noted that in ascertaining the reasonableness or unreasonableness of a bylaw, they will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect, the problem it seeks to solve or proposes to remedy and whether public or private rights are unnecessarily or unjustly invaded.
22. For current purposes, in order to add new Permanent Alcohol Ban Areas the Council must amend the 2009 Bylaw. This is because the 2009 Bylaw sets out the Permanent Alcohol Ban Areas in the Schedule of the Bylaw. Similarly, in order to change any aspects of the current Permanent Alcohol Ban Areas, the Council must use the special consultative procedure as these form part of the 2009 Bylaw.
23. The purpose of the 2009 Bylaw is to control anticipated or potential negative alcohol-related behaviour in any defined areas. Under clause 6 of the 2009 Bylaw, in Permanent or Temporary Alcohol Ban Areas, no person may:
  - (a) consume alcohol in a public place; or
  - (b) consume alcohol in a vehicle in a public place; or
  - (c) bring alcohol into a public place, whether in a vehicle or not; or
  - (d) possess alcohol in a public place, whether in a vehicle or not.

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24. The 2009 Bylaw currently provides that certain areas of the city are "Permanent Alcohol Ban Areas", which are:
- Central City
  - Hagley Park and Environs
  - South Colombo
  - New Brighton Mall, Marine Parade and Environs
  - Northlands Mall Surrounds
  - Sumner Esplanade
  - Jellie Park
  - Akaroa
  - Spencer Park
25. The location and the times that the Permanent Alcohol Ban areas apply are set out in the Schedule to the 2009 Bylaw. Therefore, the Council would need to use the special consultative procedure in making any changes to these areas or times, in accordance with section 156 of the LGA 02.
26. This report also covers matters relating to section 77 of the Local Government Act 2002, which relates to decision-making and requires local authorities to identify all practical options and to assess the options in relation to their costs and benefits, community outcomes, and the impact on the council's capacity.

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

27. Yes – as above. The section 155 analysis is provided in a separate document to this report. Analysis has been undertaken on each individual new area in which the bylaw might apply. Analysis has also been undertaken in respect of the two areas where changes are proposed.
28. It is to be noted that in 2008, the Council undertook a detailed section 155 analysis of the high level issues relating to whether or not the Council should make the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009. It is not appropriate to re-litigate those high level issues again, given that the Council subsequently undertook the special consultative procedure and made the 2009 Bylaw.
29. The section 155 analysis for the proposed Amendment Bylaw is carried out by answering the following questions for each of the current or proposed Permanent Alcohol Ban Areas:
1. What is the perceived problem in the "Area"?
    - (a) Define the problem
    - (b) Define the Area
    - (c) What are the related crime statistics for the Area?
    - (d) Is there any Council 'Request for Service' (RFS) data?
    - (e) Summary of problem
  2. Is adding this Area to the Schedule of Permanent Alcohol Areas the most appropriate way of addressing the problem?
  3. Is the description of the Area and the times, days, or dates, during which the alcohol restrictions apply the most appropriate form?
  4. Are there any New Zealand Bill of Rights Act 1990 implications?
30. The draft Amendment Bylaw has been reviewed for vires, certainty, repugnancy, and reasonableness.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

31. An Amendment to the Bylaw could be considered to broadly align to the following Level of Service in the Strengthening Communities Activity Management Plan, 2.2.3.1. *Maintain Safe City Accreditation every 15 years.*

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

32. Yes – as above.

**ALIGNMENT WITH STRATEGIES**

33. The *Safer Christchurch Strategy* aims to see rates of injury and crime decline, for people to feel safe at times in Christchurch City and for Christchurch to have excellent safety networks, support people and services.

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

34. Yes – as above.

**CONSULTATION FULFILMENT**

35. Due to time constraints, only limited consultation with the New Zealand Police and the affected Community Boards has been undertaken prior to the preparation of this report.
36. If the Council decides to seek amendments to the Bylaw, a Special Consultative Procedure will be undertaken in accordance with the Local Government Act 2002. Any member of the public can make a submission and would have the opportunity to be heard before a hearing panel. Stakeholders such as residents' associations, the Police, and affected Community Boards will be notified of the proposed Amendment Bylaw.

**STAFF RECOMMENDATION**

It is recommended that the Council, in relation to the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011:

- (a) Determine that there is sufficient evidence to support proposing a permanent alcohol ban in the Riccarton/Ilam area and commencing a special consultative procedure (as outlined below);
- (b) Determine that there is not sufficient evidence to support proposing permanent alcohol bans in Papanui, Merivale, Akaroa and Okains Bay;
- (c) Note that staff will monitor the situation in Papanui and Merivale over the next six months, in consultation with the Police, and if necessary report back to the Council;
- (d) Resolve that the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011 meets the requirements of section 155 of the Local Government Act 2002, in that:
  - (i) the Council determines an amendment bylaw is the most appropriate way of addressing the perceived problem; and
  - (ii) the Council determines the proposed amendment bylaw is the most appropriate form of bylaw; and
  - (iii) the Council determines the proposed amendment bylaw gives rise to some implications under the New Zealand Bill of Rights Act 1990 but that the proposed amendment bylaw is not inconsistent with that Act;
- (e) Resolve that the **attached** Statement of Proposal (which includes the proposed Bylaw) and Summary of Information be adopted for consultation;
- (f) Resolve that public notice of the consultation be given in *The Press* and *Christchurch Star* newspapers and on the Council's website at the start of the consultation period, and that public notice of the proposal be given in community newspapers distributed in the Christchurch district area, as close as possible to the start of the consultation period;

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- (g) Resolve that the consultation documents be made available for public inspection at Council Service Centres, Council Libraries and on the Council's website during the consultation period.
- (h) Resolve that the consultation period be between 8 July and 10 August 2011; and
- (i) Resolve that a hearings panel be appointed to hear submissions in 31 August through 2 September 2011, deliberate on those submissions and to report back to the Council on the final form of the Bylaw in October 2011.

**BACKGROUND (THE ISSUES)**

37. On 28 April 2011, the Council considered a report on a temporary alcohol ban in the Riccarton/Ilam area. The report also discussed possible bans in Papanui and Merivale that had been requested by the Police. It was resolved that the Council:
- (a) *That having considered the matters in clause 5(2) of the Christchurch City Alcohol Restrictions in Public Places Bylaw 2009, declares a Temporary Alcohol Ban Area in Riccarton/Ilam, (being the area shown on the attached map to the agenda), applying 24 hours per day and seven days per week, commencing on 19 May 2011 and ending on the 30 November 2011.*
  - (b) *Initiate consultation on a permanent amendment to the Alcohol Restrictions in Public Places Bylaw 2009 for the Riccarton/Ilam area which (if adopted) would come into effect when the temporary ban lapses.*
  - (c) *Note that proposals to introduce a temporary or permanent alcohol ban in Merivale and Akaroa and an amendment to the alcohol ban in Papanui will be investigated and reported to the Council.*
38. Staff undertook a preliminary investigation into the need for alcohol bans in Akaroa, Okains Bay, Merivale, and Papanui, which was discussed at the 26 May 2011 Council meeting. The Council resolved to:
- (a) *Note that, on 28 April 2011, the Council resolved to undertake consultation on a permanent alcohol ban in the Riccarton/Ilam area;*
  - (b) *Note that preliminary discussions with the Police suggest that there are alcohol-related problems in Akaroa, Merivale, Papanui and Okains Bay, which may warrant an amendment to the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009;*
  - (c) *Approve staff undertaking a section 155 Local Government Act 2002 analysis of possible amendments to the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 for Merivale, Papanui, Akaroa and Okains Bay, in addition to Riccarton/Ilam;*
  - (d) *Agree that suitable provision for capital funding for the cost of signs to implement amendments to the Bylaw be made in the draft Annual Plan.*
39. The Police advise that experience has shown that alcohol bans are one of the most successful tools in reducing violence and disorder. They note that the alcohol ban in the CBD had resulted in reductions of 6 per cent for serious violence and 6 per cent for minor assaults each year for the last 3 years. However it is not clear that there is a direct causal link with the ban of drinking in public places or whether increased Police presence and the introduction of Safe City Officers have added to the reductions noted.
40. A section 155 analysis has now been undertaken with respect to each of the areas identified above. Each area is discussed in turn.

**Riccarton/Ilam**

41. Alcohol-related issues in the Riccarton/Ilam area have been under consideration since the 2009 bylaw was developed. On 23 June 2009, the Liquor Control Bylaw and Alcohol Policy Subcommittee resolved to form a working party to investigate the possibility of applying the 2009 Bylaw to an area around the University of Canterbury. The working party consisted of Councillors Yani Johanson (Chair), Helen Broughton and Bob Shearing, and Beth Dunn as the nominated member of the Riccarton Wigram Community Board.

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42. The Working Party consulted a range of groups to ascertain the nature and extent of alcohol-related problems or nuisances in the Ilam area. While stakeholders differed in their view of the scale and extent of problems, there appeared to be a general consensus that there were problems associated with intoxicated people on the streets. It appeared that problems predominantly occurred late at night, although at times they occurred during the day. Problems identified included:
- a wide range of damage and disorderly behaviour;
  - broken glass and other litter on the streets and footpaths, and in parks;
  - noise both from parties and people walking by late at night;
  - local residents, particularly elderly residents, feeling scared and intimidated as a result.
43. The report of the Working Party explored the above issues in some detail. The 2009 Bylaw makes provision for the Council to declare a temporary alcohol ban by resolution. Accordingly, the Working Party considered both permanent and temporary bans.
44. The Working Party concluded that, on balance, there was insufficient evidence to justify permanently applying the 2009 Bylaw to the Ilam area at that stage. The Working Party noted that that may be a consequence of the limited systems for capturing the evidence – particularly whether alcohol-related issues in the area were caused by people drinking in public places. Moreover Police support is critical to ensure that a bylaw can be enforced and, at that stage, the Police did not support applying the 2009 Bylaw to the Ilam area. However the Working Party noted that continued monitoring of the situation was required to enable the Council to act should the need arise.
45. The Working Party was of the view that temporarily applying the Bylaw may be a useful tool around particular events that exacerbate the behavioural issues. The Working Party also considered there would be value in the Council coordinating an inter-agency group comprising key stakeholders such as the Community Board, the Police, Community and Public Health, the University of Canterbury, the University of Canterbury Students Association (UCSA), residents and licensees. The role of the group would be to develop a shared view of the problem, determine what actions are required to address it, jointly develop a package of non-regulatory options and review progress over time. The Working Party was of the view that this inter-agency stakeholder group would be best positioned to approach the Community Board about temporarily applying the 2009 Bylaw if and when it believed such a temporary measure was warranted. The Working Party also considered other non-regulatory options.
46. The Alcohol Policy and Liquor Control Bylaw Subcommittee considered the Working Party's report on 3 June 2010 and agreed that consideration should not be given to applying the Alcohol Restrictions in Public Places Bylaw 2009 (either permanent or temporary) in the Ilam and Riccarton area at that time. However, at its meeting of 5 August 2010, the Regulatory and Planning Committee disagreed and decided to recommend, among other actions, that the Council initiate an amendment to the Alcohol Restrictions in Public Places Bylaw 2009 to incorporate permanent restrictions in the Ilam and Riccarton areas. The Council agreed with these recommendations on 26 August 2010.
47. The 4 September 2010 earthquake meant that normal Council work was severely disrupted and work on a Bylaw amendment did not proceed at this time. However, at its meeting on 2 December 2010, the Council resolved unanimously *"That the Council initiate a process to consider introducing a temporary alcohol ban for the University of Canterbury Orientation period in the public areas around the campus."* The December resolution recognised that the Orientation period is one during which alcohol-related issues in the area have been heightened in previous years and that it was not possible to introduce a permanent alcohol ban ahead of the Orientation period in 2011.
48. On 17 January 2011, the Council's Recess Committee resolved
- (a) *"That having considered the matters in clause 5(2) of the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009, the Council declares, for the area in Ilam (being the area shown in the attached map), a Temporary Alcohol Ban covering 24 hours per day from 12am on 17 February 2011 to 12pm on 27 February 2011. "*



