

# **CHRISTCHURCH CITY COUNCIL AGENDA**

**THURSDAY 26 APRIL 2012**

**9.30AM**

**COUNCIL CHAMBER, CIVIC OFFICES,  
53 HEREFORD STREET**

## CHRISTCHURCH CITY COUNCIL

**Thursday 26 April 2012 at 9.30am**  
**in the Council Chamber, Civic Offices, 53 Hereford Street**

**Council:** The Mayor, Bob Parker (Chairperson).  
Councillors Peter Beck, 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.

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**COUNCIL 26. 4. 2012**

**1. APOLOGIES**

Councillor Gough.

**2. CONFIRMATION OF MINUTES - COUNCIL MEETINGS OF 22.3.2012, 10-11.4.2012 AND 12.4.2012**

Attached.

3. DEPUTATIONS BY APPOINTMENT

4. PRESENTATION OF PETITIONS

## COUNCIL 26. 4. 2012

### 5. ELECTION OF ONE MEMBER OF THE RICCARTON/WIGRAM COMMUNITY BOARD

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	Democracy Services Manager
<b>Author:</b>	Clare Sullivan, Electoral Officer

#### PURPOSE OF REPORT

1. The purpose of this report is to seek approval for the early processing of the returned voting documents used at the election of a member of the Riccarton/Wigram Community Board, to be held on Friday 22 June 2012. A decision is also sought as to the order in which the candidates' names are to be shown on the voting documents used at that election.

#### EXECUTIVE SUMMARY

##### Early Processing

2. The death of Ishwar Ganda, QSO, a former City Councillor and member of the Riccarton/Wigram Community Board, has created an extraordinary vacancy which, as it is more than 12 months before the next triennial election, under s117(1) of the LEA 2001 must be filled by an election.
3. Nominations close on Thursday 3 May 2012 and the voting period will be from 30 May 2012 to 12 noon on Friday 22 June 2012.
4. Section 79 of the Local Electoral Act 2001 permits a local authority to process (but not count) returned voting documents over the voting period.
5. Early processing of voting documents was introduced for the 1998 Christchurch City elections (but restricted to the 84 hours before the close of voting) and was used very successfully throughout the country. Because of the success of early processing in 1998 and the benefits which early processing provides, the early processing period was subsequently increased to the entire three week voting period now provided under the current legislation. The immediate benefit of adopting early processing is that much, if not all, of the cumbersome and time-consuming task of extracting and checking the voting documents is undertaken progressively over the three week voting period (under strict security and under the supervision of a Justice of the Peace). This means a quicker and more accurate result can be achieved on polling day.

##### Order of Candidates' Names on Voting Documents

6. Clause 31(1) of the Local Electoral Regulations 2001 allows the Council to decide whether the names are to be arranged on the voting documents in alphabetical order of surname, pseudo-random order or random order. In the absence of any Council resolution approving another arrangement, the candidates' names must be arranged in alphabetical order of surname.
7. The features of each arrangement are described below:

(a) **Arrangement 1 - Alphabetical Order of Surname**

This is the order which was used for all local authority elections prior to 2004, and is self-explanatory.

(b) **Arrangement 2 - Pseudo-Random Order\***

Under this arrangement, the candidates' names for each issue are placed in a hat (or similar receptacle) mixed together, and then drawn out of the receptacle, with the candidates' names being placed on all voting documents for that issue in the order in which they are drawn. (\*Note: Although the term "pseudo random order" is used in the Local Electoral Regulations to describe this arrangement, this is a somewhat imperfect description, in that the term "pseudo random" is understood by mathematicians and/or information technology specialists to have a different meaning.)

5 Cont'd

(c) **Arrangement 3 - Random Order**

Under this arrangement, the names of the candidates for each issue are shown in a different order on each and every voting document, utilising software which permits the names of the candidates to be laser printed in a different order on each paper.

This is the order which was used for all the issues included in the voting documents used for the 2010 and previous Christchurch City elections, ie:

- Election of Mayor
- Election of Councillors
- Election of Community Board Members.

**FINANCIAL CONSIDERATIONS**

8. The cost of printing the voting documents employing Arrangement 1, Arrangement 2 or Arrangement 3 will be identical. Thus, there will be no additional costs should random order be chosen for the issue being contested.

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

9. Costs for the election are estimated to be around \$85,000, although this will depend on the voter turn-out. Because there have been three by-elections this financial year the activity "Public Participation in the Democratic process" is forecast to be over budget by year end. Typically each year we only anticipate one by-election.

**LEGAL CONSIDERATIONS**

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

10. The early processing of the returned voting documents is provided for in section 79 of the Local Electoral Act 2001 and clause 101 of the Local Electoral Regulations 2001.
11. The ability to choose between alphabetical order of surname, pseudo-random order or random order for arranging the candidates' names on the voting documents is provided for in clause 31(1) of the Local Electoral Regulations 2001.
12. The regulations provide that if a local authority has determined that pseudo-random order or random order is to be used, the electoral officer must state, in a public notice required to be given, the date, time and place at which the order of the candidates' names will be arranged. Any person is then entitled to attend while the arrangement is in progress.

**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?**

13. Yes. Democracy and Governance - public participation.

**ALIGNMENT WITH STRATEGIES**

14. Not applicable.

**CONSULTATION FULFILMENT**

15. Not required.

**5 Cont'd**

**STAFF RECOMMENDATION**

It is recommended:

- (a) That the returned voting documents for the election of one member of the Riccarton/Wigram Community Board be processed during the voting period in accordance with section 79 of the Local Electoral Act 2001, the Local Electoral Regulations 2001 and the Society of Local Government Managers' Code of Good Practice for the Management of Local Authority Elections and Polls.
- (b) That the names of the candidates for the election be arranged in random order.

