

# **CHRISTCHURCH CITY COUNCIL AGENDA**

**THURSDAY 13 OCTOBER 2011**

**9.30AM**

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

## CHRISTCHURCH CITY COUNCIL

**Thursday 13 October 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 and Sue Wells.

ITEM NO	DESCRIPTION
1.	APOLOGIES
2.	DEPUTATIONS BY APPOINTMENT
3.	PRESENTATION OF PETITIONS
4.	REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD: MEETING OF 19 AUGUST 2011
5.	REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 23 AUGUST 2011
6.	REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD: MEETING OF 13 SEPTEMBER 2011
7.	REPORT OF A MEETING OF THE AKAROA/WAIREWA SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 22 AUGUST 2011
8.	REPORT OF A MEETING OF THE AKAROA/WAIREWA COMMUNITY BOARD: MEETING OF 29 AUGUST 2011
9.	REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD: MEETING OF 23 AUGUST 2011
10.	REPORT OF A MEETING OF THE BURWOOD/PEGASUS SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 25 AUGUST 2011
11.	REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD: MEETING OF 29 AUGUST 2011
12.	REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD: MEETING OF 12 SEPTEMBER 2011
13.	REPORT BY THE CHAIRPERSON OF THE BURWOOD/PEGASUS COMMUNITY BOARD: MEETING OF 3 OCTOBER 2011
14.	REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD: MEETING OF 22 AUGUST 2011
15.	REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD: MEETING OF 5 SEPTEMBER 2011
16.	REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 5 SEPTEMBER 2011
17.	REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD: MEETING OF 13 SEPTEMBER 2011
18.	REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD: MEETING OF 17 AUGUST 2011
19.	REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD: MEETING OF 18 AUGUST 2011

13. 10. 2011

ITEM NO	DESCRIPTION
20.	REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 29 AUGUST 2011
21.	REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD: MEETING OF 31 AUGUST 2011
22.	REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD: MEETING OF 14 SEPTEMBER 2011
23.	REPORT OF A MEETING OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD: MEETING OF 30 AUGUST 2011
24.	REPORT OF A MEETING OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD: MEETING OF 13 SEPTEMBER 2011
25.	REPORT OF A MEETING OF THE RICCARTON/WIGRAM COMMUNITY BOARD: MEETING OF 23 AUGUST 2011
26.	REPORT OF A MEETING OF THE RICCARTON/WIGRAM SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 23 AUGUST 2011
27.	REPORT OF A MEETING OF THE RICCARTON/WIGRAM COMMUNITY BOARD: MEETING OF 30 AUGUST 2011
28.	REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD: MEETING OF 17 AUGUST 2011
29.	REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD: MEETING OF 18 AUGUST 2011
30.	REPORT OF A MEETING OF THE SHIRLEY/PAPANUI SMALL GRANTS ASSESSMENT COMMITTEE: MEETING OF 29 AUGUST 2011
31.	REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD: MEETING OF 31 AUGUST 2011
32.	REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD: MEETING OF 14 SEPTEMBER 2011
33.	REGISTRATION OF PAINTERS, BUILDERS, DECORATORS IN CHRISTCHURCH
34.	FACILITIES REBUILD PLAN
35.	NOTICE OF MOTION
36.	RESOLUTION TO EXCLUDE THE PUBLIC

13. 10. 2011

1. APOLOGIES
2. DEPUTATIONS BY APPOINTMENT
3. PRESENTATION OF PETITIONS

13. 10. 2011

**4. REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD:  
MEETING OF 19 AUGUST 2011**

Attached.

13. 10. 2011

**5. REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE SMALL GRANTS ASSESSMENT COMMITTEE: 23 AUGUST 2011**

Attached.

13. 10. 2011

**6. REPORT OF A MEETING OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD:  
MEETING OF 13 SEPTEMBER 2011**

Attached.

13. 10. 2011

**7. REPORT OF A MEETING OF THE AKAROA/WAIREWA SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 22 AUGUST 2011**

Attached.



13. 10. 2011

**8. REPORT OF A MEETING OF THE AKAROA/WAIREWA COMMUNITY BOARD:  
MEETING OF 29 AUGUST 2011**

Attached.

13. 10. 2011

**9. REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD:  
MEETING OF 23 AUGUST 2011**

Attached.

13. 10. 2011

**10. REPORT OF A MEETING OF THE BURWOOD/PEGASUS SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 25 AUGUST 2011**

Attached.

13. 10. 2011

**11. REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD:  
MEETING OF 29 AUGUST 2011**

Attached.

13. 10. 2011

**12. REPORT OF A MEETING OF THE BURWOOD/PEGASUS COMMUNITY BOARD:  
MEETING OF 12 SEPTEMBER 2011**

Attached.

13. 10. 2011

**13. REPORT BY THE CHAIRPERSON OF THE BURWOOD/PEGASUS COMMUNITY BOARD:  
MEETING OF 3 OCTOBER 2011**

Attached.

13. 10. 2011

**14. REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD:  
MEETING OF 22 AUGUST 2011**

Attached.

13. 10. 2011

**15. REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD:  
MEETING OF 5 SEPTEMBER 2011**

Attached.



13. 10. 2011

**16. REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 5 SEPTEMBER 2011**

Attached.

13. 10. 2011

**17. REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD:  
MEETING OF 13 SEPTEMBER 2011**

Attached.

13. 10. 2011

**18. REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD:  
MEETING OF 17 AUGUST 2011**

Attached.

13. 10. 2011

**19. REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD:  
MEETING OF 18 AUGUST 2011**

Attached.

13. 10. 2011

**20. REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 29 AUGUST 2011**

Attached.

13. 10. 2011

**21. REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD:  
MEETING OF 31 AUGUST 2011**

Attached.

13. 10. 2011

**22. REPORT OF A MEETING OF THE HAGLEY/FERRYMEAD COMMUNITY BOARD:  
MEETING OF 14 SEPTEMBER 2011**

Attached.

13. 10. 2011

**23. REPORT OF A MEETING OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD:  
MEETING OF 30 AUGUST 2011**

Attached.



13. 10. 2011

**24. REPORT OF A MEETING OF THE LYTTTELTON/MT HERBERT COMMUNITY BOARD:  
MEETING OF 13 SEPTEMBER 2011**

Attached.