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49. Following the 22 February 2011 earthquake, many parts of the city were seriously damaged and the majority of the central city was cordoned off. In regards to alcohol, central city bars and other drinking establishments were inaccessible. Police have identified a very clear trend where patronage of bars has moved to a number of surrounding suburbs, including Riccarton/Ilam. As a consequence, Police requested Council impose a temporary alcohol ban in these areas.
50. At its 28 April 2011 meeting, the Council declared a Temporary Alcohol Ban Area in Riccarton/Ilam that would apply 24 hours per day and seven days per week, commencing on 19 May 2011 and ending on 30 November 2011. The area to which the ban applies is set out in the **attached** map. Preliminary feedback from the Police and the chair of the Riccarton Wigram Community Board is that the temporary ban has had a positive effect. However, there still remain noise and other disorder issues associated with parties on private property over which the 2009 Bylaw has no control.
51. The Police data provided at the 26 May 2011 meeting of the Council (see **attached** maps) show the incidence of disorder, assaults and wilful damage in the area over the following periods:
- 01 January – 30 June 2008
  - 01 July – 31 December 2008
  - 01 January – 30 June 2009
  - 01 July – 31 December 2009
  - 01 January – 30 June 2010
  - 01 July – 31 December 2010
  - 01 January - 22 May 2011
52. Provisional Police data for Riccarton and Upper Riccarton for the period from 22 February to 22 May for each of 2009, 2010 and 2011 indicates that there has been a significant increase in reports of disorder, wilful damage and assault in 2011 compared to previous years. Council received 345 requests for service in the year to 31 May 2011, of which 59 related to broken glass, bottles and cans littering the streets and footpaths.
53. It is considered that adding the Riccarton/Ilam Area to the Schedule of Permanent Alcohol Ban Areas is the most appropriate way of addressing the problem with alcohol related issues in public places. It will provide the Police with an effective early intervention tool to manage the potential downstream effects of alcohol consumption in public places in Riccarton/Ilam. It is proposed that the ban apply to the same area as the temporary alcohol ban and, like that ban, apply 24 hours a day, seven days a week.

**Papanui**

54. There is currently an alcohol ban around the Northlands Mall and surrounds, which covers the area bounded by Main North Road, Sawyers Arms Road, Sisson Drive, Restell Street and Harewood Road, and also includes St James Park (see **attached** map). The restrictions apply Thursday, Friday and Saturday nights, from 9.00 pm to 6.00 am.
55. Police have noted that since the earthquake, patronage of bars has shifted from the central city to other areas including Papanui and that there has been an increase in disorder in these areas.
56. Provisional Police data for Papanui and Merivale for the period from 22 February to 22 May in each of 2009, 2010 and 2011 suggests that there has been some increased in alcohol-related offending in 2011. However, the data provided to staff have consolidated the two areas together, so it is unclear whether the increase has been uniform across the two areas. The data also does not indicate the locations in Papanui and Merivale in which the offences are occurring.

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57. The Police are advocating for a much larger area in Papanui to be incorporated into a Permanent Alcohol Ban area, due to additional licensed premises in the area as well as general movement from the central city to the Papanui commercial district. The Police note that due to an influx of people into Papanui after the February earthquake, there are greater numbers of people not able to get into some bars, particularly on Friday and Saturday nights, which has led to increased drinking in areas surrounding these bars with an associated increase in broken bottles, urination and other problem behaviour.
58. The proposed area is bounded by the railway line from Vagues Road to Harewood, St James Avenue, Blighs Road, Grants Road, Grassmere Street, Main North Road and Vagues Road (see **attached** map). This incorporates the smaller existing Permanent Alcohol Ban area of Northlands Mall Surrounds. The Police consider that extending the ban area (from the current ban around Northlands Mall) would enable greater control over entry of persons and vehicles into the area where consumption of alcohol in a public place may occur. The Police see this as a preventative measure aimed at dealing with anticipated problems that may be alcohol-related.
59. On 4 May 2011 Police surveyed survey of 42 businesses located along Papanui/Main North Road, between Grants Road and Mary Street. The survey asked whether business owners and/or their staff had problems that may be associated with people drinking in nearby bars both before and after the February 2011 earthquake. Two-thirds of respondents said that there were problems before and after the earthquake, while 40 per cent said that problems had significantly worsened after the earthquake. Problems identified in the survey included broken beer bottles, rubbish, vomiting and urinating in doorways.
60. The Council's Customer Service Request (CSR) database was queried for the period between 1 June 2010 and 1 June 2011. There were no complaints of drinking in public places in the database for the period queried. Of the 33 incidents logged in the CSR database for Papanui during this period, only four might have been alcohol-related, although there is not enough information to confirm this:
  - one incident of bottles and other rubbish around a bus stop
  - two incidents of smashed/broken glass on the side of the road
  - one incident of "a lot of glass" on the road.
61. Staff consulted with Mr Chris Mene, Chair of the Shirley Papanui Community Board about alcohol issues in the ward. Mr Mene commented that, anecdotally, there is a combination of drinking and drunkenness around licensed premises.
62. The Police proposed to extend the coverage of the ban to 24 hours a day, seven days a week in the expanded Papanui area. However to date there has not been strong enough evidence to justify extending either the area of the permanent alcohol ban or the duration of the ban beyond the current Northlands Mall Surrounds ban. On that basis staff do not recommend a change to the existing Northlands Mall Surrounds Permanent Alcohol Ban area at this time. However, staff propose to monitor the situation over the next six months, with the Police, and report back to Council if necessary.

**Merivale**

63. There is currently no alcohol ban, either permanent or temporary, in Merivale.
64. The Police are advocating for an alcohol ban in Merviale to protect the public from nuisance, to protect and maintain public health and safety and to minimise the potential for offensive behaviour in public places. The Police estimate that patronage at local bars and restaurants has increased by 25 to 35 per cent, and note that some former Oxford Terrace patrons appear to have shifted to Merivale's commercial district. As noted in the discussion concerning Papanui above, there appears to have been an increase in offending in the Papanui and Merivale areas since the September and February earthquakes. However, it is not clear from the data where these offences have occurred.

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65. The area proposed for a permanent alcohol ban is bounded by Rossall Street, Rugby Street, Browns Road and Innes Road/Heaton Street (map **attached**). Although licensed premises in Merivale are largely situated in, or adjacent to, Papanui Road, Aikmans Road, and Mansfield Avenue corner, the Police are advocating for a larger area in order to provide clear boundaries to the ban, aligned with streets in the area. Moreover, Police consider that a wide area will help control transport of alcohol into the car park at the Merivale Mall, which has allegedly been used for drinking in public, as well as other private car parks at the rear of shops on the east side of Papanui Road. Alcohol bans are unable to be applied directly to private car parks.
66. On 2 and 3 May 2011, the Police surveyed 23 business owners in Merivale, along Papanui Road between McDougall Avenue and St Albans Street, regarding alcohol concerns in the proximity of Merivale bars before and after the earthquake. Half of the respondents noted increased problems, predominantly more people on the street and patronising bars in the area and more bottles and rubbish.
67. The Council's CSR database contains 22 incidents for Merivale for the period from 1 June 2010 to 1 June 2011. No complaints were received regarding drinking in public. Two incidents might have been alcohol-related, although there is no direct evidence:
  - one incident of a street littered with rubbish and bottles
  - one incident of "a lot of smashed glass" (the type of glass was not specified).
68. The Chair of the Fendalton Waimari Community Board commented to staff in May that there were problems in Merivale but that they were more due to drunkenness rather than drinking in public places.
69. The Police have advocated for a 24-hour seven-day alcohol ban for Merivale. However, there is a lack of clear evidence of a problem and staff do not recommend a permanent alcohol ban in Merivale at this time. As with Papanui, staff propose to monitor the situation over the next six months, with the Police, and report back to Council if necessary.

**Akaroa**

70. There is already an alcohol ban in place in Akaroa, which applies on New Year's Eve from 5.00 pm 31 December to 7.00 am on 1 January each year. The area is mapped in the Bylaw (map **attached**) and includes Akaroa Beach and the waterfront area (including any wharf or jetty) from Children's Bay to Takapunueke Reserve, the Garden of Tane, Waeckerie Green, Reclamation Parking and Slipway Area, Akaroa Recreation Ground, Jubilee Park, Children's Bay and the War Memorial Grounds.
71. A possible amendment to the alcohol ban was raised in a petition to the Council received at its meeting of 28 April 2011. The petition requested the following:
  - a liquor ban from 10.00 pm to 8.00 am in public areas.
  - trading hours for hotels restricted to 12.00 am.
  - liquor outlet sales banned after 10.00 pm.
  - a lower speed limit in the village to 30 kph or measures to reduce the speed of traffic.
72. The petition was also presented to the Akaroa/Wairewa Community Board on 20 April 2011. The Board decided to receive and support the petition and
  - (a) Forward it to staff for information with a request that the Board be informed of steps that could be taken to enact the requests in the petition.
  - (b) Ask the Bank Peninsula Councillor to support the petition at Council.
  - (c) Ask staff to forward the petition to the Liquor Licensing Agency as evidence of "history of need", for its information in considering liquor licensing hours for Akaroa licence holders.