## COUNCIL 26. 4. 2012

### 6. CANTERBURY MUSEUM – DRAFT ANNUAL PLAN 2012/13

<b>General Manager responsible:</b>	General Manager Regulation & Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	General Manager Regulation & Democracy Services
<b>Author:</b>	Peter Mitchell, General Manager Regulation & Democracy Services

#### PURPOSE OF REPORT

1. The purpose of this report is to submit to the Council the Draft Annual Plan of the Canterbury Museum Trust Board (**Attachment A**) for the year ending 30 June 2013 to enable the Council to consider the plan to make, if it wishes to do so:
  - (a) submissions on the draft annual plan,
  - (b) an objection to the levies proposed in the draft plan.

#### EXECUTIVE SUMMARY

2. The levy increase has remained at 5 percent for the 2012/13 Annual Plan as highlighted in the Canterbury Museum's 2011/12 Annual Plan. Christchurch City Council's share of the increase in levies is \$273,310, and this has been factored into the Council's 2012/13 Annual Plan. The increase will bring the Council's share of the operating levy to \$6,361,054.

#### FINANCIAL AND LEGAL CONSIDERATIONS

3. The Canterbury Museum Trust Board Act 1993 requires the Canterbury Museum Trust's Board to prepare and adopt an annual plan for each financial year. The plan includes the levies to be paid by the contributing local authorities.
4. The draft annual plan is referred to the four contributing local authorities (Christchurch City Council, Selwyn District Council, Hurunui District Council and Waimakariri District Council) for a period of consultation which concludes on 27 April 2012.
5. The levies proposed in the draft Annual Plan may be objected to by the Christchurch City Council or two or more of the remaining contributing authorities and if an objection is received the Board must convene a meeting. The Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount which is not less than the total levy made in respect of the previous year. The proposed levies are binding on the four contributing authorities, unless the Christchurch City Council or three of the other contributing authorities resolve to hold the levies. (Section 16 of Canterbury Museum Trust Board Act 1993.)
6. Submissions may be made to the Museum requesting them to amend the plan.
7. Given that the operating levies are the same as forecast in the 2011/12 year it is recommended that the Council advise the Canterbury Museum Trust Board that it does not wish to make an objection to the Trust Board's 2012/13 Annual Plan.

#### BACKGROUND ON CANTERBURY MUSEUM 2012/13 DRAFT ANNUAL PLAN

8. The draft Annual Plan sets out in broad outline the mission, vision and core values of the Museum together with detail on the organisation structure, performance objectives, financial summaries and an outline of the proposed operating, capital and revitalisation budgets.
9. The plan is available for consideration by the contributing local authorities until Friday 27 April 2012.

#### OTHER CONTENT OF THE PLAN

10. The general content of the 2012/13 annual plan is largely the same as the previous years plan.



**6 Cont'd**

**THE OBJECTION PROCESS**

11. The Canterbury Museum Trust Board Act (Section 16) provides that either the Christchurch City Council or two or more of the remaining contributing local authorities may give notice objecting to the proposed levies. If this happens the Board must convene a meeting of the contributing authorities within a month. At that meeting the Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount no less than the previous year.

**STAFF RECOMMENDATION**

It is recommended that:

- (a) The Council considers what submissions it wishes to make on the Canterbury Museum Trust Board's draft 2012/13 Annual Plan.
- (b) The Councillor representative supports the Museum's 2012/13 operating levies.

## COUNCIL 26. 4. 2012

### 7. DRAFT STATEMENT OF INTENT FOR THE COUNCILS SUBSIDIARY AND ASSOCIATED COMPANIES FOR YEAR ENDING 30 JUNE 2012 AND CHRISTCHURCH CITY HOLDINGS HALF YEAR REPORT TO DECEMBER 2011

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	General Manager Regulation and Democracy Services
<b>Author:</b>	Peter Mitchell

#### PURPOSE OF REPORT

1. The purpose of this report is to present to the Council:
  - (a) the draft Statement of Intent (SOI) for Council's subsidiary and associated companies for review and comment (**Attachment A**)
  - (b) the half year financial statements of the Christchurch City Holdings Limited (CCHL) parent company and group to 31 December 2011 (**Attachment B**).
2. SOIs from the following companies are attached for information:
  - Christchurch City Holdings Ltd
  - Orion New Zealand
  - Christchurch International Airport Ltd
  - Lyttelton Port Company Ltd
  - Enable Services Ltd
  - City Care
  - Red Bus Ltd
  - Eco Central Ltd
  - Selwyn Plantation Board Ltd.
3. The CCHL board has reviewed the SOIs of the subsidiary and associated companies, and will relay its comments (summarised in this report under the appropriate company heading) to the companies, together with any from the Council, following the Council's review.
4. The Council's and CCHL's subsidiary companies are required by statute (or, in the case of Lyttelton Port Company Ltd, the terms of its constitution) to submit an annual SOI to their shareholders. An SOI must set out the entity's objectives and performance measures, as well as certain other information.
5. The subsidiary companies are required by the Local Government Act to deliver to their shareholders a draft statement of intent on or before 1 March. They must then consider comments on their SOI from their shareholder(s) received by 1 May, and then to issue a final SOI by 30 June.
6. There are no major surprises or changes in direction signalled in the attached documents. Specific comments on each company are provided in **Attachment A**. Any comments agreed by the Council will be relayed to the companies, who will consider them before issuing a final SOI prior to 30 June.
7. The Local Government Act provides that the Council, as 100 percent shareholder of CCHL, must make any comments on the CCHL SOI by 1 May 2012. CCHL must then consider these comments and deliver its completed Statement of Intent to the Council by 30 June 2012.
8. With regard to the statement of intent for CCHL subsidiaries and associate companies the Council has been asked to provide comment to CCHL which has the statutory role under the Local Government Act 2002 of providing comments, or not as the case may be, to those subsidiary and associate companies by 1 May 2012. The Council's role with those companies is in the nature of providing informal comment to CCHL. CCHL's practice is to forward all Council comments to the subsidiary companies.
9. The Chief Executive Officer of Christchurch City Holdings Limited will be at the meeting to answer questions.