13. 10. 2011

**25. REPORT OF A MEETING OF THE RICCARTON/WIGRAM COMMUNITY BOARD:  
MEETING OF 23 AUGUST 2011**

Attached.

13. 10. 2011

**26. REPORT OF A MEETING OF THE RICCARTON/WIGRAM SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 23 AUGUST 2011**

Attached.

13. 10. 2011

**27. REPORT OF A MEETING OF THE RICCARTON/WIGRAM COMMUNITY BOARD:  
MEETING OF 30 AUGUST 2011**

Attached.

13. 10. 2011

**28. REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD:  
MEETING OF 17 AUGUST 2011**

Attached.

13. 10. 2011

**29. REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD:  
MEETING OF 18 AUGUST 2011**

Attached.

13. 10. 2011

**30. REPORT OF A MEETING OF THE SHIRLEY/PAPANUI SMALL GRANTS ASSESSMENT  
COMMITTEE:  
MEETING OF 29 AUGUST 2011**

Attached.

13. 10. 2011

**31. REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD:  
MEETING OF 31 AUGUST 2011**

Attached.



13. 10. 2011

**32. REPORT OF A MEETING OF THE SHIRLEY/PAPANUI COMMUNITY BOARD:  
MEETING OF 14 SEPTEMBER 2011**

Attached.

### 33. REGISTRATION OF PAINTERS, BUILDERS, DECORATORS IN CHRISTCHURCH

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	Legal Services Manager
<b>Author:</b>	Vivienne Wilson, Solicitor

#### PURPOSE OF REPORT

1. To report to the Council, as requested, on the following motion moved by Councillor Keown and seconded by Councillor Corbett and adopted by the Council at its meeting on 28 July 2011:

*That the Council ask staff to prepare a report on having all painters, decorators and builders working in the territory of Christchurch be registered with the Christchurch City Council before being able to do any work.*

#### EXECUTIVE SUMMARY

##### *Short answer*

2. The only way in which the Council could require all painters, decorators and builders working in the territory of Christchurch to be registered with the Christchurch City Council before being able to do any work would be to make a bylaw. There is a very small chance that the Council could defend such a bylaw against a legal challenge.
3. In addition to the legal considerations, there would be considerable staff time and costs associated with devising and implementing a registration system, and enforcing such a system. Furthermore, such a registration system could subject the Council to subsequent civil liability claims about the quality and performance of work completed by registered persons.

##### *Background information*

##### *Reasons for registration*

4. Following the Canterbury earthquakes, there have been numerous reports about the need for builders and other tradespersons who will be required to assist with repairs and rebuilding in Christchurch. Given the need for a greater number of tradespersons in Christchurch City, is it necessary to register all painters, decorators and builders working in Christchurch City before they are able to undertake work? The reasons for potential registration are:
  - (a) There is a potential concern that employers and customers are not readily able to find a list of painters, decorators and builders in Christchurch City. Therefore a list will enable employers, customers and clients to find suitable tradespersons for their work.
  - (b) There is a potential concern that tradespersons are not carrying out work to a suitable standard. In other words, there is a possibility that incompetent service by tradespersons could result in significant harm to the consumer or a third party. Compulsory registration of tradespersons will help ensure that the work is carried out or supervised by competent people.

##### *Current position – earthquake repairs etc*

5. Repair and rebuild work in Christchurch falls into a number of categories. If a residential property owner has current home and/or contents insurance, then the property owner also has the Earthquake Commission's cover. If a commercial property owner has insurance then repairs to a property will generally be managed by the property owner's insurer.

33 Cont'd

6. Once a residential property has been assessed by the Earthquake Commission ("EQC"), the following generally applies:
  - Under \$10,000+GST of repairs – EQC will pay the property owner the settlement amount and the property owner will manage the repairs. However, the property owner may refer the claim to Fletcher EQR to manage the repairs if the property owner prefers:
  - \$10,000+GST - \$100,000+GST of repairs – EQC will refer the claim to Fletcher EQR, which will act on behalf of EQC and manage the repair process. Property owners are able to opt out of using Fletcher EQR to manage the repairs:
  - Over \$100,000+GST of repairs – EQC will refer the claim to the property owner's insurer. The \$100,000 will be paid either to the property owner or the lender if the property has a mortgage or other financial security on it.
7. Fletcher EQR (i.e. the Fletcher Construction Company) has been appointed by EQC to run EQC's Canterbury Earthquake Project Management Office. To summarise, Fletcher EQR is managing the repair to residential properties with damage between \$10,000+GST and \$100,000+GST (or those with damage under \$10,000+GST that have opted in to the Fletcher EQR process). Helpful information about the Fletcher EQR Programme is set out in **Attachment 1** in "Your Guide to the Repair Process with Fletcher EQR".
8. Fletcher EQR project manages the repair work but does not carry out the work itself. The physical work is being carried out by accredited contractors, who are in turn responsible for sub-contracting other contractors as needed. Builders who are members of the Registered Master Builders Federation or the Certified Builders Association of New Zealand<sup>1</sup> automatically qualify for accreditation although they are still required to complete the necessary applications. Fletchers EQR have also been accrediting Licensed Building Practitioners.
9. Fletchers EQR have confirmed to staff that approximately 850 tradespersons have been accredited. Of this number, approximately 550-600 builders have been accredited. The remaining number of persons who have been accredited are painters, plasterers, house repilers, persons qualified in asbestos removal and other specialist trades. Fletchers EQR have also stated that no person, whether an accredited contractor or a subcontractor, may work on a site unless they have completed an induction programme. The induction programme is largely focussed on health and safety issues but it also addresses quality issues.

*Occupational regulation*

10. The Licensed Building Practitioners ("LBPs") scheme is run by the Department of Building and Housing (DBH). Licensing began on 1 November 2007, and the scheme is competency based. The LBP scheme aims to improve building quality and increase consumer protection by:-
  - Setting national standards of competence for people carrying out certain design and building work:
  - Helping consumers choose competent building practitioners:
  - Ensuring design and building practitioners are accountable for their work.
11. The DBH website advises that

*"Competent builders and tradespeople with a good track record can have their skills and knowledge formally recognised, whether they are trade-qualified or not. ...All LBPs are listed on a public online register, along with details of their licence classes. LBPs are accountable for their work via a complaints procedure. Anyone can complain to the Building Practitioners Board about licensed practitioners if their work is substandard."*

---

<sup>1</sup> The Registered Master Builders Federation and the Certified Builders Association of New Zealand are independent private organisations. Membership is voluntary but in order to become a member of the Registered Master Builders Federation or the Certified Builders Association of New Zealand, a person must be trade qualified and meet a number of criteria as specified by each body.