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73. In regard to the issue in (c) above, the initial response from the Liquor Licensing Inspectors was that the matter of hours of operation of the one hotel mentioned in the petition would be considered by the District Licensing Agency at its time of renewal in January 2012. They have advised that there does not appear to be any good reason for change on the basis of their evidence nor evidence provided by the Police to date. It should be noted that this is not a matter that is relevant to this consideration of the Bylaw. According to the records of noise complaints investigated there have been reductions over a period of years in relation to the premises. That is, in any case, a matter for control under the Resource Management Act 1991.
74. The decision of the Akaroa/Wairewa Community Board was included within the Board's Report to Council at the 9 June 2011 Council meeting.
75. The Police have been unable to provide a body of evidence of incidents and arrests (as used extensively in creating the permanent alcohol bans in the existing Bylaw). There is anecdotal evidence of people consuming alcohol on the beachfront at other times of the year, but it is not considered sufficient to justify a change to the current Akaroa Permanent Alcohol Ban Area. Evidence to support the expansion of the existing alcohol ban appears to be limited to the views of the local Police Officers and some local residents and business owners. It is considered insufficient to introduce a significant restriction on persons who may be consuming alcohol in the public place without committing any offences under the Summary Offences Act 1991, or indeed any other criminal legislation. Moreover, Council data for the period from 8 June 2010 to 18 May 2011 has revealed that there was only one complaint regarding bottles left (with other debris) on the beach area, apparently following the Paralympics and busker events in December 2010.
76. The Police from Akaroa indicated that both Wanaka and Queenstown have bans such as they are supporting for Akaroa, which they say are strongly enforced by Police and these have put a brake on anti-social behaviour. It should be noted that both these areas apply in the CBDs and came about after considerable disorder over a number of years. There is no evidence that the Akaroa situation is in any way similar to those two areas in regard to the numbers of persons present in high seasons nor is there evidence for the types of disorder having occurred in the areas leading to the bans. As pointed out previously the Police have been unable to provide evidence for Akaroa of significant disorderly behaviour, wilful damage, or assaults relating to consumption of alcohol in public places. That was not true in the cases of Queenstown or Wanaka where well publicised cases of disorder were apparent in the past.
77. The petition identified one licensed premise as being a problem to a nearby business, largely through noise but also behaviour from allegedly patrons when leaving the premise. This is not a matter that relates to this Bylaw as it does not provide evidence that consuming alcohol in the public place is occurring. Sufficient controls are provided under the Summary Offences Act 1991 to deal with offensive or disorderly behaviour. Noise from the premises can be controlled under the provisions of the Resource Management Act 1991. Records of noise complaints received show there have been a reduction in the past year. Over a period of six years (from 2006 to 2011) a total of 18 complaints had been received relating to the Madeira Hotel and 14 in relation to the Gaiety Hall, all relating to music being played. This total can be compared with 65 over the same period relating to music from residential premises, spread over the area. These all were dealt with under the Resource Management Act 1991 provisions by enforcement officers.
78. On the basis of the above, it is not considered a sufficient case exists for considering applying any further extension to the current alcohol ban in Akaroa applying to New Years Eve.

**Okains Bay**

79. A Temporary Alcohol Ban was introduced for New Year's Eve 2010/11 for the Okains Bay area due to considerable disorder on previous occasions (see **attached** map). The major incident was in the 2009/10 New Year's Eve period when a group of young people advertised a "Cave" party at Okains Bay on the beach area. On this occasion Police advised that some problems were caused with drinking on the beach and some disorder that spilled over into the adjacent camping ground. The latter is privately operated and is not a public place under the control of the Council, hence no alcohol ban could be placed on that area. It has been reported that there was a considerable decline in incidents of disorder on New Year's Eve 2010/11 in the area in public places.

10 Cont'd

80. There is no good evidence that any offences under the Summary Offences Act 1991 have occurred in the past two years in the area sufficient to introduce a regulatory alcohol ban on a permanent basis.

**THE OBJECTIVES**

81. The purpose of the proposed Amendment to the Bylaw is to reduce alcohol-related harm, damage, disorder and crime and to improve community safety by putting alcohol restrictions in some public places within the Christchurch City Council district.

**THE OPTIONS**

82. There are three options:

Option 1 - status quo. With this option, there would be no new permanent alcohol ban areas, no changes to existing alcohol ban areas, and the temporary alcohol ban for Riccarton/Ilam would lapse on the close of 30 November 2011.

Option 2 - Amend the Bylaw for Riccarton/Ilam. With this option, an amendment to the Bylaw would see the creation of one new Permanent Alcohol Ban, for the Riccarton-Ilam area.

Option 3, Amend the Bylaw for at least two areas (including Riccarton/Ilam). With this option, the Bylaw would be amended to create at least two new or amended Permanent Alcohol Ban areas, including Riccarton/Ilam area plus:

- amended days/times for the existing Akaroa Permanent Alcohol Ban; and/or
- amended area and/or days/times for Papanui Permanent Alcohol Ban; and/or
- new Merivale Permanent Alcohol Ban; and/or
- new Okains Bay Permanent Alcohol Ban.

**THE PREFERRED OPTION**

83. The preferred option is Option 2. This option would enable a temporary alcohol ban in Riccarton/Ilam to become permanent.

## 10 Cont'd

## ASSESSMENT OF OPTIONS

## The Preferred Option

84. Option 2 – creation of a new Permanent Alcohol Ban area for Riccarton/Illam.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	<ul style="list-style-type: none"> <li>• potential to reduce alcohol-related harm</li> <li>• contributes to a safer city</li> </ul>	<ul style="list-style-type: none"> <li>• restricts freedoms</li> </ul>
<b>Cultural</b>	<ul style="list-style-type: none"> <li>• improve negative drinking culture</li> <li>• reduce the culture of fear/negative perceptions of safety</li> </ul>	<ul style="list-style-type: none"> <li>• not applicable</li> </ul>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>• potential to reduce the amount of glass bottles, broken glass and litter on our streets and in our parks</li> </ul>	<ul style="list-style-type: none"> <li>• signage – amenity costs</li> </ul>
<b>Economic</b>	Potential to: <ul style="list-style-type: none"> <li>• increase perceptions of safety and to increase business activity</li> <li>• reduce damage, vandalism, etc.</li> <li>• positively impact on tourism</li> </ul>	<ul style="list-style-type: none"> <li>• may impact on off-licence sales within alcohol ban area</li> </ul>
<p><b>Extent to which community outcomes are achieved:</b>            A Safe City: We live free from crime, violence, abuse and injury. Rates of crime and injury decline.            A Prosperous City: We have a strong economy that is based on a range of successful and innovative businesses. Christchurch has a strong, healthy economy.            A Healthy City: We live long, healthy and happy lives. Our city environment supports the health of the community.            An Attractive and Well Designed City: Christchurch has a vibrant centre, attractive neighbourhoods and well-designed transport networks. Christchurch is attractive and well maintained.            Option 2 would contribute to these four community outcomes. The proposed Permanent Alcohol Ban area may contribute to perceptions of safety and has the potential to reduce alcohol-related harm. While Permanent Alcohol Bans are not a complete solution to alcohol-related issues, they are part of a wider, multi-faceted approach to managing or reducing alcohol-related harm.</p> <p><b>Impact on the Council's capacity and responsibilities:</b>            The LGA 02 gives the Police special enforcement powers for bylaws made for "liquor control purposes". Enforcement for this bylaw is a matter for the Police, rather than the Council.            There will be some costs to Council in relation to publicising the alcohol ban area on an ongoing basis and ensuring adequate signage is in place.</p> <p><b>Effects on Maori:</b>            Similar to other ethnic groups.</p> <p><b>Consistency with existing Council policies:</b>            This Option is consistent with the <i>Safer Christchurch Strategy</i>.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b>            The LGA 02 gives the Police special enforcement powers for bylaws made for "liquor control purposes", so a consultative approach has been taken with the Police in the development of the draft bylaw. Additionally, the need for alcohol ban areas or the evaluation of current areas largely relies on evidence provided by the Police, such as crime statistics or enforcement statistics relating to the current liquor ban areas. The views and preferences of the public can be ascertained through the special consultative procedure on this proposal.</p>		

## 10 Cont'd

**Maintain the Status Quo (if not preferred option)**

85. Status quo. No new Permanent Alcohol Ban areas and no changes in existing Permanent Alcohol Ban areas.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	As above	Similar to above
<b>Cultural</b>	As above	As above
<b>Environmental</b>	As above	As above
<b>Economic</b>	As above	As above
<p><b>Extent to which community outcomes are achieved:</b> As above, but if the ban areas are not updated to reflect the current situation for Riccarton/Ilam, community outcomes will have less chance of being achieved (a Safe City, a Prosperous City, a Health City)</p> <p><b>Impact on the Council's capacity and responsibilities:</b> As above.</p> <p><b>Effects on Maori:</b> As above.</p> <p><b>Consistency with existing Council policies:</b> As above.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b> The Police have indicated that the current areas in the Bylaw are not adequate to address current issues in some areas of the city.</p> <p>As amendments to the Bylaw are the subject of a special consultative procedure the views of the public would be ascertained as part of that process, where that process occurs. For the status quo option, a special consultative procedure would not be required.</p>		

## 10 Cont'd

**Other Option**

86. Option 3 - At least two new or amended Permanent Alcohol Ban Areas, including Riccarton/Ilam and at least one other new or amended Permanent Alcohol Ban Area.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	As above	Similar to above
<b>Cultural</b>	As above	As above
<b>Environmental</b>	As above	As above
<b>Economic</b>	As above	As above
<p><b>Extent to which community outcomes are achieved:</b> As for Option 2.</p> <p><b>Impact on the Council's capacity and responsibilities:</b> There is a risk in creating new or amended Permanent Alcohol Ban Areas in instances where there may not be robust evidence to support an alcohol ban.</p> <p>To make a Bylaw, the following questions must be answered under section 155 of the LGA 02:</p> <ul style="list-style-type: none"> <li>• is there a perceived problem?</li> <li>• is the Bylaw the most appropriate way of addressing the problem?</li> <li>• is the description of the Area and the times, days, or dates, during which the alcohol restrictions apply appropriate?</li> <li>• are there New Zealand Bill of Rights Act 1990 implications?</li> </ul> <p>In addition to these statutory requirements, the law generally requires that any bylaw, amongst other things must be reasonable. The Courts have noted that in ascertaining the reasonableness or unreasonableness of a bylaw, they will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect and the problem it seeks to solve or proposes to remedy. If the Council is unable to demonstrate that a bylaw responds to a problem as opposed to a potential problem, there is the risk that the bylaw may be found to be unreasonable. In addition, the Courts may also find that the Council has not complied with section 155 of the LGA 02. Therefore, the Council needs to complete a robust analysis of the background facts and determine that there is a problem that needs to be addressed, before it undertakes to make a bylaw.</p> <p><b>Effects on Maori:</b> As above</p> <p><b>Consistency with existing Council policies:</b> As above.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b> The Police consider that as well a permanent alcohol ban in Riccarton / Ilam, new or amended permanent alcohol bans are needed in other areas of the city, such as in Merivale and Papanui.</p> <p>As amendments to the Bylaw are the subject of a special consultative procedure the views of the public would be ascertained as part of that process.</p>		



## 11. SUBURBAN CENTRES PROGRAMME

<b>General Manager responsible:</b>	General Manager Strategy and Planning
<b>Officer responsible:</b>	Strategy Support Manager
<b>Author:</b>	Carolyn Bonis, Acting Team Leader

**PURPOSE OF REPORT**

1. The purpose of this report is to seek Council approval for the proposed Suburban Centres Programme. The recommended programme includes masterplans for a small number of centres, case management for the others and some other related initiatives that have arisen from consultation with Community Boards.