**7 Cont'd**

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Review the draft Statements of Intent, and advise Christchurch City Holdings Limited whether it wishes to make any comment to the companies on the content of the Statements of Intents.
- (b) Agree to the Statements of Intent if it does not wish to make any formal comment.
- (c) Receive, for information, the half year report and financial statements of the Christchurch City Holdings Limited parent company and group to 31 December 2011.

## COUNCIL 26. 4. 2012

### 8. APPOINTMENT OF PRINCIPAL RURAL FIRE OFFICER

<b>General Manager responsible:</b>	General Manager, City Environment Group, DDI 941-8608
<b>Officer responsible:</b>	Unit Manager, Civil Defence Emergency Management
<b>Author:</b>	Murray Sinclair, Unit Manager, Civil Defence Emergency Management

#### PURPOSE OF REPORT

1. The purpose of this report is to seek approval for the appointment of a Principal Rural Fire Officer in accordance with the Forest and Rural Fires Act 1977.

#### EXECUTIVE SUMMARY

2. The Forest and Rural Fires Act provides that where a Fire Authority appoints one or more persons as a Rural Fire Officer, the Fire Authority must appoint one of these officers as Principal Rural Fire Officer. The Council currently has 26 persons holding Rural Fire Officer warrants and is therefore required to appoint a Principal Fire Officer.
3. Under the Forest and Rural Fires Act, the Council is a Fire Authority and is required to promote and carry out fire control measures for those rural areas that are outside the gazetted Urban Fire District, that is outside the New Zealand Fire Service's area of responsibility.
4. The Forest and Rural Fire Regulations requires all Rural Fire Officers to be issued with a warrant of appointments. The warrant of appointment must be signed by the chief executive of the local authority if the Fire Authority for the district in which the Rural Fire Officer is employed is the local authority. The warrants of appointment for Rural Fire Officers are in force for 10 years, or until the person ceases to be a Rural Fire Officer.
5. The previous Principal Rural Fire Officer, Mr Keith Marshall, retired on 29 February 2012. Mr Darrin Woods has been employed as Principal Rural Fire Officer. Mr Woods is well qualified for this role of Principal Rural Fire Officer having previously worked for the Department of Conservation and overseas in fire management roles.

#### FINANCIAL IMPLICATIONS

6. Nil.

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

7. Yes.

#### LEGAL CONSIDERATIONS

8. As well as the Forest and Rural Fires Act 1977 (being the principal Act relating to this appointment) there are additional provisions in the following legislation relating to this appointment, and to forest and rural fires:
  - (a) Local Government Act 2002
  - (b) Fire Service Act 1975
  - (c) Forest and Rural Fires Regulations 2005.

#### STAFF RECOMMENDATION

It is recommended that the Council in accordance with the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 2005, agree to the appointment of Mr Darrin Woods as Principal Rural Fire Officer.

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### 9. PROTOCOL AGREEMENT TO LICENCE SITES FOR TELECOMMUNICATION PURPOSES

<b>General Manager responsible:</b>	General Manager, City Environment DDI 941-8608
<b>Officer responsible:</b>	Unit Manager, Asset and Network Planning
<b>Author:</b>	Tony Liu, Leasing Consultant and Weng-Kei Chen, Asset Policy Engineer

#### PURPOSE OF REPORT

1. To seek approval from the Council to:
  - (a) grant delegated authority to the Corporate Support Unit Manager to enter into new protocol agreements with telecommunication providers consistent with the Telecommunications Amendment Act 2011
  - (b) inform Council of the financial impact arising from the new Act.

#### EXECUTIVE SUMMARY

2. Christchurch City Council entered into protocol agreements to licence sites for telecommunication purposes with a number of telecommunication providers between 2001 and 2008.
3. There are currently four protocol agreements with three telecommunication providers: Vodafone, Telecom, 2 Degrees and with a smart electricity metering company Arc Innovations.
4. Under the current protocol agreements, the Council permits the network operators to utilise its street assets (street lights, traffic lights, etc) for the purpose of erecting their respective devices. In exchange, the Council receives an annual licence fee per site. There are approximately 100 roadside cell sites in Christchurch and annual licence fees vary from \$4,000 to \$9,000 per annum plus GST per site depending on the specification of hardware attached to the street asset.
5. The protocol agreements for both Vodafone and Telecom expired in August and September 2011 respectively. The protocol agreements for Arc Innovations and 2 Degrees expire in 2017 and 2018 respectively.
6. Council staff have been in negotiations with Vodafone and Telecom who both expressed interest in entering into new protocol agreements with the Council. This negotiation was somewhat prolonged due to the Telecommunications Amendment Act 2011 which came into effect on 1 July 2011. This amendment does not permit local authorities to request for payment for wireless works on roads.
7. With the effect of the Telecommunications Amendment Act 2011, it is necessary to amend the terms and conditions of the new protocol agreements to reflect the Telecommunications Amendment Act 2011 while retaining the current practice and process for site approval on Council roads and properties.

#### FINANCIAL IMPLICATIONS

8. There are no direct financial implications arising from the purpose of this report and the resolution sought. However, associated with this matter Buddle Findlay, the Council's legal advisors, have confirmed that Council has lost the ability to charge an annual licence fee for telecommunication purposes on legal road as of 1 July 2011 in accordance with the Telecommunications Amendment Act 2011. This issue is being considered by the Council's Finance and Business Performance Team and will be dealt with in the Annual Plan and Long Term Plan (LTP) processes.
9. Despite the legislative changes, Vodafone and Telecom have both indicated their commitment in honouring the existing annual licence payments to Council until the respective site's term expires progressively until 2018.