33 Cont'd

12. Licensing is currently available in 9 classes as follows:

*General licensing classes*

- Design
- Site

*Trade licensing classes*

- Carpentry
- Bricklaying and Blocklaying
- External Plastering
- Foundations
- Roofing

*Specialist licensing classes*

- Concrete structure
- Steel structure

13. It should be noted that licensing of building practitioners is not compulsory but from March 2012, work defined as restricted building work will only be able to be carried out or supervised by LBPs. This is set out in the Building Act 2004 as well as an upcoming Order in Council which will be made under the Building Act. Restricted building work covers work on home and small-medium sized apartment buildings. It also applies to active fire safety systems in small-medium apartment buildings. A list of Frequently Asked Questions about the LBP scheme is contained in **Attachment 2**.
14. The Building Act 2004 establishes the Building Practitioners Board and the Board's functions include receiving, investigating, and hearing complaints about, and inquiring into the conduct of, and disciplining, LPBs.
15. There is currently no requirement under the Building Act 2004 or any other Act that painters and decorators be registered in New Zealand. However, Master Painters New Zealand is a body consisting of 14 associations in New Zealand. Membership is voluntary but Master Painters advises that they only accept new members after a thorough assessment of their skills as a painter and integrity as a contractor. There is provision for work to be guaranteed provided certain requirements are met.

*Canterbury Employment and Skills Board*

16. The Canterbury Employment and Skills Board (CESB) has also been established. The CESB in conjunction with the Canterbury Economic Recovery Agency and the Canterbury Development Corporation will develop a 10 year strategic labour market and skills plan. Staff note that part of the CESB role is to update, analyse and inform local government and the business community on the regional workforce. Further information will be available in due course. See [www.cesb.org.nz](http://www.cesb.org.nz). However, it is not envisaged that the CESB will undertake a registration system of such tradespersons as painters, decorators or builders.

*Summary of current arrangements*

17. The DBH administers an occupational licensing system for builders in New Zealand through the LBP regime. Registration is not compulsory but from March 2012 only certain work will be able to be carried out by LBPs. The LBP regime contains a disciplinary process. There are also two industry bodies in place which are the Registered Master Builders Federation and the Certified Builders Association of New Zealand. There is currently no such regime in place for painters and decorators, although there is an industry body called the Master Painters New Zealand.
18. In terms of EQC work, repair to residential properties with damage between \$10,000+GST and \$100,000+GST (or those with damage under \$10,000+GST that have opted in to the Fletcher EQR process) is being managed by Fletcher EQR. Fletcher EQR require all main contractors to be accredited through their own accreditation process.

33 Cont'd

**FINANCIAL IMPLICATIONS**

19. At this stage it is unclear the extent of the financial implications for the Council if it were to introduce a registration system for painters, decorators and builders in Christchurch City. However, there would be considerable staff time and costs associated with devising and implementing a registration system, and enforcing such a system. Furthermore, there is a real concern that the Council could be involved in subsequent civil claims about the quality and performance of work by registered tradespersons. In other words, by creating such a registration system, the Council could potentially be a defendant in any litigation brought by consumers in relation to the work completed by the tradespersons.
20. There is also a concern that the creation of a registration system may lead to delays in work being undertaken in Christchurch while such a registration system is put into place.

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

21. There is no financial provision in the 2009-19 LTCCP budgets for the creation and enforcement of a registration system for painters, decorators and builders.

**LEGAL CONSIDERATIONS**

22. The only way in which the Council could require all painters, decorators and builders working in Christchurch City to be registered with the Council before being able to do any work would be to make a bylaw setting out the registration system.
23. The Local Government Act 2002 sets out a procedure for making bylaws under that Act. An important part of the bylaw-making procedure is the section 155 analysis which the Council must complete. Section 155 requires the Council to determine that any proposed bylaw:
  - (a) is the most appropriate way of addressing the perceived problem:
  - (b) is in an appropriate form:
  - (c) is not inconsistent with the New Zealand Bill of Rights Act 1990.
24. In this case, whilst some potential concerns have been identified about builders, painters, and decorators undertaking work in Christchurch City, the Legal Services Unit advice is that these concerns do not meet the required standard of being a "problem" or even a "perceived problem". If the Council is unable to identify a perceived problem then a bylaw is not appropriate.
25. 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.
26. Section 145 of the Local Government Act 2002 provides that a territorial authority may make bylaws for its district for 1 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.
27. In addition, section 151(3) of the Local Government Act 2002 provides that a bylaw may provide for the following:
  - (a) the licensing of persons or property:
  - (b) the payment of reasonable licence fees:
  - (c) recovery of costs incurred by the local authority in relation to an activity licensed under a bylaw.

33 Cont'd

28. In terms of section 145(a), the Local Government Act 2002 does not define the term "nuisance". "Nuisance" as used in law is not capable of exact definition, but there are a number of common factors that may be used to define a "nuisance". These are-
- in general it will be a "thing", e.g. an obnoxious odour, water escaping from one property onto another etc (rather than a person or persons);
  - it arises from a long continuing condition;
  - it is caused by an unlawful act; and
  - it causes damage or interferes with a person's use or enjoyment of land, or some right over, or in connection with it.
29. Here, concerns about builders, painters, and decorators do not, in the view of the Legal Services Unit, amount to a "nuisance" in terms of section 145(a).
30. With respect to section 145(b), there may be public health and safety concerns about the work of builders and so, in conjunction with section 151(3), a bylaw requiring the registration of builders might, literally, be authorised by the Local Government Act 2002.
31. However, this interpretation needs to be approached with some caution. This is because of a New Zealand Court of Appeal case *Hanna v Auckland City Corporation* [1945] NZLR 622. In that case, a Bylaw provided that no person was able to erect any new building or structure except under the supervision of and in accordance with plans prepared by a registered architect and /or a registered civil or structural engineer who was in the opinion of the City Engineer properly qualified to prepare the plans and supervise the execution of the building. An architect who was not registered challenged the bylaw and the Court of Appeal held that the bylaw was ultra vires (i.e. outside of its authorising power). Chief Justice Myers, after discussing the particular bylaw making provision, noted as follows:
- "If a Council could so discriminate as between architects, it could presumably discriminate also as between builders by enacting a by-law that no builder other than a member of a builders' association or institute, if there be one, should be permitted to build or repair any building, or any specified class of building, within the borough. Interference of this kind by by-law cannot be permitted unless the power to interfere is clearly conferred. No doubt, as their Lordships say in Toronto City Corporation v Virgo the regulation and governance of a trade may involve the imposition of restrictions on its exercise, but there is a marked distinction to be drawn between the prohibition or prevention of a trade and the regulation or governance of it. In the present case I can find no power conferred on the Council even of regulation or governance of the profession of an architect."*
32. Even if a bylaw requiring the registration of builders is authorised under section 145(b), it is difficult to see how this would extend to the work of painters and decorators. There do not appear to be any immediate public health and safety concerns with painters and decorators undertaking their trades. It is the view of the Legal Services Unit that a bylaw requiring the registration of painters and decorators in Christchurch City would not be authorised by section 145(b).
33. With respect to the requirement that a bylaw must not be repugnant to the general laws of New Zealand, there is a real issue that a bylaw which purports to require all builders to be registered with the Council before they undertake any work in the city, would be so repugnant. What this requirement is designed to prevent is delegated legislation such as bylaws or regulations that contradict statutes or the common law when it is not authorised to do so. Here where the Government has already put in place an occupational licensing system for building practitioners, there is a strong argument that an additional Council registration system requiring the registration of all builders in Christchurch would be an attempt to contradict the LBP regime.