**EXECUTIVE SUMMARY**

2. A programme of work has been initiated to support the recovery and rebuild of approximately sixty suburban commercial centres that were affected by recent earthquakes. This support will principally be through assisting property owners with planning, design and transport related matters. It does not extend to business matters such as insurance, tenancy issues or business finance.
3. The vast majority of centres are in a 'case management' workstream, whereby officers will contact individuals or groups of property owners and provide limited support and advice through linking them with internal experts and external organisations. This may include advice on urban design, consent processes or referral to other support agencies such as Recover Canterbury.
4. **Lyttelton** and **Sydenham** are currently underway with masterplanning exercises. Several further centres are proposed for masterplans subject to Council approving funding for these projects. Two would be started shortly: the shopping centre on the corner of Worcester and Stanmore Streets (**Stanmore** shops) and the centre at the intersection of Selwyn and Rosewarne Streets (**Selwyn** shops). A community-led masterplan approach has already been initiated by residents and businesses in **Sumner** and it is recommended that the Council support, rather than lead, this process. **New Brighton** is also recommended for a masterplan but timing is dependent on Government decisions on the worst affected areas.
5. Five other centres are also contenders for masterplans but require further exploration and investigation in order to determine an appropriate scope of works. Further transport investigations may be required for **Aranui** and **Beckenham** and information on changing land use activities is needed for **Woolston**, **Edgeware** and **Linwood**. Officers will report back to the Council on progress of these centres at a later date; in the interim they will all be case-managed.

**BACKGROUND**

6. Christchurch City has more than 150 suburban commercial centres. These commercial centres range in size and function and serve an important role in supporting the social and economic wellbeing of communities. Some centres are multi-functional and include large malls and a range of community facilities and services, such as in Riccarton or Linwood. Others are smaller blocks of a few suburban shops. Of these centres, over 60 suffered damage during the September and February earthquakes.
7. The Suburban Centres programme aims to support the recovery and rebuild of the affected centres through assisting with planning, design and transport related matters. This will aid the creation of employment and housing opportunities and build investor and community confidence.
8. Files are currently being created for each affected centre, showing details of zoning, community facilities, property ownership, building assessment and demolitions data. Also included is information collected in 2010 on the previous status of the centre in respect of its physical amenity, economic wellbeing, social wellbeing, transport functioning and levels of deprivation in the immediate catchment. This information is being supplemented with any other centre-specific details that come to light, including resource consent applications. This information, together with site visits to the medium and larger centres, has assisted officers in reaching a set of recommendations for how each centre might be supported toward recovery, within the resources available to the Council.

11 Cont'd

9. A list of affected centres was prepared and discussed with community boards during May. This discussion has been considered in preparing the recommendations of this report.
10. The programme involves two principal workstreams: some centres will have a masterplan developed, with the scale and level of detail varying according to the centre's size and need. Other centres will be 'case managed' to encourage good outcomes and provide support for landowners who may need to interface with different sections of the Council and other organisations.

**SCOPE**

11. The programme will focus on centres that have been damaged in the earthquakes. The programme does not necessarily seek to address pre-existing conditions unless these naturally fall within the ambit of any rebuilding efforts. The work also does not include business matters such as resolving private insurance issues or arranging business finance. In addition, attention will be directed to land use matters rather than individual tenancies, as the latter is the focus for Recover Canterbury's work. Officers have met with Recover Canterbury staff and will work closely with their case managers in an effort to provide a co-ordinated approach. The project team will refer out-of-scope issues to other agencies where appropriate.
12. The programme of work will focus on the commercially-zoned centres as shown in the district plan. However, there are many instances where adjacent activities support the multifunctional use of the centre and any boundary for each centre will be informed by the individual circumstances.
13. The scope of the project will also be constrained by staff and financial resources, as priority has been given to the Central City Masterplan and infrastructure rebuild.

**CASE MANAGEMENT**

14. Many affected business and property owners will be making decisions regarding the future site of their operations. This may involve rebuilding on their former site, relocating elsewhere or permanent closure. It is proposed that case managers be assigned to contact with property owners to promote good outcomes for each centre and support business to return speedily to each centre. In some cases, meetings may be arranged for groups of owners as well as individuals in order to encourage a co-ordinated approach.
15. Case managers will liaise closely with transport planners, urban designers, heritage experts, resource and building consent officers, and capital works programme staff at the Council, to provide co-ordinated support and advice to landowners. They will also be in contact with RCP Ltd (contracted to CERA to project-manage demolitions) and with Recover Canterbury (a collaboration of Canterbury Development Corporation (CDC), the Chamber of Commerce and other Government departments). Recover Canterbury is also undertaking 'case management', focusing on business owners rather than property owners. Council officers have met with their staff to ensure that there is one streamlined process in place.
16. The centres considered suitable for case management are outlined in Attachment 1.

**MASTERPLANS**

17. Some centres require more input than can be provided through case management, particularly where the centre is of a reasonable size, has multiple landowners, and has suffered extensive damage. Each masterplan will have an approximately five month project design phase involving community and stakeholder engagement. The project aims to provide the stakeholders (including businesses, community groups and local residents) with information and an opportunity to engage and partake in the rebuild of centres. The process for developing each masterplan includes focus group discussions with key stakeholders, technical workshops, public meetings and elected member presentations. The outputs include an agreed vision and masterplan for each centre, together with an implementation plan.

## 11 Cont'd

18. The masterplan process is resource intensive, requiring a significant amount of time from a variety of technical experts, communications budgets and venue hire. In addition, the extent of intervention provided through the implementation plan may be similarly constrained. For example, capital works and strategic land purchase may support good planning outcomes for centres in a number of ways, from replacement of damaged infrastructure through to public space enhancements, but may cumulatively be very costly. Part of the master planning exercise will be to reconcile local aspirations with the city's pragmatic capacity to make major changes. Any works proposed in the Implementation Plan will need to be confirmed through the Long Term Plan (LTP) process and realistic expectations will need to be set with each community regarding the scope and extent of council works.

#### **Masterplans underway**

19. Two centres – **Lyttelton** and **Sydenham** - have already commenced a masterplan process. These centres not only fit with the above description regarding centre configuration and extent of damage but were already on the Council's pre-quake work plan. The process used for Sydenham and Lyttelton will provide a template for other centres requiring masterplans. Urban designer Kobus Mentz, of Urbanismplus, has been engaged to prepare a masterplan for these two centres. His firm is supported by Council staff and other experts to ensure the economic viability and functioning of the centre is considered (in relation to residential catchments and transport routes), as well as more site-specific design and heritage matters.
20. A specific Lyttelton issue that has been recognised by the Council and the community for some years is the interface between the town and Lyttelton Port of Christchurch (LPC). The scope of the Lyttelton Masterplan will include consideration of Norwich Quay and the possible re-alignment of State Highway 1. Council officers have met with staff of LPC, and invited them to participate in key focus groups associated with the development of the masterplan.

#### **Recommended Council-led masterplans**

21. The shopping centres at the intersection of Worcester and Stanmore Streets (**Stanmore** centre), and the intersection of Selwyn and Rosewarne Streets (**Selwyn** shops), both suffered significant damage in the earthquakes. Approximately seventy percent of land parcels in the Stanmore centre have been demolished or red- or yellow-stickered. The Selwyn shops will be in a similar position once demolitions are complete. Both centres were strongly supported by their respective community boards for a masterplan approach and are recommended as high priorities.
22. There is potentially an opportunity for the rebuilt centres to better reflect the council's strategic directions for residential activity within and around centres, and for each centre to be developed in a way that best reflects its overall function within the wider distribution of centres across the city. For example, the Selwyn shops once supported a wide range of retail activities but have in recent years been operating at a more locally-focused convenience shopping centre. There may be opportunity to restore a smaller node, well-supported by an increased residential catchment.
23. **New Brighton** has suffered some earthquake damage but not on the scale of many other centres. It also has one of the few supermarkets operating in the east of the city. However, the centre has struggled economically for many years and has potential to lose some of its immediate catchment. This will be known once government decisions are released on the worst affected suburbs. Nearby Rawhiti Domain has been chosen as one of several temporary housing villages across the city for displaced residents whose homes are undergoing repair. The combination of damage to buildings, a changing residential catchment, and a history of pre-quake economic issues mean that this centre is suitable for a masterplan. However, the timing of commencement will need to relate to the release of information on any 'no build' areas.

#### **Community-led masterplans**

24. The **Sumner** community has already initiated its own process for a long term, sustainable recovery and development plan. Due to the high level of expertise within the Sumner community, the need for Council involvement is not as great as for other masterplan centres. A different process is proposed to reflect these circumstances. This would primarily involve Council staff providing assistance to ensure the community developed plans were workable and aligned to Council processes. It is expected the outputs from this process will still require formal approval by Council, particularly where it requires Council action for implementation (such as zoning changes or capital works).