9 Cont'd

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

10. Yes.

**LEGAL CONSIDERATIONS**

11. The Telecommunications Amendment Act 2011 which came into effect on 1 July 2011.

12. Sections 153 and 135 of the Act have been under scrutiny and forms a key part of the negotiation of the protocol agreement. Section 153(1) of the Telecommunications Amendment Act 2011 states:

*“Despite anything in this Act or in any other enactment, no local authority or other person who has jurisdiction over any road may require the payment, by or on behalf of a network operator, of any amount of or in the nature of rent in respect of any line, wireless works, or other works constructed in, on, along, over, across, or under that road.”*

13. Section 135 of the Telecommunications Amendment Act 2011 states:

(1) Except as provided in subsection (2), a net work operator may –

- (a) Construct, place, and maintain lines or wireless works in, on, along, over, across, or under any road; and
- (b) For any of those purposes, open or break up any road and alter the position of any pipe (not being a main) for the supply of water or gas; and
- (c) Alter, repair, or remove those lines or wireless works or any part of those lines or wireless works.

14. A network operator must exercise the powers contained in Section 135(1) in accordance with any reasonable conditions that the local authority or other person who has jurisdiction over that road requires.

15. Telecommunication providers can construct wireless works on legal road as of right subject to reasonable conditions under Section 135(1) and no local authority may require the payment in the nature of rent in respect of any wireless works constructed on that road under Section 153(1).

16. Buddle Findlay is currently engaged by the Council in preparing the new protocol agreement for Vodafone and Telecom reflecting the changes in Telecommunications Amendment Act 2011. The new protocol will retain the approval process of cell sites on Council roads and properties.

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

17. Yes, as above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

18. Yes.

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

19. Yes – renewal and replacement of street lighting systems.

**ALIGNMENT WITH STRATEGIES**

20. Yes – Greater Christchurch Urban Development Strategy.

9 Cont'd

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

21. Yes – it contributes to the plan for managing urban development, enhancing open spaces and creating more liveable centres.

**CONSULTATION FULFILMENT**

22. Not applicable.

**STAFF RECOMMENDATION**

That the Council resolves that the Corporate Support Unit Manager be given delegated authority to enter into or vary Protocol Agreements with current and future telecommunication providers and that the same telecommunication provider covers the Council's costs associated with this.

**BACKGROUND**

23. In 2001 the Council entered into Protocol Agreements with Vodafone and Telecom for their cellular network rollouts. The purpose of these protocols was to enter into partnership with the companies in managing the cell sites on public spaces and enable their rollout to be eventuated in a timely manner.
24. The public spaces are mainly on the road spaces where there is presence of number of street furniture. The main aim is to minimise the amount of street furniture on road and the replacement of street lighting poles and traffic signal poles in appropriate locations are sensible options.
25. The selection criteria for the roadside site are as shown in **Attachment 1**. Following approval of the site, resource consent for that particular site will need to be lodged. Installation for the approved site will only commence following the granting of resource consent.
26. The approval process shown in **Attachment 1** generally works well with increasing understanding of the radio frequency field and the resource management requirements for the cell sites by the communities. There were few occasions that resident groups raised their concerns and where possible telecommunication providers did make some way to accommodate their concerns either relocation to their less desirable site, undergrounding of existing overhead services or special pole design.
27. The introduction of National Environment Standard (NES) for permitting low telecommunication facilities in certain place on legal road without the need of resource consent in 2008 also provides further assistance to the process of Council's approval for roadside cell facilities. The brief summary of the NES's requirement is shown in **Attachment 2**.
28. The relationships with the telecommunication providers and the Protocol Agreement that supports them has worked well. There are good processes around how applications are dealt with, including site selection. It is not intended to change these as they have worked successfully for a number of years and for numerous applications across the city. This resolution is sought to simply replace expired agreements and modify the existing ones to align with the changes to Sections 135 and 153 of the Act.

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9 Cont'd

29. In order to provide the Council a quick snapshot of the indirect financial implications due to recent legislative changes, the table below illustrates how much revenue the Council receives in the current financial year plus the revenue projection for the next seven financial years. It also shows the estimated annual losses per financial year as a result of the Telecommunications Amendment Act 2011.

<b>Financial Year</b>	<b>Total Revenue (Roadside cell-sites only)</b>	<b>Loss per Year</b>
2011/12	\$846,203.88	
2012/13	\$831,020.88	\$15,183.00
2013/14	\$813,694.27	\$17,326.61
2014/15	\$469,278.76	\$344,415.51
2015/16	\$200,473.65	\$268,805.11
2016/17	\$155,419.24	\$45,054.41
2017/18	\$147,723.04	\$7,696.20
2018/19	\$0.00	\$147,723.04

30. Overall, the accumulative revenue loss in the next seven financial years is estimated to be around \$850,000. As per table above, there will be no roadside cell-site annual licence fees payable to the Council from the 2018/19 financial year onwards in regards to roadside cell-sites only.



10. HEARINGS PANEL REPORT ON THE PROPOSED CHRISTCHURCH CITY COUNCIL TRAFFIC AND PARKING AMENDMENT BYLAW 2012

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8608
<b>Officer responsible:</b>	Unit Manager Transport and Greenspace
<b>Author:</b>	Proposed Traffic and Parking Amendment Bylaw Hearings Panel

**PURPOSE OF REPORT**

1. This is a report from the Hearings Panel considering the Proposed Traffic and Parking Amendment Bylaw (the Panel). It addresses the four submissions received during the special consultative procedure and contains recommendations from the Panel altering the proposed Amendment Bylaw in certain respects. The report also outlines the consultation processes that may be used for any changes to one way streets and special vehicles lanes which may be considered by the Council in the future under the proposed Amendment Bylaw. The proposed Amendment Bylaw (clean copy, and copy with the recommended changes highlighted) are attached to this report as **Attachment A**.