**33 Cont'd**

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

34. Yes. A summary of the legal position is as follows:

- (a) While there are concerns, currently, there is no evidence of a perceived problem in terms of section 155 of the Local Government Act 2002. If the Council is unable to identify a perceived problem then it is not appropriate for the Council to make a bylaw.
- (b) Literally, under section 145(b) of the Local Government Act 2002, there is a power to make a bylaw requiring the registration of builders. However, the Council must take into account case law that applies to bylaws. Following the Hanna case, such a bylaw may well be ultra vires. There is also a strong argument that a bylaw of this kind would be repugnant to the general laws of New Zealand.
- (c) The Local Government Act 2002 does not, in the view of the Legal Services Unit, authorise a bylaw requiring the registration of painters and decorators in Christchurch City.

35. Only a Court may finally determine whether or not a bylaw is authorised. However, taking the matters in paragraph 34 into account, the Legal Services Unit advice is that if the Council proceeded to make a bylaw that required the registration of all painters, decorators and builders working in Christchurch City before they were able to undertake work, there is a significant legal risk that a Court would find the bylaw to be invalid.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

36. Not applicable given the legal advice above.

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

37. See above.

**ALIGNMENT WITH STRATEGIES**

38. There are no applicable strategies.

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

39. See above.

**CONSULTATION FULFILMENT**

40. Staff in the Legal Services Unit and the Enforcement and Inspections Unit have had initial discussions about the possibility of a bylaw that would contain the proposed registration system. Other than obtaining information from Fletcher EQR about their current accreditation system, and background to the role of the CESB, staff have not had discussions with industry organisations or representatives about the proposal.

33 Cont'd

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Receives this report; and
- (b) Determines that staff do not undertake any further analysis on having all painters, decorators and builders working in the territory of Christchurch to be registered with the Christchurch City Council before being able to do any work.

**THE OPTIONS**

41. There are 2 options.

**Option 1**

- 40. That staff undertake further analysis on having all painters, decorators and builders working in the territory of Christchurch to be registered with the Christchurch City Council before being able to do any work.

**Option 2**

- 41. That staff undertake no further analysis on having all painters, decorators and builders working in the territory of Christchurch to be registered with the Christchurch City Council before being able to do any work.

**PREFERRED OPTION**

- 42. Option 2 is the preferred option. There is already a registration system in place for LBPs under the Building Act 2004. While it is acknowledged that there is no national registration system in place for painters and decorators, it should be noted that certain earthquake repair work to residential properties that is being managed by Fletcher EQR may only be undertaken by lead contractors who are accredited with Fletcher EQR. Painters or decorators, if they are the lead contractor, must be accredited.
- 43. The Legal Services Unit advice is that if the Council proceeded to make a bylaw providing for such a registration system, there is a **significant legal risk** that a Court would find the bylaw to be invalid. Furthermore, there would be considerable costs to the Council in setting up, administering and enforcing such a registration system. The Council also faces a potential civil liability with such a registration system. There is also a concern that it may lead to delays in work being undertaken in Christchurch while the registration system is put in place. Consequently, it is recommended that staff undertake no further analysis on having all painters, decorators and builders working in the territory of Christchurch to be registered with the Christchurch City Council before being able to do any work.



### 34. FACILITIES REBUILD PLAN

<b>General Manager responsible:</b>	General Manager Community Services, DDI 941 8607
<b>Officer responsible:</b>	Property Consultancy Manager
<b>Author:</b>	Angus Smith

#### PURPOSE OF REPORT

1. The purpose of this report is to:
  - Inform the Council of the Facilities Rebuild Plan and project to deliver that plan.
  - Present a governance and decision-making proposal with supporting delegations in respect of building assessments, demolitions, some insurance and occupancy issues.

#### EXECUTIVE SUMMARY

2. This report presents the following detail in respect of the Facilities Rebuild Plan:
  - Outlines the project process.
  - Details the scope and scale of the Council's facilities.
  - Proposed programme to deliver the plan.
  - Explains the post earthquake assessment process for Council's facilities.
  - Explains the insurance arrangements on Councils Facilities and the process for loss adjusting and negotiating with insurer.
  - Sets out the demolition process, issues and decisions.
  - Sets out the issues associated with building occupancy and risk-based decision making.
  - Provides a report detailing the Council's facilities.
  - Describes the proposed approach to communication.
3. The report also sets out the decision issues in association with these matters and seeks a set of delegations to support a governance and management proposal.

#### FINANCIAL IMPLICATIONS

4. The building assessment work that is required to inform the Facilities Rebuild Plan is generally funded from insurance monies where the buildings are damaged and result in a successful insurance claim. Where the building is not damaged the costs will be unbudgeted. An overall assessment budget is being developed and will be reported to Council as part of the December report. Any betterment, e.g. upgrading or strengthening, would also be unbudgeted and require a Council resolution to proceed. The Facilities Rebuild Project will be resourced predominantly through internal Council resources.

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

5. No. The purpose of this report is in response to the series of earthquakes that have recently struck Christchurch to inform future LTCCP and Annual Plan processes.