## 11 Cont'd

**Other Potential Masterplans**

25. Several other centres may be suitable for masterplans but further information is required in order to make this decision. For **Aranui** there may be both a need and an opportunity to improve the functioning of the road network through co-ordinating capital works for transport functions with the rebuild of adjacent land use activities. Officers propose to commission reports on any opportunities to improve the transport function through the centre and will report back to the Council if there appears to be value in undertaking a masterplan process. **Beckenham** initially appeared to have similar opportunities available for improving traffic flow through the centre, although discussion with transport engineers and community board members has revealed that this potential is limited and costly. In the interim, these centres can be supported through the case management workstream.
26. Due to the redistribution of both commercial and residential activity following the earthquakes, some centres may have increasing pressure for large new premises while others may lose some of wider catchment. **Woolston** and **Linwood** come into this category. For example, in the case of Woolston, officers are aware of the new Kathmandu distribution centre to be built in the vicinity of the centre and which may bring further employment to the area. In addition, unconfirmed suggestions of a new supermarket have arisen.
27. Linwood is a 'Key Activity Centre' with potential to lose some residential catchment but this will not be known until the Government releases decisions on this matter. Although many of the landuse decisions may have already been made for this centre, conversations with property owners and other stakeholders may give rise to the opportunity to enhance the centre.
28. These two centres have pre-existing issues in terms of their general level of economic viability and/or physical amenity. They are also still functioning reasonably well (in comparison with a centre like Lyttelton) or, in the case of Linwood, has potential to function at close to its previous level once Eastgate has completed its repair work. A challenge in determining an appropriate earthquake response by the Council is to scope out the nature of any interventions and the extent to which budget will be applied to resolving issues that are beyond 'earthquake recovery'. The recommended approach is similar to Aranui and Beckenham: that further investigation is undertaken. However, initial assessments indicate there are underlying pre-existing conditions which would be difficult and expensive to remedy. In the interim, these centres can be supported through the case management workstream.
29. Earlier conversations with Community Board members had suggested the possibility of **Edgware** centre being considered for a masterplan, due to uncertainty over the location and size of any new supermarket for this centre. Communication with property owners has revealed that there are firm plans to rebuild the supermarket on the original site. However, additional damage has recently been found in the central shopping area and as a result a large area of the centre core is no longer in operation. Further information is needed as to landowner aspirations. In the interim, this centre is being supported through the case management workstream.
30. In discussions with community boards, the whole **Ferry Road corridor** was raised as a possible masterplan area. The commercial activity along this corridor occurs in various nodes and extends several kilometres. The spread of activities across this distance means that it does not function as a single multi-functional centre, compared with more distinct nodes such as Woolston. While it is acknowledged that there are a number of planning and transportation issues along this corridor it is not recommended for a masterplan under this programme. Proportionately, the extent of damage is only moderate, the underlying economic issues are not earthquake-related and there are insufficient resources available for work on this scale. Such a study may be desirable in the future but it is not recommended as a priority within the next two years.

**OTHER SUPPORTING INITIATIVES****Urban design**

31. Officers regard good quality urban design as critical to the future sustainability of many suburban centres. This was reinforced in discussions with community boards.

11 Cont'd

32. Prior to the earthquakes, the Council commenced work on a change to the District Plan (PC56) which aimed to introduce new provisions for urban design for the Central City and Business 2 (District Centre core) zones. Unfortunately, the scope of this work did not extend to the smaller Business 1 (Local Centre / District Centre Fringe) zones where much of the earthquake damage has occurred.
33. Officers are currently investigating the potential to expand the scope of PC56 to include the B1 zones and to accelerate the plan change. However, to be relevant to the rebuild it would need to have effect earlier than would be achievable through the usual plan change processes of the Resource Management Act. Possible options include: the incorporation of urban design rules into the District Plan through the Minister's powers or a Recovery Plan through CERA: an Order in Council; or an Environment Court declaration to give the rules effect from initial notification. Staff have commenced dialogue with CERA regarding these options.

**Pro-bono work**

34. As part of the case management workstream, officers are contacting various professional firms to ascertain whether there is any interest in providing pro-bono work in support of centre recovery. In addition, the Gap Filler / Greening the Rubble initiatives may be sought for key sites.

**FINANCIAL IMPLICATIONS**

35. The proposed work programme has arisen as a result of the 22 February 2011 earthquake and represents a change to the 2009-19 LTCCP. The budget will therefore need to be confirmed through the Annual Plan process and will displace other components of Strategy and Planning's work programme.
36. Where consultants are used to facilitate the masterplan processes, the estimated external cost of each masterplan is approximately \$100,000. Staff led masterplans will also require external specialists, estimated at approximately \$50,000 per centre. Case management each year will also likely cost in the realm of \$100,000 for external experts. The draft Annual Plan allows for consultants to facilitate five masterplans, staff to facilitate three and case management for the rest, giving a total external cost of \$750,000.
37. The extent of the overall programme is limited by staff availability, particularly during the initial 6 – 12 months. The staff resources will come from the re-deployment of existing budgeted staff positions; no additional staff resources are being sought.

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

38. No, a change is required via the Annual Plan. Funding has been allowed for within proposed Strategy and Planning budgets.

**LEGAL CONSIDERATIONS**

39. There are no immediate legal considerations. Officers have met with officials from CERA and will continue to do so to ensure that the work is consistent with, and will inform, the development of the Recovery Strategy and Recovery Plans.

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

40. Yes, as above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

41. The programme was not anticipated by the LTCCP or Activity Management Plans but is a response to natural disaster and reflects the Council's land use planning functions.

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

42. No: a new level of service is proposed in the draft Annual Plan being prepared for Council approval.

11 Cont'd

**ALIGNMENT WITH STRATEGIES**

43. The outputs from the project will be consistent with the Urban Development Strategy objectives and its implementation tool of Proposed Change 1 to the Regional Policy Statement. Work in each centre will acknowledge the current hierarchy of centres, and be consistent with the vision of enabling the central city to be the pre-eminent business, social and cultural heart of the City.

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

44. Yes.

**CONSULTATION FULFILMENT**

45. Community boards have been consulted and their feedback has informed the preparation of this report.

**STAFF RECOMMENDATION**

It is recommended that Council:

- (a) Note the masterplan work already underway in Lyttelton and Sydenham.
- (b) Approve the commencement of masterplans for Stanmore / Worcester and Selwyn Street shops.
- (c) Approve staff support for the community led initiative in Sumner.
- (d) Approve New Brighton for a masterplan, subject to the timing of related Government decisions and availability of internal resources.
- (e) Support further investigations regarding Aranui, Beckenham, Edgware, Linwood and Woolston.
- (f) Confirm that all other centres requiring support in earthquake recovery will fall within the case management workstream, including the centres noted in (e) above until further investigations are completed.

## 12. CHRISTCHURCH CITY DISTRICT PLAN: CHANGE 5 AWATEA AND CHANGE 46 WIGRAM AIR NOISE PROVISIONS – FINAL APPROVAL

<b>General Manager responsible:</b>	Acting General Manager Strategy and Planning
<b>Officer responsible:</b>	Programme Manager District Planning
<b>Author:</b>	David Punselie, Assistant Planner

### PURPOSE OF REPORT

1. This report seeks Council approval to make operative the changes to the City Plan introduced by decisions on Plan Change 5 Awatea and Plan Change 46 Wigram Air Noise Provisions.

### EXECUTIVE SUMMARY

2. Plan Change 5 was initiated by the Council to facilitate future urban development of any area of land in the south west of Christchurch known as the Awatea Block. It rezones an area of 148 hectares, predominantly zoned Special Purpose (Awatea), to a mix of Living G, Business 7 and Conservation 3 zones. The land has been identified in the City Plan and Proposed Change 1 to the Canterbury Regional Policy Statement as part of a preferred urban growth area for Christchurch, and has been the subject of detailed planning studies as part of the South West Area Plan.
3. The Plan Change was considered by Commissioner Leigh McGregor at a hearing over two days in November 2010. Her recommendation that the plan change be approved with modification was adopted by the Council at its meeting on 31 March 2011.
4. Plan Change 46 was initiated by the Council following the decommissioning of Wigram Airfield. The change amends and deletes provisions in the District Plan, including air noise contours and airfield approach slopes, that provide for and protect aircraft flying activity at Wigram. It retains appropriate approach slopes and noise contours to allow helicopter flights from New Zealand Defence Force land while providing for an appropriate level of amenity for residents in the wider area.
5. Following a hearing in October 2010 Commissioner Jonathan Clease recommended to the Council that the plan change should be approved with some modification. His report was considered on 31 March 2011 when the Council made a decision to adopt his recommendation.
6. The period for appealing the decisions on both Plan Change 5 and Plan Change 46 has expired and no appeals were received.

### FINANCIAL IMPLICATIONS

7. There are no direct financial implications.

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

8. The recommendation will not impose on the LTCCP budgets.

### LEGAL CONSIDERATIONS

9. The recommendation in this report is for the Council to take the procedural step to make operative the changes introduced by the Council's decision on Plan Changes 5 and 46. The Resource Management Act 1991 requires that, following the closing of the appeal period and the resolution of any appeals, the Council must formally approve the changes to the plan under clause 17 of Schedule 1 before the plan change becomes operative on a date that is nominated in a public notice of the Council's approval. As no appeal against the Council's decisions were received these two plan changes have now reached the stage where they can be made operative.

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

10. As above.

12 Cont'd

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

11. Aligns with District Plan Activity Management Plan.

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

12. Yes. Supports the project of processing all privately requested plan changes in compliance with statutory processes and time frames.

**ALIGNMENT WITH STRATEGIES**

13. N/A.

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

14. N/A.

**CONSULTATION FULFILMENT**

15. Approval of changes to the District Plan under clause 17 of Schedule 1 to the Resource Management Act 1991 is a procedural step that does not require consultation.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Approve, pursuant to clause 17(2) of the Resource Management Act 1991, the changes to the District Plan introduced by the Council's decision on Plan Change 5 Awatea and Plan Change 46 Wigram Air Noise Contours.
- (b) Authorise the General Manager, Strategy and Planning to determine the date on which the changes introduced by Plan Change 5 and 46 become operative.



### 13. PROPOSED VARIATION 8 FINANCIAL CONTRIBUTIONS TO BANKS PENINSULA DISTRICT COUNCIL PROPOSED DISTRICT PLAN

<b>General Manager responsible:</b>	General Manager Strategy and Planning
<b>Officer responsible:</b>	Programme Manager District Planning
<b>Author:</b>	Janice Carter (Consultant Planner) CPG New Zealand Limited

#### PURPOSE OF REPORT

1. This report discusses Banks Peninsula District Council (BPDC) initiated Variation 8 Financial Contributions and seeks that the variation and the associated section 32 assessment be accepted by the Council for public notification.

#### EXECUTIVE SUMMARY

2. The purpose of the plan change is to amend provisions in the Proposed Banks Peninsula District Plan (PBPDP) for requiring financial contributions from resource consent applicants as conditions of resource consents. It remedies a current potential for confusion, inconsistency and inefficiency arising from overlap between the provisions in the PBPDP for financial contributions under the Resource Management Act 1991 (RMA) and development contributions and the Council's Development Contributions Policy pursuant to the Local Government Act 2002 (LGA).
3. The Christchurch City Council has adopted in 2007, after extensive public consultation, a Development Contributions Policy as part of its Long Term Council Community Plan (LTCCP). That policy sets the circumstances and amounts of contributions to be levied on developers under the LGA. Development contributions can only be used by the Council for the activity for which they are collected, being those capital expenditure works that are specified in the LTCCP. In contrast, financial contributions may be levied in the form of cash or land or a combination of both, under the RMA. The purpose of financial contributions is to off-set or mitigate adverse effects from a new development on the natural and physical environment, including impacts on infrastructural services. They are levied by way of conditions on resource consents under Section 108 of the RMA. The imposition of financial contributions in a resource consent must be authorised by a district plan or proposed district plan, which must specify the purpose of the contribution and how the level of contribution will be determined.
4. It is the Council's intention that the majority of its contributions will be levied as development contributions through the LTCCP. There is a need however, for financial contributions to be provided for through the District Plan to address matters that fall outside the scope of the LGA, and consequently the LTCCP, provisions.
5. At present, the PBPDP contains policy and rules pertaining to both development contributions and financial contributions. The proposed Variation removes the overlap between the Development Contributions Policy and the Proposed Plan so as to improve efficiency, clarity and certainty. The proposed Variation enables financial contributions to still be required under the RMA in four areas that are not possible under the LGA, which are for:
  - (a) road name plates;
  - (b) financial contributions in lieu of car parking;
  - (c) esplanade reserves or strips in circumstances other than subdivision
  - (d) network infrastructure to service new development if provision of that infrastructure has not been planned under the LGA process.
6. Additionally, existing provisions pertaining to possible contribution reductions where cultural or natural heritage is protected as part of a development have been retained as there does not appear to be sufficient justification for removing them at this stage. The outcomes of the heritage reviews may determine otherwise, in which case these provisions could then be reviewed further.