**EXECUTIVE SUMMARY**

2. On 15 December 2011 the Council considered a permanent amendment to the Christchurch City Council Traffic and Parking Bylaw 2008 and resolved to commence the Special consultative procedure to adopt the amendment. The resolution included the adoption of the Statement of Proposal and Summary of Information as tabled and attached to this Report as **Attachment B** and delegated the appointment of the Hearings Panel to the Council Secretary in consultation with the Chair of the Regulatory and Planning Committee.
3. A special consultative procedure took place between 28 January 2012 and 1 March 2012. A public information session was held on 23 February 2012. The consultation process was publicly notified in the Press and was detailed, along with submission forms on the Council's 'Have Your Say' website. In addition the Statement of Proposal and Summary of Information, with submission forms were posted to over 300 individuals and organisations – the Standard Transport Stakeholders' Database used for all transport project consultation as well as an extensive list of people who have previously expressed interest in the Traffic and Parking Bylaw 2008. Copies of the Statement of Proposal and Summary of Information, with submission forms, were available at Civic Offices, Council Service Centres and Libraries. Four submissions were received, with one submitter indicating willingness to meet with the Hearings Panel, but on the day not being able to attend. The summary of submissions is included as **Attachment C** and the full submissions received as **Attachment E**. In addition a late request for clarification was received from the Akaroa-Wairewa Community Board.
4. The Hearings Panel convened on 29 March 2012, with Councillors Wells (Chair), Broughton and Button forming the panel.

**FINANCIAL IMPLICATIONS**

5. The Council's decision on this matter will not result in additional costs being incurred. The ability to make changes to one way streets and special vehicle lanes by resolution after appropriate consultation and without invoking the Special consultative procedure will potentially result in cost savings to the Council.

**BACKGROUND AND HISTORY TO THE PROPOSED AMENDMENT BYLAW**

6. When the Council reviewed the Traffic and Parking Bylaw in 2008, and subsequently made a new Bylaw (which came into force on 1 July 2008), it was apparent that one way streets (clause 12 and Schedule 1) and roads or traffic lanes restricted to specific types or classes of vehicles and the use of those roads or lanes (clause 13 and Schedule 2) needed to be specified in the Bylaw itself. This was the effect of the wording of section 72 of the then Transport Act 1962 which set out many of the bylaw-making powers of local authorities in relation to roads.
7. In 2010, the Government introduced a Bill into Parliament called the Land Transport (Road Safety and Other Matters) Amendment Bill. The Bill provided, amongst other things, for the repeal of the Transport Act 1962 and the transfer of bylaw-making powers from section 72 of the Act to a new section 22AB of the Land Transport Act 1998.

10 Cont'd

8. On 6 October 2010 the Council's Submission Panel met and approved a submission to the Transport and Industrial Relations Select Committee on the Land Transport (Road Safety and Other Matters) Amendment Bill. The Council's submission pointed out that the Bill had retained some of the wording of section 72 which effectively prevented territorial authorities from leaving matters of detail in a traffic and parking bylaw to be determined by resolution at a later date. The submission gave the following examples:
  - The power to prohibit or restrict absolutely or conditionally any specified class of traffic on any road or roads **specified in the bylaw**;
  - The power to require that one way roads must be **designated in the bylaw**;
  - The power to prescribe subject to the marking of lanes on the roadway, that on any road any traffic lane **specified in the bylaw** may be used or any turning movement may be made only by buses, taxis, or vehicles of other specified classes or vehicles carrying specified loads or no fewer than a specified number of occupants.
9. The submission noted that in each case the inclusion of the term "in the bylaw" meant that the road, cycle lane, or buses and taxis only turning lane, would need to be specified in the bylaw and if the Council at some future date, wished for example, to extend a cycle lane, or to introduce a taxis and buses only right turning lane, it would need to do so by amending its Traffic and Parking Bylaw using the process set out in the Local Government Act 2002. It could not do it by resolution and add a description of the lane to a register. The submission then spelt out what was involved in carrying out a special consultative procedure, pointing out that it was time consuming and costly (taking up to three months at a cost which may be in excess of \$30,000) and that it is inconsistent with the more common approach which is to leave matters of detail in a bylaw to be determined by resolution. Accordingly the Council submitted that reference to the roads being specified or designated in the bylaw be omitted. The full submission is attached as **Attachment D**. with the relevant sections 3.12 to 3.17 highlighted.
10. The Select Committee accepted the Council's submission and the words "specified in the bylaw" and "designated in the bylaw" were omitted from the new Section 22AB when the Land Transport (Road Safety and Other Matters) Amendment Act was enacted.
11. Since coming into force on 1 July 2008 the Traffic and Parking Bylaw has been amended 12 times with the most recent amendment being in September 2010, when Poplar Street was changed from one way in a northerly direction from Tuam to Lichfield Street to one way in a southerly direction from Lichfield to Tuam Street. Staff have recently identified some amendments that need to be made to the Second Schedule (Roads or Traffic Lanes Restricted to Specific Classes of Vehicles) and have proposed that instead of undertaking a special consultative procedure to amend the Second Schedule, it would now be appropriate to amend the Bylaw itself in order to take advantage of the new bylaw making provisions contained in Section 22AB of the Land Transport Act 1998.
12. In addition to the issues raised in submissions there has been media speculation about the Council's intentions regarding one way streets and the way it might in the future resolve to make changes to the current status of the streets contained in the First Schedule. The Akaroa/Wairewa Community Board too, raised a late query regarding the level of consultation that would take the place of the Special consultative procedure.
13. Under Section 78 of the Local Government Act 2002, a local authority must, in the course of its decision making process, give consideration to the views and preferences of persons likely to be affected by or to have an interest in the matter.