#### LEGAL CONSIDERATIONS

6. Not applicable.

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

7. As above.

#### ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. No. The purpose of this report is in response to the series of earthquakes that have recently struck Christchurch to inform future LTCCP and Annual Plan processes.

**34 Cont'd**

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

9. As above.

**ALIGNMENT WITH STRATEGIES**

10. Yes the purpose of this report is to deliver a new set of strategies in terms of service delivery and supporting facilities plans to assist with the rebuild of Christchurch.

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

11. Yes, refer above.

**CONSULTATION FULFILMENT**

12. Not applicable. Communication and consultation will be a project workstream.

**STAFF RECOMMENDATION**

It is recommended that the Council pass the following resolutions:

- (a) That the information in this report is received.
- (b) That Council approve the assessment application process to be implemented by staff as set out in paras 25-35 and Appendices 3 and 4 of this report.
- (c) Council agree to the occupancy frameworks outlined in paras 49-53 and 73-74 of this report.
- (d) That a final policy for the occupancy of facilities be reported back to the Council for consideration and adoption in December 2011.
- (e) That the General Manager Corporate Services and General Manager Community Services are jointly delegated the authority for the following:
  - (i) Approve the demolition of buildings for safety reasons, i.e. act on Section 38 notices from CERA.
  - (ii) To repair an existing facility/structure within insurance proceeds where the work will cost less than \$1 million and the cost of the work is less than 50 per cent of a building's total insured value.
  - (iii) To undertake urgent stabilisation and weather-proofing work, including heritage buildings.
- (f) That the General Manager Corporate Services is delegated the authority to accept progress and partial insurance payments on behalf of the Council on the condition that they are not full and final nor commit the Council to a settlement.
- (g) That the General Manager Corporate Services is delegated the authority to accept insurance payouts for facilities which we insure but do not own, and distribute the payout to the appropriate party(s).

34 Cont'd

BACKGROUND

**Facilities Rebuild Plan**

**Project Process:**

**Outline**

13. A single project has been initiated to deliver the Facilities Rebuild Plan (Plan). The intention of the Plan is to establish a future decision-making framework to assist Council in its opportunity to consider and resolve what facilities will best meet the needs of our community long term. To achieve this, the high-level outputs of the project are:
  - (a) The creation and/or review of various business strategies for the delivery of services to the community. These strategies will be key to informing future asset decisions particularly around matching assets to business needs.
  - (b) Development of the Plan to Council that supports the various service delivery strategies will be informed by:
    - Building assessments,
    - Demolitions,
    - Rebuild options,
    - Suitability for occupancy,
    - Acquisition and disposals options and opportunities,
    - Utilisation of Council's assets,
    - Funding and insurance issues.
  - (c) That the plan informs future LTCCPs, budgeting and a Capital Works Programme.

**Key High Level Steps**

14. *Reactive to date and ongoing*

Since the earthquakes there has been and continues to be a process of attending to demolitions, dealing with insurance issues and assessing buildings. This has been a crisis response approach, the framework for which is set out below in paras 25-35 "Structural Assessment Process". A summary of the buildings currently under assessment and those demolished is scheduled below in paras 46 to 48 "Demolition".
15. *Proactive with commencement of the Facilities Rebuild Project – established September 2011*
  - Step 1: Establishment of facilities data, review and categorisation.
  - Step 2: Business Units review service delivery strategies and facilities for completeness of data and prioritisation.
  - Step 3: Workshop and report to Council for sign off strategies and the project phasing.
  - Step 4: Reframe assessment work based on phase 1 priorities established through Council.
  - Step 5: Collate all information and options into a plan.
  - Step 6: Deliver a phase 1. Facilities Rebuild Plan.
  - Step 7: Workshop and report future phase plans.
  - Step 8: Integrate Facility Rebuild Plans into Council's planning processes i.e. LTCCP, budgets, capital works programmes.
16. There are issues that will run continuously and concurrently with this project that will require constant resourcing and decisions. These are communication, demolitions, assessment, insurance and occupancy issues. Proposed decision frameworks for these are set out below in the section "Decision Making" and in the recommendations of this report.

## 34 Cont'd

**Approach**

17. For the purpose of this project the Council's facilities portfolio has been categorised into workstreams as follows:

Group	Workstream	Total Buildings In Scope from Salesforce
City Environment	Greenspace	591
	Transport	18
	City Water & W	28
	Heritage	29
Community Services	Libraries	31
	Community Facilities	95
	Sport & Rec	97
Corporate Support	Corporate Accom	18
	VBASE	4
	Miscellaneous	39
Total Commercial		952
Total Residential	Housing (units) (699 Buildings)	2649

18. Currently the project is at step 2 where the Council business units are being asked to review existing strategies to see how they fit with our changed circumstances, identify gaps, additional needs and key principles. There are a number of existing facility strategies that have been developed after public consultation and are informing this process. These include: Libraries 2025 Facilities Plan; Aquatic Facilities Plan; Metropolitan Sports Facilities plan; Social Housing Strategy; Strengthening Communities Strategy. Other key related strategies included: Central City Plan; Suburban Centres Programme; LTCCP and various Area Plans.
19. In parallel work across the portfolio has been underway since the September 2010 earthquake and continues around assessments, insurance, demolition and occupancy issues. The process, status, issues and future actions for attending to each of these matters is outlined below.

**Scope and Scale**

20. The Council owns more than 1600 buildings comprising 952 "commercial" buildings and 699 housing buildings. The facilities are summarised at **Appendix 1** and in detail at **Appendix 2**. These are being assessed for damage following the earthquakes and an update of this schedule will be circulated to Councillors, separate to this agenda but prior to the meeting, with additional information provided about status in terms of assessment, insurance and open / closure.

34 Cont'd

21. Due to the large size of the Council portfolio, complexity of the issues, risk of continued events and resourcing constraints it is expected to take at least two years to complete a full assessment process for each property. Consequently in addition to the strategy review work the Business Units are also being asked to review and prioritise their list of facilities for Council consideration. The purpose of this to establish some prioritisation of the portfolio into a set of categories for staged assessment and planning. It is proposed to set these out as; "deliver now" for which a framework and delegations is proposed in this report; a manageable list of phase 1 properties that a plan can be delivered on in a reasonable time frame; and future phasing for the balance.
22. The intention is to workshop the proposed phasing arising from this process with Councillors near the end of October with a report to follow in December seeking sign off.
23. The potential risks and constraints for this project are availability of staff and market resources to undertake assessments, continuing seismic activity, agreements with insurers and CERA notices.