#### FINANCIAL IMPLICATIONS

7. Variation 8 forms part of the agreed and current financial year district plan work programme in which internal officers and external consultant cost have been budgeted.

13 Cont'd

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

8. Yes. Covered by existing unit budget.

**LEGAL CONSIDERATIONS**

9. There is a legal process for preparing Council initiated variations to be incorporated in a Proposed Plan.
10. The process, mentioned above, is familiar to the Council and should create no particular risks or liabilities if followed correctly. It is noted that pursuant to amendments made to the RMA in 2009 (Simplifying and Streamlining Amendment Act), rules in a variation do not take effect immediately upon public notification unless an application is made to the Environment Court requesting this. This Proposed Variation will therefore only have statutory relevance once decisions on submissions and further submissions have been released by the Council.

**ALIGNMENT WITH STRATEGIES**

11. Aligns with LTCCP 2009-2019, p192: Prioritised programme of plan changes is prepared and approved by the Council on an annual basis; and
12. Aligns with a prioritised work programme, matched to staff capacity and availability, to be presented for Council approval annually by 30 June of the following financial year.

**CONSULTATION FULFILMENT**

13. The intention to continue taking financial contributions through the Proposed Banks Peninsula District Plan is identified in the LTCCP 2009-2019. Considerable consultation has been undertaken on the preparation of Development Contributions Policy of the LTCCP under the Local Government Act.
14. Proposed Variation 8 also reflects in part points raised in the submissions and further submissions lodged on the existing financial contributions provisions of the Proposed District Plan.
15. No additional consultation has been undertaken with parties external to the Council. A meeting with Lyttelton, Port of Christchurch is scheduled to discuss the proposed variation.

**STAFF RECOMMENDATION**

It is recommended that the Council resolves to:

- (a) Adopt the related section 32 assessment for the purposes of public notification pursuant to the First Schedule of the Resource Management Act 1991.
- (b) Adopt Variation 8 Financial Contributions to the Banks Peninsula District Council Proposed District Plan for the purposes of public notification pursuant to the First Schedule of the Resource Management Act 1991.

13 Cont'd

**BACKGROUND**

Existing Provisions

16. The Proposed Banks Peninsula District Plan was publicly notified in 1997. The Proposed Plan included provisions for financial and development contributions. Submissions and further submissions were lodged on the financial contributions provisions. Some of these submissions identified significant concerns with the approach taken.
17. In addition to concerns on the approach taken identified in submissions, and prior to a hearing being held to hear them, changes were made to the Local Government Act which had a significant effect on how council's could deal with financial contributions/development contributions. Following a public consultation process under the reformed Local Government Act 2002, the City Council determined that the primary mechanism for the taking of development contributions would be via the Long Term Council Community Plan (LTCCP) and specifically Development Contributions Policy within the LTCCP. The taking of financial contributions via resource consent conditions was to be restricted to those matters that are not anticipated and provided for in the LTCCP Development Contributions Policy. This meant that the financial contributions provisions as notified in the Proposed Banks Peninsula District Plan were outdated and would require amending by way of a Plan Variation. Consequently, the submissions and further submissions on the Chapter 32 Development Contributions of the Proposed Plan have not been heard.
18. The submissions and further submissions on the existing provisions are deemed to still be "live" and will automatically be carried through to become submissions on the Proposed Variation. Following notification of the Variation, any submitter may lodge an additional submission and any other person will also be able to submit on the Proposed Variation through the public notification process.

Description of the Proposed Variation

19. It is the Council's intention that the majority of its contributions will be levied as development contributions through the LTCCP. There is a need however for financial contributions to be provided for through the District Plan to address matters that fall outside the scope of the Local Government Act, and consequently the LTCCP, provisions.
20. The Proposed Variation seeks to remove confusion and overlap that currently exists between the Council's Development Contributions Policy under the LTCCP and the financial contributions policy under the Proposed Plan. The Variation removes all references to development contributions in the Proposed Plan, except where the Variation contains an explanation of the relationship of the Plan with Development Contributions Policy.
21. The Proposed Variation enables financial contributions to still be required under the Resource Management Act 1991 in four areas that are not possible under the Local Government Act 2002, which are:
  - (a) For road name plates;
  - (b) For financial contributions in lieu of car parking;
  - (c) For esplanade reserves or strips in circumstances other than subdivision;
  - (d) For network infrastructure to service new development if provision of that infrastructure has not been planned under the LGA process.
22. Additionally, existing provisions pertaining to possible contributions reductions where cultural or natural heritage is protected as part of a development have been retained as there does not appear to be sufficient justification for removing them at this stage. The outcomes of the heritage reviews may determine otherwise, in which case these provisions could then be reviewed further.

13 Cont'd

Potential Issues

23. The policy approach for taking financial contributions that is put forward in the Proposed Variation is based in part on a review of approaches adopted in other recently developed financial contribution district plan provisions around the country. That review revealed that there is no common or typical approach to the taking of financial contributions. For every district plan looked at there was a slightly different approach and each approach had its own advantages and disadvantages.
24. The chosen approach is one that is relatively flexible and does not stipulate calculation formulas in the District Plan rules. The reason for recommending this approach is that it is envisaged that financial contributions for services and infrastructure that are not covered by the LTCCP will be calculated using the same formulas as are outlined in the LTCCP. Whilst it would be possible to copy the LTCCP formulas into the Proposed Plan, if the LTCCP formulas were subsequently amended under the Local Government Act, a plan variation or change would then be required to the Proposed Plan to bring it back into step with the LTCCP.
25. In order to avoid this scenario, the recommended approach for Proposed Variation 8 does not specify formulas for calculating contributions. Some submitters may be uncomfortable with this approach, perceiving that there will be a lack of certainty and transparency for developers. Whilst some other Councils have successfully adopted the flexible, no-formula approach to financial contributions in district plans, it is difficult to predict how the Christchurch and Banks Peninsula residents and developers will perceive the proposal.
26. With regards to the taking of esplanade reserves or strips in circumstances other than subdivision, there are no rules currently in the Proposed Plan that enable Council to do this. However, there is an existing statement in the Chapter 31 Subdivision of the Proposed Plan that indicates such rules are contained in Chapter 32 Development Contributions of the Proposed Plan. The inclusion of new rules in Chapter 32 for the taking of esplanade reserves or strips in circumstances other than subdivision is considered to be a correction of an existing error in the Plan. Other parties may however perceive the rules as an unwelcome extension of Council's existing powers.

**THE OPTIONS**

27. Three main options are considered in the Section 32 assessment, as well as sub-options within these. The primary options are:
  - (a) Do nothing;
  - (b) Non-regulatory methods; or
  - (c) Regulatory options.

**Do Nothing**

28. "Do nothing" would mean retaining the current out of date Plan provisions that overlap with LTCCP provisions. The existing provisions create confusion and uncertainty and to a large extent are generally of little practical assistance to the sustainable management of Banks Peninsula.

**Non-Regulatory Methods**

29. The Resource Management Act (Section 108) stipulates that financial contributions may only be required as a condition of resource consent if it is for a purpose specified in the District Plan and the level of contribution is determined in the manner described in the District Plan. There are limited opportunities for non-regulatory methods by which financial contributions may be taken that will be universally successful. These include Council initiatives to require or take into consideration environmental compensation and other methods intended to persuade developers to make "voluntary" contributions. It is considered that if the Council opts for a more "negotiated" response the existing Proposed Plan will still have to be revised from its current out of date state.

13 Cont'd

30. One non-regulatory option that is open to the Council is to remove all reference to financial contributions from the District Plan and only enable contributions to be taken as development contributions under the LTCCP. While this option is likely to find favour with some, it would potentially impose a financial burden on the City Council for the servicing of development that has not been anticipated under the LTCCP.

**Regulatory Options**

31. Regulatory options could include:
- (a) *Clarify existing terminology and references to remove confusion and overlap between development contribution policy and financial contributions*
32. As the existing Proposed Plan provisions were written before the Council's Development Contributions Policy was developed under the LTCCP, there is a great deal of overlap and confusing use of terminology. The overlaps create uncertainty and many of the existing Plan provisions are essentially unusable in their current format. This can only be rectified through a plan variation.
- (b) *Retain existing financial contribution provisions for road name plates and contributions in lieu of car parking, but otherwise not enable financial contributions to be taken for unanticipated development;*
33. As with the non-regulatory option discussed in Paragraph 31, this would minimise financial impacts on developers and remove any possibility of uncertainty as to the level of financial contributions to be taken. However there would be a financial cost to the Council and consequently ratepayers as the Council would be required to fully fund the provision of infrastructure and services to unanticipated development.
- (c) *Retain existing financial contribution provisions for road name plates and car parking and introduce new provisions to enable financial contributions to be taken for unanticipated development;*
34. This option would enable the Council to avoid or recoup the costs for the servicing of unanticipated development where the equivalent costs of development anticipated under the LTCCP would be normally be taken.
- (d) *Creating numerical formulas for the calculation of financial contributions*
35. Outlining numerical formulas for the calculation of financial contributions would provide certainty and a degree of transparency for developers as to how the Council will determine the level of contribution to be taken. This is likely to be viewed positively by submitters. The disadvantage of this approach is that the formula may only be altered by way of a plan variation or change and may become inconsistent with LTCCP contributions formulas. Specified formulas can also lack the flexibility to fairly account for positive effects, shared benefits or proffered environmental benefits.
- (e) *Specifying criteria and maximum amounts to guide the calculation of financial contributions*
36. This option maximises the Council's ability to account for positive effects, shared benefits or proffered environmental benefits and would eliminate the need to undertake plan changes or variations to keep calculation formulas in step with Development Contributions Policy. Submitters may view this approach as lacking in certainty and transparency.
- (f) *Removing the existing reference to provisions for the taking of esplanade reserves or strips in circumstances that do not involve subdivision;*

13 Cont'd

37. The existing reference to District Plan provisions that do not actually exist is confusing. Removing the reference would remove the confusion, but would leave the Council unable to require an esplanade reserve or strip to be taken where a development does not involve subdivision. Situations where the Council may wish to take a reserve or strip might include a large building development adjacent to a lake or river that is likely to result in public access being restricted or the ecological values of the waterbody being adversely affected. The Council currently has no ability to take esplanade reserves or strips for development not involving subdivision and this option would to a large extent maintain the status quo.
- (g) *Creating new rules to enable the taking of esplanade reserves or strips in circumstances that do not involve subdivision.*
38. This option would resolve the existing inconsistency in the Plan that exists between Chapters 31 and 32. It would provide the Council with a method of addressing potential adverse effects on public access or ecological values of waterbodies and the coast. The taking of esplanade reserves or strips would not be compulsory. Landowners may perceive the provisions as being potentially onerous as they would potentially give the Council an ability to take reserves or strips for all land use development that might affect public access or ecological values of waterbodies.