10 Cont'd

14. In accordance with section 79 of the Local Government Act 2002, a local authority has discretion to determine how it achieves compliance with section 78, taking into account the significance of the matters affected by the decision, as well as costs, benefits and resources. The Council may, if it considers the matter requiring a decision to be of significance and of wide public interest, choose to use the special consultative procedure. If it considers the matter to be of interest to a particular community, for example the extension of a cycle lane within a ward, consult with or delegate the consultation to the relevant Community Board. Without making a determination or recommendation on the matter, the Council Hearings Panel was of the view that proposals to change the metropolitan roading system would require wide public consultation, not necessarily but possibly by the use of a Special consultative procedure, and certainly by seeking the comments of key stakeholders and by publication on the Council's Have Your Say website.

**ISSUES RAISED IN SUBMISSIONS**

15. **Attachment E** contains the four submissions received. The key issue raised was that the Council must publicise any proposed changes to one way streets so that all interested and potentially affected parties have the opportunity to have their views known by the decision makers. One submission repeated a previous submission made during hearings on the Central City Plan. The Hearings Panel noted that until the Minister for Earthquake Recovery made a decision as to whether to approve the Plan or not, the Council would not be implementing the Plan. The three other submissions supported the change to the Bylaw, with concerns being around timely, accessible and adequate information being available to all citizens and avoidance of rapid change.

**LEGAL CONSIDERATIONS**

16. A bylaw hearings panel has no decision-making powers, but can make recommendations to the Council, in accordance with its delegation for that purpose, after considering written and oral submissions. The Council can then accept or reject those recommendations, as it sees fit, bearing in mind that the Local Government Act requires views presented during consultation to be given "due consideration in decision-making". The Council, as final decision-maker, must be in as good a position as the hearing panel in terms of being fully aware of the content of the written submission. As the special consultative procedure is used for this consultation, the Council cannot introduce anything new into the bylaw that has not arisen out of a submission made during consultation. It can, however, make minor editorial changes.
17. Section 157 requires that the Council, as soon as practicable after a bylaw is made, give public notice of the making of the bylaw. The public notice must state the date on which the bylaw will come into operation and that copies of the bylaw may be inspected and obtained at the office of the local authority on payment of a specified amount.
18. The Legal Services Unit considers that the form of the Bylaw, as proposed in this report, is the most appropriate form, and that the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (in accordance with section 155 of the Local Government Act 2002). The Legal Services Unit considers that the amendments, as recommended by the panel comply with these requirements.
19. It is appropriate to resolve that the Bylaw will come into effect on 1 July 2012.

10 Cont'd

HEARINGS PANEL RECOMMENDATIONS

The Hearings Panel recommends that the Council:

- (a) Resolve to adopt the new Christchurch City Council Traffic and Parking Amendment Bylaw 2012 to come into effect on 1 July 2012.
- (b) Give public notice as soon as practicable, that the Christchurch City Council Traffic and Parking Amendment Bylaw 2012 has been made by the Council, that it comes into effect on 1 July 2012 and that copies of the bylaw may be inspected and obtained at the Council's offices or on its website, without payment.
- (c) Make the following minor changes to clause 5 of the Christchurch City Council Traffic and Parking Amendment Bylaw 2012:
  - (i) In new clause 13(1)(a) (which is contained in clause 5) delete the word "cycle" and substitute the word "cycles).
  - (ii) In new clause 13(2)9a) (which is contained in clause 5) insert, after the phrase "taxis" the phrase "cycles".
- (d) Makes the following minor changes to clause 6 of the Christchurch City Council Traffic and Parking Amendment Bylaw 2012:
  - (i) In clause 6(4) delete the words "those bylaws and "the bylaws and substitute the words as highlighted in bold below so that the clause reads as follows:
    - (4) The substitution of clauses 12 and 13 and the revocation of the First and Second Schedules do not prevent any legal proceedings, criminal or civil, being taken to enforce **that Bylaw**, and such proceedings continue to be dealt with and completed as if **those clauses or Schedules** had not been substituted or revoked as the case may be.

## COUNCIL 26. 4. 2012

### 11. REPORT FROM REGULATORY AND PLANNING MEETING OF 20 APRIL 2012: PLAN CHANGE 66 – TEMPLETON SPECIAL RURAL ZONE

<b>General Manager responsible:</b>	General Manager, Strategy and Planning DDI 941-8281
<b>Officer responsible:</b>	Programme Manager, District Planning
<b>Author:</b>	Andrew Long, Senior Planner

#### PURPOSE OF REPORT

1. This report seeks a Council decision on whether or not to proceed to notification of proposed Plan Change 66 – Templeton Special Rural Zone (PC66). The recommendation is for the Council to notify the proposed plan change and Section 32 assessment (**Attachment 1**). The attachments for this report have been separately circulated.

#### EXECUTIVE SUMMARY

2. The plan change site is located one kilometre north of Templeton and is the bulk of the former Templeton Hospital site. The site is currently zoned Special Purpose (Hospital) (SP(H)) except that for uses not health-care related Rural 2 (Templeton – Halswell) zone provisions apply. Of the 66 hectare site, 60 hectares is proposed to be rezoned Templeton Special Rural Zone. The remaining 6 hectares would remain as Special Purpose (Hospital) zone. A location map is provided in **Attachment 2**. The site contains a significant number of buildings and internal roads related to the former hospital, and also the Westmount School and buildings.
3. Prior to the Council initiating this plan change, private Plan Change 23 (PC23), lodged by (the landowner) Rookwood Holdings Ltd (RHL), sought to rezone the site to a new Business 4M (Maddison Park) zone, based largely on the Business 4T (Suburban Industrial - Technology Park) zone provisions. PC23 was declined because it was not the most appropriate way to achieve relevant objectives and policies of the City Plan, particularly those at Volume 2 Section 6 (Urban Growth). RHL appealed against the decision on PC23. The appeal is outstanding but RHL have agreed to withdraw it upon notification of an alternative plan change.
4. The Council resolved on 14 June 2011 to initiate a plan change to enable development of the site in a manner consistent with the rural character of the site and which would enable the re-use and remediation of the site. Staff have prepared PC66 in consultation with Rookwood Holdings Ltd, and in accordance with the Regional Policy Statement (RPS), particularly Chapters 12A (Development of Greater Christchurch) and 22 (Response to Canterbury Earthquakes). PC66 will facilitate development on 60 hectares of the former Templeton Hospital site through a proposed 'Templeton Special Rural Zone' (TSRZ).