**Programme**

24. The immediate programme of work as it relates to the key Council touch points is as follows:

20 Sept 2011	1st Workshop – completed.
13 Oct 2011	Report - formally sets out the information covered in the workshop, seeks delegations and recommends Council approval.
End Oct 2011	2nd Workshop – to present a review of both strategies and a list of properties with suggested priorities by the asset owner/ business unit e.g. "deliver now", phase 1 etc and the framework for arriving at them. Along with issues and policy suggestions in respect of "suitability for occupancy". To review this information with the intention of getting buy in/acceptance and feed back on future process.
8 Dec 2011	Report – to sign off phasing i.e. Deliver Now, Phase 1 list and balance; service delivery strategies; "suitability for occupancy" policy and present a status report - project, demos, assessment progress, actions under delegation (first of the quarterly reports) .
Feb 2012	Workshop &/or Report - Facilities Rebuild Plan Phase 1 – Assessments, costings, strategies; insurance and funding issues; delivery options analysis and recommendations.
Ongoing in 2012	Workshops and Council reports and workshops on project phasing: Phase 2 and Phase 3, assessment updates etc.

**Structural Assessment Process**

**Summary:**

25. The various types of structural assessment are diagrammatically set out at **Appendix 3**. It should be noted that these are not necessarily worked through linearly and can vary depending on particular circumstances present at the facility. Our proposed assessment application is represented diagrammatically at **Appendix 4** and outlined below.
26. To date assessment to a L4/L5 has been undertaken on the list of properties at **Appendix 5**. As mentioned above staff are currently undertaking a review to reframe the prioritisation for future assessments. This will be presented to a workshop in October followed by a December report for Council's consideration and input.

## 34 Cont'd

**Prioritisation:**

27. Due to the large number of buildings to be assessed, to date we have adopted a risk-based approach to determine the priority order in which this occurs. This is explained and illustrated diagrammatically as follows.
28. A multi variable matrix approach has been adopted with “consequence” (on the vertical axis) this combines:
- People risk related to human life and safety
  - The criticality or Importance Level (IL) of the activity provided from the facility i.e. IL1 refers to buildings with a low degree of hazard (e.g. farm buildings, fences etc) to IL4 for buildings with post disaster functions (e.g. Civil Defence, medical, emergency services or lifelines facilities). Note that we have no IL5 facilities which include major dams or extreme hazard facilities;
29. “Likelihood” (on the horizontal axis) considers a number of factors which could give rise to a structural failure including:
- Age of a building (indicative of the required design levels current at the time)
  - Construction materials (e.g. unreinforced masonry)
  - Construction form (e.g. symmetrical vs. asymmetrical building layout) including the presence of a Critical Structural Weakness
  - Land damage experienced and/or suspect ground conditions
  - Any recommendations from the Rapid Assessment (Level 2) process.

**People Risk****Activity Importance**

5					
4					
3					
2					
1					
	Very Low	Low	Moderate	High	Very High
<b>Probability of Structural Failure</b>					

30. In effect, those facilities which score high on both axes are prioritised first (the cells shown in red and orange on the matrix) followed by the pink cells and so on i.e. working from the top right to the bottom left of the matrix.

**Assessment Application:**

31. To date the application of the assessments has been evolving as we have worked through the earthquake events, and as thinking has been developed by CERA, engineers approaches, insurers responses etc. The flow chart at **appendix 4** sets out the future process of application, which is currently being utilised.

34 Cont'd

32. Level 2 Rapid Assessments have been carried-out following all major earthquake events as follows:

- 4 September 2010 – all buildings
- 22 February 2011 – all buildings
- 13 June 2011 – 284 buildings\*.

*\* Following these events the trigger for determining which buildings to assess to a higher level was based on an analysis by an experienced engineer of ground acceleration data as the damage and impact of the shaking was more localised in close proximity to the epicentre.*

33. These Level 2 assessments were carried-out by experienced assessors following the earthquake events. That is, for most structures we used chartered engineers and for simple Greenspace buildings e.g. toilets, shelters, we used experienced park rangers to make the assessment.
34. Beyond level 2 assessments, as highlighted in **Appendix 3**, a L3 Assessment may be undertaken depending on the circumstances, however these are now being employed less often. We are now more typically undertaking L4 / L5 Assessments - "Detailed Engineering Evaluation" (DEE) as it is recognised these provide a much improved measure of a buildings capacity, per cent New Building Standard (NBS) and therefore indicate whether strengthening may be required in addition to damage repair.
35. To appropriately resource this significant stream of work we are currently working through a contestable tender process to establish a panel of engineering consultants to support this, with the target of having that in place by 1 December 2011.

**Insurance**

36. Prior to 30/06/11 all Council facilities were insured under the material damage policy other than the Composting plant which had been omitted in error. Facilities were insured for replacement value other than a few buildings such as those around the new bus exchange site which were insured for demolition or indemnity value. The Council's above ground insurance programme totalled \$1.9 billion.
37. There is no material damage cover in place from 1 July onwards other than that detailed below but all damage incurred prior to 30 June is covered by the insurance policy in place at the time of the events.
38. Under the existing policies, 2,239 Residential Housing Units are insured at replacement value for \$413,869,294 for fire and earthquake under the EQC cover which is capped at \$100,000 per housing unit. Certain housing units that have been badly damaged are not covered. CBS Arena is also insured for replacement value at \$59,560,495 for defined perils only (fire excluding natural disaster). No other of the Council's buildings are insured.
39. In order to maximise efficiency of the claims process, the loss adjusting process and approvals required will be tailored according to the size of repair/reinstatement costs. Outlined below is a summary of the proposed approach:

*Category 1: Less than or equal to \$5,000:*

40. Such claims will be settled globally based upon the estimated cost of repair. No pre approval will be required from Insurers before incurring actual costs of repair. Council will however, preserve its right to claim actual costs in excess of estimate where like for like repair costs exceed the estimate.

34 Cont'd

*Category 2: Greater than \$5,000 but less than, or equal to \$100,000:*

41. Within this loss category it is anticipated that any damage will be considered to be economically repairable. A scope of works would need to be developed and presented to the Loss Adjuster for approval in anticipation of undertaking the proposed repairs. The works would then be undertaken against the scope and the associated costs would be claimed as and when incurred.