**THE PREFERRED OPTION**

39. The preferred option is a combination of options (a), (c), (e) and (g), including:
- Clarification of financial contributions terminology used;
  - Amend all references to reserve contributions and development contributions to differentiate between contributions under the Development Contributions Policy and contributions under the Proposed District Plan;
  - Amend Chapter 32 Development Contributions to provide for Financial Contributions;
  - Amend Chapter 32 to clarify the circumstances in which esplanade reserves or strips may be required as a condition of resource consent for activities that do not involve subdivision;
  - Delete existing development and reserve contributions rules applying to works or services within Approved Development Programmes;
  - Amend the rule for development that creates new or additional demand for infrastructure or reserves to clarify the circumstances in which contributions will be taken;
  - Provide new criteria for calculating financial contributions and clarify the timing of payment of contributions; and
  - Retain existing provisions for the taking of financial contributions for road name plates and contributions in lieu of car parking.

**Attachment 1** contains the amendments to the BPDP being proposed through variation 8.

**CONSULTATION**

40. The intention to continue taking financial contributions through the Proposed Banks Peninsula District Plan is identified in the LTCCP 2009-2019. Considerable consultation has been undertaken on the preparation of Development Contributions Policy of the LTCCP under the Local Government Act.
41. Proposed Variation 8 also reflects, in part, points raised in the submissions and further submissions lodged on the existing financial contributions provisions of the Proposed District Plan.
42. No additional consultation has been undertaken with parties external to the Council. However, a meeting with Lyttelton, Port of Christchurch is scheduled to discuss the Proposed Variation.

23. 6. 2011

**13 Cont'd**

43. As part of the process of public notification, a copy of the Proposed Variation will be sent to the Minister for the Environment, Ngai Tahu, Ministers of the Crown, Environment Canterbury and adjoining local authorities who may be affected by the Proposed Variation and any other parties the council considers appropriate in the circumstances. This, together with the general public notice that will enable all interested persons to lodge a submission and further submissions, will fulfil the Councils consultation obligations stipulated in the First Schedule of the Resource Management Act.

14. **CITY PLAN CHANGE 54 – REZONING OF LAND BETWEEN SIR JAMES WATTIE DRIVE, SHANDS ROAD AND MARSHS ROAD FROM RURAL 2 TO BUSINESS 5**

<b>Programme Manager responsible:</b>	Acting General Manager Strategy and Planning.
<b>Officer responsible:</b>	District Planning Team Leader
<b>Author:</b>	Craig Barr, Planner, Environmental Policy and Approvals

**PURPOSE OF REPORT**

1. This report describes a request to the Council for a private Plan Change (PC54) to rezone 39.05 hectares of land at 201 and 305 Marshs Road, Hornby, from Rural 2 to Business 5 (Refer to **Attachment 1**). A decision is sought from the Council, pursuant to clause 25 of Schedule 1 of the Resource Management Act 1991 (RMA), on whether the proposed plan change should be publicly notified, and if so, with what status.

**EXECUTIVE SUMMARY**

2. PC 54 is a request to rezone 39.05 hectares of land from Rural 2 to Business 5 (General Industrial). The subject site is bounded by Sir James Wattie Drive to the north, Shands Road to the west, the Hornby railway siding to the east, and Marshs Road to the south. It is immediately opposite Business 5 zoned land on Sir James Wattie Drive, including the site of private Plan Change 47 (PC 47). That private plan change, which rezoned 2.93ha of Rural 2 land to Business 5, was approved by the Council on 26 May 2011. The subject site is shown in **Attachment 1** and on the maps in **Attachment 3**.
3. PC 54 proposes to enable use of the site for general industrial land uses, although the storage and use of hazardous substances will be restricted in recognition of the site's location over a relatively shallow groundwater recharge zone. The change also incorporates a small café/retail amenity area, landscape buffer areas that include a stormwater infiltration system, and cycle and walkways. An internal loop road services the site which provides access to Sir James Wattie Drive and Marshs Road.
4. The applicant has consulted with Council officers and responded to requests for further information and to some suggested amendments in the preparation of this plan change. In particular, the traffic and landscape layout has been designed with input from officers', bearing in mind:
  - (a) the needs of the application site;
  - (b) opportunities to integrate with anticipated commercial growth on land to the west and north; and
  - (c) the maintenance of amenity of rural and rural/residential land to the south in the Selwyn District.
5. The Proposed Change is within the Urban Limits in Proposed Change 1 to the Canterbury Regional Policy Statement (PC1), but is contrary to PC1, Policy 6, which identifies the site as being in the post-2021 sequencing period. As that provision is subject to appeal, it is not considered this inconsistency is a sufficient reason to withhold notification of this plan change. The South West Area Plan (SWAP) excluded this land from industrial use, but the decisions on PC1 postdate the latest draft of the SWAP. The site in relation to PC 1 is shown in **Attachment 2**. The site in relation to the SWAP is shown in **Attachment 6**.
6. The landscape design of the proposal pays attention to the transition from a rural to urban landscape along the Shands and Marshs Road frontage, and desire to create an urban to rural buffer promoted in the officer reports on PC1 and in the SWAP. In addition, the proposal recognises the opportunity to provide a connection from the existing rail trail which is located along Shands Road.



## 14 Cont'd

7. There are two infrastructural matters which are in the process of being resolved. One concerns the alignment of Stage 2 of the Christchurch Southern Motorway (CSM2), the other being capacity of the wastewater system. Various alignments for CSM2 have been suggested, some of which involve the motorway passing through the subject site. To date, however, no preferred alignment has been determined by the New Zealand Transport Agency (NZTA). While the SWAP indicates a preferred alignment, there has been no Notice of Requirement lodged by NZTA, nor a designation for the work included in the City Plan. It is the opinion of officers therefore that the notation in SWAP is not a sufficient reason to prevent the request being notified. **Attachment 7** shows the land development and major infrastructure improvements as envisioned by the SWAP.
8. Capacity in the wastewater network to meet the anticipated demand generated by PC 54 is dependent on the completion of the 'western interceptor', programmed for completion by 2014 at the earliest. The applicant acknowledges the current wastewater issue by proposing a rule providing that development of business activity on the site, prior to the ability of the site to be serviced by reticulated wastewater infrastructure will be a non-complying activity.
9. The applicant has made the request to change the City Plan in accordance with the relevant provisions of the RMA. It has responded to requests for further information and collaborated with Council officers to modify the proposals at their suggestions.
10. The process options available to the Committee are set out in Schedule 1, clause 25, sub-clauses (2), (3) and (4) and clause 24 of the RMA, and are summarised below. The Committee may recommend to the Council that the requested private PC 54 be either:
  - (a) Rejected in whole or in part on one of the limited grounds set out in the Act; or
  - (b) Dealt with as if it were an application for a resource consent (in which case the provisions of Part 6 of the Act would apply accordingly); or
  - (c) Modified with the agreement of the person who made the request; or
  - (d) Adopted in whole or in part, as if it were a plan change made by the Council itself (this means accepting the responsibility and costs of processing it); or
  - (e) Accepted, in whole or in part, and that the Council proceed to notify the request, or part of the request, under clause 26, at the cost of the applicant.
11. It is considered that options (a) to c) are not available or are inappropriate in this case and that the choice is between (d) and (e). Option (e) is recommended. The full implications of the options under clauses 24 and 25 of the First schedule of the Act are discussed below.

**FINANCIAL IMPLICATIONS**

12. Should the Council resolve to notify the plan change there are legal processes which must be followed in accordance with the First Schedule of the RMA. This is a standard process that all plan changes must follow and if the processes are correctly followed, no particular financial risks are foreseen.
13. There would be costs arising at various stages of the plan change process relating to the preparation of officer reports and a hearing in response to submissions. The scale of costs would depend on the level of complexity of the submissions received. As this is a private plan change, these costs are largely recoverable from the applicant. Costs associated with responding to any Environment Court appeals received are not recoverable, except in instances where the court may award costs.
14. Should the Council resolve to adopt the plan change as its own, it will need to absorb all the processing costs.

14 Cont'd

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

15. Yes. The 2010/11 budget for the District Planning work programme, adopted by the Council and provided for in the LTCCP, includes funding for processing this plan change. As this is a private plan change request, these costs are largely recoverable.

**LEGAL CONSIDERATIONS**

16. There is a legal process set out in the RMA which must be followed. It includes public notification of the plan change followed by submissions, reporting, hearings, decisions and possible appeals. Provided the process is followed correctly there are no particular legal risks associated with this plan change. Should the Council decide not to publicly notify the application for any reason, the decision could be appealed in the Environment Court.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

17. The matter accords with the LTCCP and relevant Activity Management Plans.

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

18. The proposal is part of the district planning levels of service in the LTCCP.

**ALIGNMENT WITH STRATEGIES**

19. The application is not in accordance with the South West Christchurch Area Plan but this document has been superseded by PC1.

**CONSULTATION FULFILMENT**

20. The applicant has informed Council officers that consultation has been undertaken with the NZTA, Te Runanga O Ngai Tahu, Environment Canterbury and the Selwyn District Council.
21. Officers are not aware whether or not the applicant has directly contacted the owners of properties in the vicinity of the site.
22. No consultation has occurred with the Riccarton/Wigram Community Board. However the proposal accords substantially with Proposed Change 1 to the RPS and the Urban Development Strategy, all of which will be familiar to the Community Board.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Accepts the attached Section 32 assessment for public notification;
- (b) Accepts proposed private Plan Change 54, Rezoning Rural 2 land to Business 5, pursuant to Schedule 1, Clause 25(2)(b) of the Resource Management Act 1991 for public notification;
- (c) Notes that in accordance with Council policy, the costs of processing the private plan change are to be borne by the applicant up until the release of decisions.