#### FINANCIAL IMPLICATIONS

5. Should the Council resolve to proceed with notifying the plan change there are legal processes which must be followed in accordance with the First Schedule of the Resource Management Act (RMA) 1991. This is a standard process that all plan changes must follow and there are no particular issues or risks that would be incurred if the processes are correctly followed. 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 and complexity of the submissions received. There is the potential for costs associated with responding to any Environment Court appeals received. Funding is provided from existing budget as part of the District Planning work programme agreed by the Council.
6. The costs of preparing the plan change are shared between the Council and RHL, up to and including the decision on submissions. A formal agreement has been entered into by the parties. This agreement also requires RHL to withdraw their appeal on PC23 when PC66 is notified.

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

7. The recommendations and costs incurred align with the District Planning budget and work programme as provided for under the 2009-2019 LTCCP budget.

11 Cont'd

**LEGAL CONSIDERATIONS**

8. There is a legal process which must be followed for plan changes in accordance with the First Schedule of the RMA. Proceeding in accordance with these procedures should create no particular risks.

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

9. The legal process to be followed in accordance with the First Schedule of the RMA is familiar to the Council through both the private plan change process and in respect of Council initiated plan changes.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

10. The process of Council initiated plan changes is provided for under the LTCCP and Activity Management Plans. This proposed plan change is specifically identified as a project within the Council's District Planning Work Programme.

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

11. The LTCCP identifies an ongoing programme of maintaining and reviewing the City Plan improvements in respect of enhancements to ensure an attractive built environment and to minimise adverse effects on the environment.

**ALIGNMENT WITH STRATEGIES**

12. The plan change aligns with: Greater Christchurch Urban Development Strategy (UDS) and the Regional Policy Statement (RPS). Specifically, the Regional Policy Statement at Chapter 12A defines rural activity and PC66 has been prepared to be consistent with this definition.

**CONSULTATION FULFILMENT**

13. PC66 has been developed in conjunction with RHL, with input from technical experts as necessary. Council staff have discussed the plan change with the Council, Regulatory and Planning Committee, and the Riccarton-Wigram Community Board. Staff have also met with ECan, the Christchurch International Airport Limited (CIAL) and two adjoining landowners who made submissions in opposition to the previous plan change (PC23).
14. Some amendments were made to PC66 to address concerns, particularly from ECan and CIAL in relation to noise sensitive activities (education and residential), and it is considered that no party has any significant outstanding concerns. Should the plan change be notified, a submissions and hearings process will follow, enabling interested and affected parties to comment formally on the proposal.

**STAFF RECOMMENDATION**

That the Council adopts proposed Plan Change 66 (Templeton Special Rural Zone) and assessment under section 32 of the Resource Management Act 1991 and proceed to publicly notify it in accordance with clause 5 of Schedule 1 of Act.

**COMMITTEE RECOMMENDATION**

The Regulatory and Planning Committee considered this report at its meeting of 20 April 2012. The recommendation from the Committee will be forwarded to the Council.

11 Cont'd

**BACKGROUND**

15. The former Templeton Hospital is located one kilometre north of Templeton and is 66 hectares in size. It is located near the intersection of Kirk and Maddisons Roads, between State Highways 1 and 73, as shown on the location map (**Attachment 2**). The main trunk rail line adjoins State Highway 1 at Templeton. The site is surrounded by both rural and institutional uses, including the Christchurch Men's and Women's Prisons, Nova Trust Drug and Alcohol Rehabilitation Centre, Waitaha Learning Centre, Templeton Chapel, and the Brackenridge Residential Estate (full-time residential care for disabled people).
16. The site is currently zoned Special Purpose (Hospital) except that for uses not health-care related, the provisions for the Rural 2 (Templeton – Halswell) Zone apply. It contains a significant number of buildings and internal roads related to the former hospital, including the Westmount School buildings.
17. Prior to this plan change, PC23 sought to rezone the site to a new Business 4M (Maddison Park) zone, based largely on the Business 4T (Suburban Industrial - Technology Park) zone provisions. PC23 was declined because it was not consistent with relevant objectives and policies of the City Plan, particularly those at Volume 2 Section 6 (Urban Growth). The site is also outside the urban limit as delineated in what was then Proposed Change 1 (PC1) to the Regional Policy Statement (RPS), and is now the operative Chapter 12A of the RPS.
18. RHL appealed against the decisions on both PC23 and PC1. The appeal on PC1 is now void following the deletion of PC1 and insertion of Chapters 12A and 22 into the Regional Policy Statement. RHL have agreed to withdraw its appeal on PC23 upon notification of PC66.
19. Following discussions with RHL, officers have developed a framework for re-zoning the site which is considered appropriate for the site and surrounds and which gives effect to the RPS. The Council resolved on 14 June 2011 to initiate a plan change and PC66 has been prepared on that basis.
20. PC66 will facilitate development of 60 hectares of the former Templeton Hospital site through a proposed 'Templeton Special Rural Zone' (TSRZ). The remaining 6 hectares in the south of the site and adjacent to Brackenridge Residential Estate will retain the SP(H) zoning. Activities will be limited to small-scale rural land-uses, those that support rural land-uses, and those associated with strategic infrastructure.
21. The zone is split into three precincts to ensure the outcomes sought can be achieved. In general terms, the zone seeks to achieve a low density rural development with a large amount of landscaping, and the retention of the rural character of the area. The Rural Business 1 precinct covers the bulk of the site. It provides a balance between building footprint and open space, to enable retention of the rural character of the site and create viable business opportunities. Anticipated land uses in this precinct might include plant for processing agricultural or horticultural produce, farm machinery sales or hire, rural contracting business, warehousing of rural produce or supplies, strategic infrastructure and depots, light engineering and mechanical repairs, and similar uses.
22. The Rural Business 2 Precinct provides for activities which require larger ratio of open space to building footprint. Uses might include vet clinic, small scale horticulture or agriculture, landscape supplies, sand and gravel sales, depots for strategic infrastructure, and similar uses.
23. The Community Facilities Precinct caters for the existing, pool/gym, and hall. Other facilities might include a small diary or café servicing the zone. The rest of the precinct is likely to develop similarly to the Rural Business 2 precinct.