*Category 3: Greater than \$100,000*

42. Losses in this category are likely to involve both repairable damage and non-repairable damage. Repairable damage would follow a similar process to that highlighted for Category 2 above. However, non-repairable damage would involve the following process below:
- Scope of damage is agreed with the Loss Adjuster and a case is presented to confirm the uneconomic nature of repairs;
  - Agreement is reached with the Loss adjuster as to need to replace the damage (i.e. not repairable);
  - Council preserves the reinstatement value by confirming its intent to reinstate/replace the damage in one form or another;
  - An interim claim is made immediately for the equivalent indemnity value;
  - Where the decision is made to reinstate the building (like for like) then the scope of work is developed and presented to the loss adjuster for approval prior to the commencement of works, and actual costs are claimed in excess of the Interim Indemnity payment received;
  - Where the decision is made not to replace like for like then a valuation is obtained on a like for like basis to determine the insurance entitlement under the policy;
  - The loss adjuster is presented with the proposal to reinstate the damage in some other form (i.e. not like for like) demonstrating that the proposed costs will be equivalent to or in excess of the like for like valuation. Actual costs to be claimed in excess of the interim Indemnity payment received.
43. Currently there is ongoing uncertainty over the time it will take to gain the agreement of Council's insurers to claim settlement and this poses a risk to the overall rebuild programme. In terms of any overall timeframes which are committed, we will seek to secure the insurers buy-in to those overall timeframes.
44. Consideration of this process is reflected in the decision making proposals of this report.
45. It should be appreciated that following a significant aftershock event, it may be necessary to 'reset the assessment clock' – for all or part of the portfolio, which brings a significant resource challenge in itself. If this event occurred now, our non-housing portfolio is uninsured so any additional or new damage, as well as the cost of the re-assessment of our facilities, would be at Council's expense. For our housing portfolio, we come under the EQC process.

**Demolitions**

46. The Council has already made some "owner initiated" demolition decisions for its facilities:
- Sumner Community Centre/Museum – 9 June 2011
  - Godley House – 9 June 2011
  - Two grandstands at Rugby League Park to support a temporary rugby/rugby league facility – 8 September 2011
  - Several buildings at temporary bus interchange site – 17 August 2011
  - Buildings to allow Temporary Bus Interchange to progress
    - Ex. Brush and Palette building, 50 Lichfield Street
    - Ex. Hertz building, 46-48 Lichfield Street
    - Ex. Mico Wakefield building, 133-141A Tuam Street
    - Ex. YMCA Office building, 48 Lichfield Street.



34 Cont'd

47. Civil Defence and CERA have also ordered the demolition of a number of other Council-owned buildings:
- Ex. Para Rubber building, 94A Manchester Street (ordered by CD)
  - Ex. R and R Sport building, 54 Lichfield Street (ordered by CERA)
  - Redcliffs Volunteer Library, 91-93 Main Road (ordered by CERA)
  - Redcliffs Pumping Station, Main Road (partial, ordered by CERA)
  - St Albans Community Centre, 1049 Colombo Street (ordered by CERA)
  - St Martins Volunteer Library, 122 Wilsons Road (partial, ordered by CERA)
  - Sydenham Methodist Church, 343 Colombo Street (ordered by CD, not owned by but insured by Council)
  - Woolston Volunteer Library, 689 Ferry Road (ordered by CERA).
  - Christchurch Convention Centre, 95-115 Kilmore Street (ordered by CERA)
  - Lyttelton Museum, 1 Gladstone Quay (ordered by CERA)
  - Ex. Penny Cycles building, 113-125 Manchester Street (113-119 ordered by CERA)
  - Plunket Society Rooms, 211 Oxford Terrace (ordered by CERA).
48. Properties under assessment that could result in demolition (more work required):
- Aranui Community Centre, 305 Breezes Road
  - Farmers Carpark, 194A Oxford Terrace (Council are a part owner as a member of the Body Corporate)
  - Christchurch Music Centre, Barbadoes Street (not owned by but insured by Council)
  - Ex. Electrolux building, 36 Welles Street (at least partial)
  - Lyttelton Service Centre, 35 London Street (expecting order from CERA)
  - Mt Pleasant Community Centre, McCormacks Bay Road (not owned by but insured by Council)
  - QE2 Stadium/Pool, 193 Travis Road
  - Shirley Community Centre, 10 Slater Street
  - South Brighton Community Centre, 74 Beatty Street
  - Sumner Library, 16-18 Wakefield Avenue.

**Building Occupancy**

49. The following process is in place to clearly identify and communicate the status of Council facilities when aftershocks occur:
- The decision to evacuate and close Council facilities is triggered by a M5.0 or greater earthquake
  - A Level 2 assessment is then carried-out for all buildings unless the analysis of ground acceleration data by an experienced engineer highlights that it is not required for specific buildings in specific locations. This analysis is made through the use of a risk-based approach as detailed above
  - If the earthquake is of less than M5.0 but triggers an evacuation (e.g. the M4.9 aftershock on 26 December 2010) the building is checked for visible damage (or any change in damage status) by a designated person responsible for each facility before reopening. In addition, a Level 2 assessment is carried-out for specific buildings (e.g. EOC, Welfare Centres, buildings open to the public)
  - Rapid communication to staff, users and the wider community follows as to the open/closed status of all buildings using text message and information posted on the Council website.
50. The framework and hierarchy of opening Council's facilities post earthquake is focused on facilities which are open at the time an event occurs. Specifically the priority ranking is currently:
- Emergency Operations Centre – Rexel/Kathmandu building will fulfil this function for the foreseeable future
  - Welfare Centres (eg Pioneer Stadium)
  - Call Centre – currently operating from the Bishopdale Community Centre
  - Staff occupied facilities (includes libraries, parks facilities - at Botanic Gardens, Burwood, Victoria Park, temporary offices in specific community centres e.g. Avic Hill, Bishopdale Community Centre, Metro Refuse Centres, Wastewater Treatment facility)
  - Early Learning Centres

**13. 10. 2011**

- Remaining Recreation and Sport, Community Support and Reserves facilities, and commercial premises.