## 14 Cont'd

## BACKGROUND &amp; DISCUSSION

## Features of the Proposal

23. Proposed Plan Change 54 (PC 54) is a privately requested change to the City Plan to rezone 39.05 hectares of land from Rural 2 to Business 5. The land is bounded by Marshs and Shands Roads, Sir James Wattie Drive and the Hornby industrial rail siding. It is immediately across Sir James Wattie Drive from existing Business 5 land. The land has been identified for business use in the Commissioners decisions on Proposed Change No 1 to the Canterbury Regional Policy Statement (PC1), identified within the Urban Limits as area CB9, on map G5 of Proposed Change 1. The site is identified in the South West Area Plan (SWAP) as an area which was to remain rural, and where the long term goal under the SWAP is for a 'indigenous tree corridor' along the urban limits. The proposed provisions of the Change recognise this outcome sought from the SWAP and have sought to address it by way of the landscape buffer area.
24. While PC 54 is within the Urban Limits in PC1, it is contrary to the Council's current appeal position on Policy 6, Table 3 which seeks that the site be in the post-2021 sequencing period. That appeal point has been challenged by the applicant and the Council's position on sequencing is not considered to be a sufficient reason to withhold notification of this plan change. The SWAP excluded this land from industrial use, but the decisions on PC1 postdate the latest draft of the SWAP. The SWAP indicated that the land remain rural to retain a buffer area. The SWAP also indicates that the Christchurch Southern Motorway, Stage 2 (CSM2), may pass through the site. **Attachment 7** shows the SWAP, Plan 12; Land Development and Major Infrastructure Improvements.
25. No changes are proposed to the Objectives and Policies of the City Plan.
26. The rules package mostly follows the rules for the Business 5 zone, apart from where critical standards have been proposed to address the height of buildings located between the internal road, and Shands Road and Marshs Road frontages, wastewater provision and the upgrade of the Shands Road – Sir James Wattie Drive intersection. Additional development standards have been proposed to give effect to the landscaping and outline development plan, and to manage the use and storage of hazardous substances. **Attachment 4** shows the proposed changes to the City Plan.
27. The proposed development site is at the outer edge of the Metropolitan Urban Limit in PC1, and the outer boundaries of the site will be buffered with open space areas and tree plantings, stormwater ponds, and cycle and pedestrian linkages. PC 54 seeks to acknowledge the transition between the rural urban interface from the Prebbleton area heading north into Christchurch City, reflected in the landscape areas and building height and colour restrictions. The site overlies the groundwater recharge area and the stormwater disposal system has been designed to reflect this situation. In addition, the storage and use of hazardous will be subject to the 'Group 3 Hazardous Substances criteria' as described in the City Plan. Whereas typical Business 5 zoned sites are classified in the 'Group 4 criteria' grouping for hazardous substances. **Attachment 5** contains the proponents assessment of effects on the environment.
28. The urban design aspects of the proposal appears attentive to the location of the site on the urban periphery. Careful attention has been given to designing a business park that can be sympathetic to the wider rural environment to the south within the Selwyn district. A landscape buffer area is proposed along the Marshs and Shands Road boundaries, as are restrictions on building heights and colour palettes to buildings on the outer perimeter of the site.
29. The stormwater system will be largely constructed as a set of swales. Stormwater from the roads will be collected in sumps and piped to swales prior to entering infiltration basins. Stormwater from individual lots will be collected in sumps and passed through a sediment trap on each lot before being piped into swales prior to infiltration basins.
30. PC 54 includes provisions that will seek to preclude any development until the City wastewater system is in place, or where any site can demonstrate minimal impact. These are the same rules applied to Plan Change 62 (Wigram) and a resource consent authorised to establish business activities at 206 Shands Road which authorised a 40 ha site for business use.

14 Cont'd

31. The roading system consists of an internal loop road, via an access onto Marshs and Shands Roads. There will be no direct access onto Shands or Marshes Roads from any lots within the site. The Change proposes that the internal road be a local road.
32. The applicant has consulted with Council officers and advisers in the preparation of this plan change. In particular, the wastewater, landscape buffer area and traffic components have been formulated largely to officers' satisfaction, bearing in mind the needs not just of the Application site but also of adjacent land uses with frontage Shands Road. The intention is to produce a package of roading, water and sewer reticulation, stormwater management and open space that is integrated economically and efficiently with the wider Hornby industrial and Selwyn District rural area.
33. The applicant has stated that consultation has been undertaken with tangata whenua, Selwyn District Council, Environment Canterbury and the NZTA. If not already canvassed, amendments to the proposal arising out of this process can be made through submissions, either by the iwi or the applicant.

**Resource Management Act Requirements**

34. The application has been lodged pursuant to Section 73 (2) of the Act. . The applicant has responded appropriately to requests for further information and collaborated with Council officers to modify the proposals at their suggestions. At this stage of the process, the Council must decide which of the options under Clauses 24 and 25 of the First Schedule to the Resource Management Act 1991 to employ.
35. The implications of the options under clauses 24 and 25 of the First Schedule of the Act are discussed below.

**Option 1 – Resolve to reject PC 54**

There are very limited grounds in the Act for rejecting an application. A Plan change can be rejected if:<sup>1</sup>

- (a) It is frivolous or vexatious;
  - (b) The substance of the change has been dealt with by the Council or the Environment Court in the last two years;
  - (c) The change is not in accordance with sound resource management practice;
  - (d) The change would make the District Plan inconsistent with Part 5 of the Act (other policy statements or plans, such as Regional Policy Statement or Plan, iwi management plans);  
or
  - (e) The District Plan has not been operative for more than two years.
36. PC 54 cannot be said to be frivolous or vexatious. The substance of the plan change has not been considered in the last two years and the relevant parts of the City Plan have been operative since November 2005. The applicants have invested significant time and financial resources in preparing the plan change and have made a case for the plan change that warrants consideration. It is generally in accordance with PC1. No significant or fundamental issues have been raised that would suggest that the proposed change is so inappropriate that it could be considered not in accordance with sound resource management practice.

**Option 2 - Resolve to deal with PC 54 as if it were an application for resource consent**

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<sup>1</sup> Clause 25(4) of the First Schedule to the RMA.

14 Cont'd

37. Under this option the plan change would be converted to a resource consent application and be processed by the Council as such. The applicant bears all of the associated costs. A resource consent could provide for the establishment of the proposed land uses and the subdivision of the land. It would be inappropriate to deal with a proposal of this magnitude as a resource consent which would be a non-complying activity. Notwithstanding the proposal's alignment with PC1, there would be difficulties meeting the objectives and policies of the City Plan while the site remained zoned Rural 2, too much detailed design would be required at this early stage and the result may be inflexible. This would not be an efficient option in terms of Section 32 of the RMA.
38. In this case a change of zoning to more closely reflect the future use of the site would assist the Council in meeting its obligations to achieve integrated management of effects of activities under s31 of the Act, and to have regard to the provisions of PC1. It also gives certainty to adjacent land owners. It is considered that it remains appropriate for the Council to continue processing the plan change request, rather than place reliance on the resource consent process.

**Option 3 - Resolve to modify PC 54 with the agreement of the person who made the request**

39. The Council may, within 30 working days of the receipt of the plan change request, as a result of further or additional information, commissioned reports, or other relevant matters, with the agreement of the person who made the request, modify the request. The applicant has made a number of changes to the proposal already, being a revised application in December 2010, and on 18 May 2011 an amendment to the rule relating to the upgrade of the Shands Road – Sir James Wattie Drive intersection as a result of discussions with Council officers and advisers, so this process has already taken place to an extent, although informally and not within the prescribed timeframe. However no further changes are recommended at this stage.

**Option 4 - Resolve to adopt PC 54 and publicly notify it as if it were the Council's own plan change**

40. Under this option PC 54 would become a Council plan change. It would be notified, heard and decided in the same way as a plan change prepared by the Council, that is, the Council bears all of the associated costs. Adopting the plan change would mean that:
  - (a) The Council would be indicating that the plan change has merit and that it generally supports the proposal; and
  - (b) The Council would bear the costs of managing and processing the plan change.
41. Adoption of a private plan change application would generally only occur where there is a wider public good flowing from the plan change. A plan change promoting wider public good would normally be one that addressed an existing city wide or multiple zone-wide adverse environmental effects, for example, a change to a bulk and location control that had lead to unexpected adverse outcomes. There may also be an argument that adopting this plan change would help to give effect to PC1, under which the land is identified for just this purpose. However there may be some aspects the Council would not choose to support. The applicant has not requested the Council to adopt the Change.

**Option 5 - Resolve to accept PC 54 and the Section 32 Assessment for public notification**

42. Under this option PC 54 would be notified in its current form as prepared by McCracken and Associates Ltd for Calder Stewart Industries Ltd. Accepting the plan change means:
  - (a) Calder Stewart Industries determines the nature of the plan change that is notified;
  - (b) The Council remains neutral as to its position on the proposal but is satisfied that the Change includes sufficient information to be publicly notified; and
  - (c) Calder Stewart Industries bear the cost of the complete plan change process up until the point of any appeals.
43. Any concerns the Council may have regarding the plan change, such as the format of the amendments to the City Plan, could be raised through the officer's Section 42A Report.

23. 6. 2011

**14 Cont'd**

44. The recommendation, based on the analysis of the options, is to accept PC 54 for notification (Option 5).

23. 6. 2011

15. NOTICES OF MOTION

16. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

THURSDAY 23 JUNE 2011

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 17, 18 and 19.

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
17. CONFIRMATION OF MINUTES - COUNCIL MEETING OF 26.5.2011, 1.6.2011 AND 9.6.2011		
18. PRIVATE PLAN CHANGE 30 PRESTONS ROAD LIMITED – RECONSIDERATION BY COMMISSIONERS OF RECOMMENDATION	) GOOD REASON TO ) WITHHOLD EXISTS ) UNDER SECTION 7	SECTION 48(1)(a)
19. PLAN CHANGE 53 DESIGN AND AMENITY CONTROLS IN LIVING 3 AND 4 ZONES – RECOMMENDATION OF COUNCIL HEARINGS PANEL		

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		
17.	Making a decision on which a right of appeal exists	(Section 48(1)(d) & (Section 48 (2)(a)(i))
17.	Protection of privacy of natural persons	(Section 7(2)(a)
17.	Prejudice commercial position	(Section 7(2)(b)(ii))
17.	Maintain Legal Professional Privilege	(Section 7(2)(g))
17.	Conduct of negotiations	(Section 7(2)(i))
17.	Commercial Activities	(Section 7(2)(h))
18.	Right of Appeal Exists	(Section 48(2)(a))
19.	Right of Appeal Exists	(Section 48(2)(a))

**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.”