**34 Cont'd**

51. It should be noted that following a satisfactory outcome from the Level 2 assessment by an engineer, that before a building can re-open, service checks and health and safety checks are also completed.
52. All social housing facilities will be visited by Housing Officers who will complete a rapid welfare check and any identified damage concerns are immediately escalated to our Asset Team for a follow-up assessment by an engineer. If our early reconnaissance highlights actual damage to specific facilities or locations or if our analysis of peak ground acceleration data indicates likely damage in specific locations, we will give a high priority to getting an engineer to complete a Level 2 rapid assessment for those facilities. EQC then undertake their own damage assessments.
53. As set out above in response to the current environment a sound practical approach, that errs on the side of caution in respect of safety, has been adopted to occupying facilities in the context of the earthquake and providing a suitably safe environment for staff and the public. It is now however timely to have that supported by a formal Council policy. There are a number of dependencies in respect of developing such a policy e.g. Council's Earthquake Prone Buildings Policy, insurance issues, Building Act requirements, the Department of Building and Housings Building Code, Health and Safety in Employment Act, Canterbury Earthquake Recovery Act. Some of these matters are under review and development it is however expected that some common clarity and guidance will emerge within the next couple of months thereby enabling the presentation of the issues in detail and a proposed policy to Council in the proposed December report.

**Status Reporting and Communication/Consultation**

54. Once projects are established by staff delegations, reporting on progress to the Council will be via a quarterly Facilities Rebuild Project report.
55. A communications update on the programme will also be included in the Chief Executive's monthly Council Update.
56. A number of Council facilities strategies in place have already undergone public consultation. These are currently being reviewed by Council staff and, as part of this review, staff have been engaging with key stakeholder groups around the future of Council facilities. Community consultation undertaken during the development of the draft Central City Plan is also informing this process.
57. An engagement framework for the Facilities Rebuild Project is being developed, which will provide guidelines around the level of community consultation/engagement required and when and how this should take place. It will include engagement with Community Boards. Further details about this will be included in the December report.
58. A dedicated space on the Council website will contain an easy-to-access database of regularly updated information about the status of each facility in the Facilities Rebuild Project. This will include final engineering reports as they are completed and the decision made about a facility.
59. Media updates and briefings, updates in Council publications and on Council social media sites will be other key communication tools.

**Governance and Decision Making**

**Assessment Process**

60. The current application of the assessment process has resulted in 656 facilities being open on a prudent, risk managed basis (69per cent of the portfolio). An approach that has a zero tolerance to risk would see practically all these facilities closed until L4/L5 assessments were completed with a satisfactory outcome. This could be expected to take more than two years.

**34 Cont'd**

61. Although the assessment of buildings has been an evolving body of work in the market place, the practices adopted by council staff to date have been founded on a good pragmatic approach that considered the following attributes: conservatism, risk, health and safety, life protection and Council's role as a good corporate citizen to public and staff. Council staff have used their internal networks and those with other public organisations and insurers to ensure the practices adopted in this space are prudent and as a minimum equal to, if not leading and exceeding the general market approach.
62. It is therefore recommended that Council support the current assessment practices as set out in this report, paras 25-35 and Appendices 3 and 4 of this report and its recommendations.

**Insurance**

63. There are currently opportunities to get some up-front payments through insurance and technically there is no delegation to staff to accept these. It is therefore proposed as set out in the recommendations of this report that the General Manager Corporate Services be authorised to accept progress or partial insurance payments, so long as the Council is not committed to a full and final settlement.
64. Council has historically insured a small handful of properties which it does not own but has a strong relationship with the owner e.g. Riccarton House, Music Centre, Sydenham Methodist Church, Mt Pleasant Community Centre. We therefore also seek delegation for the General Manager Corporate Services to accept insurance payouts for these facilities which we insure but do not own and then distribute the payout to the appropriate party(s).
65. The category 1 claims as outlined in para 40 above, i.e. those less than or equal to \$5,000, are to be settled globally based upon the estimated cost of repair. No pre-approval will be required from Insurers before incurring actual costs of repair. Council will however, preserve its right to claim actual costs in excess of estimate where like for like repair costs exceed the estimate. Due to the minor nature of these claims a delegation for the Corporate Services General Manager to settle these is sought and contained in the recommendations of this report.
66. All other insurance related claims and settlements falling outside the scope of the above three categories will be referred to Council for consideration and resolution.

**Demolitions and Repairs**

67. The demolition of a few Council facilities has occurred through decisions made either by Civil Defence and CERA or by Council through a formal report and resolution.
68. Repairs have been initiated and completed on the Papanui Library and Rexel/Kathmandu buildings on the basis that the repairs were minor, covered by insurance and essential to maintaining business.
69. The Council has a very large portfolio that has a wide range in terms of building types and nature of damage. The decision making around the portfolio accordingly ranges from simple and pragmatic to more complex and strategic. As set out above this has necessitated the phasing of the project and rebuild plans.
70. In considering the phasing process it has been identified that there are a number of properties in the simple and pragmatic end of the scale that could and logically should be progressed immediately in terms of repair or demolition. The framework for dealing with these properties is set out as follows and reflected in the recommended delegations for resolution.
71. Council approval is required for:
  - Work and demolitions of heritage buildings not covered by staff delegations. A list of the earthquake- affected heritage buildings is contained in **Appendix 5**
  - Recommended demolitions (not for safety reasons or ordered by CERA)
  - Recommended repairs exceed insured value (includes improving the building)
  - Rebuilds.

**34 Cont'd**

72. Staff to have delegations for:
- Demolition approval for safety reasons (Section 38 CERA notice)
  - To repair an existing facility/structure within insurance proceeds where the work will cost less than \$1 million and the cost of the repairs is less than 50 per cent of the building's insured value
  - Urgent stabilisation/weather proofing, including heritage buildings.

**Occupancy**

73. Decisions will continue to be required in respect of returning facilities to staff and public use. In the absence of a policy, taking into consideration the risk-based decision making framework outlined in the assessment and occupancy processes above, staff and public are able to return to buildings as follows:
- Buildings with a strength of 33 per cent New Building Standard (NBS) or less are not to be used.
  - Buildings with a strength between 34 per cent NBS and 66 per cent NBS inclusive are only to be used where there is a moderate to low risk exposure (based on building strength, occupancy levels and occupancy duration).
  - Buildings with a strength of 67 per cent NBS or greater can be used.
74. The recommendations in this report seek to clarify that a decision to reopen buildings for staff and public use under the occupancy guidelines noted above be made jointly by the General Manager of Corporate Services and the General Manager of Community Services.
75. The future proposal is to replace this framework with a formal Council Policy and it is anticipated that this will be able to be workshopped and reported for adoption before the end of the year.

**35. NOTICE OF MOTION**

13. 10. 2011

**36. RESOLUTION TO EXCLUDE THE PUBLIC**

Attached.