11 Cont'd

24. The following table provides an overview of the bulk and location provisions for each precinct.

	Site coverage (community std)	Site coverage (critical std)	Outdoor storage	Landscape	Front setback	Side and rear setback	Height
RB1 (west boundary)	20%	30%	20%	20% or 2000m2 (the lesser)	10m	5m	9m
RB2 (north end)	10%	20%	30%	20% or 2000m2 (the lesser)	15m	10m	9m
CF (Kirk Rd boundary)	20%	30%	15%	20% or 2000m2 (the lesser)	15m	10m	9m

**SUMMARY OF ISSUES**

**Existing Buildings**

25. The site currently contains a large number of former hospital buildings and associated infrastructure (i.e. water, sewer, roads). Most of the buildings are in reasonable condition. The existing infrastructure is old and the bulk of it is unlikely to meet current Council standards. It is unlikely that the buildings and infrastructure would be re-used under the current zoning regime and their gradual decline in condition can be anticipated. This issue was specifically identified in the Commissioners' decision on PC1 in relation to this site (and two former freezing works sites at Islington and Belfast). Allowing development of the site as proposed by PC66 would fund and encourage rehabilitation of the site, thereby avoiding potential adverse visual effects and the risk of failure of private infrastructure on the site.
26. Some of the former hospital buildings are used by the Westmount School, and the site is also used for a driver training course. The site is useful for driver training largely because there is no traffic, and it is likely that the driver training would relocate if the site was developed. The plan change does not specifically promote or protect the driver training activity.
27. The Westmount School has been advised that it will need to relocate, because education activities are considered noise sensitive under both the City Plan and the RPS, as discussed below. The School has a temporary resource consent until April 2016.

**Chapter 12A of the Regional Policy Statement**

28. Chapter 12A to the RPS (essentially the former PC1), includes an urban limit. The site is outside the limit and therefore is restricted in use to rural activities as defined in Ch12A (below). PC66 takes this into account and seeks to promote activities which fit this definition. The City Plan and changes to it (including PC66) must give effect to the RPS and staff have discussed PC66 with Canterbury Regional Council (ECan) officers to ensure that it does so.

*Rural Activities: means*

- Rural land use activities such as agriculture, aquaculture, horticulture and forestry
- Businesses that support rural land use activities
- Large-footprint parks, reserves, conservation parks and recreation facilities
- Residential activity on lots of 4 ha or more
- Quarrying and associated activities
- Strategic Infrastructure outside the urban limits.

29. Volume 2 Section 6 (Urban Growth) of the City Plan seeks similar outcomes as Chapter 12A. The effects of large scale development outside the urban area on transport, services, and urban form are a significant driver in the preparation of PC66 and the rationale for a low density development. The rules seek to control density, bulk and location in order to achieve these outcomes.



11 Cont'd

30. The rules also seek to retain the bulk of existing trees and shelterbelts, a significant landscaping component, and large building setbacks. These rules to help retain the character of the area.

**Chapter 22 of the Regional Policy Statement**

31. The site is within the air noise contours shown in the City Plan and Chapter 22 of the RPS. ECan and Christchurch International Airport Ltd (CIAL) are concerned to ensure that land-uses within the contours are not noise-sensitive. They consider that creating residential units within the air noise contour would be inconsistent with the RPS.
32. PC66 proposes 15 custodial units over the 60 hectares site, at an average of 1 per 4 hectares. This is commensurate with Rural 2 provisions in the City Plan where 4hectares rural-residential allotments (each with a dwelling) are permitted. It is also considered by Council staff not to be inconsistent with the definition of rural activities in Chapter 12A which provides for residential activity on lots 4hectares or more.
33. ECan and CIAL have indicated that this level of residential activity is not a significant issue for them. Acoustic insulation would be required for residential activities at the plan change site through amendments proposed by PC66 to Rule 2.5.7 (Volume 3 Part 4).
34. PC66 proposes a Facilities precinct within which the existing school would be located. The plan change does not actively promote education facilities because a school is considered to be a noise sensitive activity and the site is within the Christchurch International Airport air noise contour.
35. The school has consent to remain at the site until April 2016.

**Stormwater**

36. A Report from Barnett and MacMurray Ltd (reviewed for the Council by e2 Environmental Engineers Ltd and Mr Roy Eastman, Council's stormwater engineer) indicates that the site is considered to be suitable for on-site stormwater disposal. A rule addressing stormwater provision is proposed by PC66, and the ODP provides guidance on this matter also.

**Water and Wastewater**

37. Reports from Eliot Sinclair Ltd (reviewed by Mr Eoghan O'Neill, Council's Water and Wastewater Engineer) finds that some upgrade would be required. Mr O'Neill also noted that the site is located on the periphery of the Council's system. Existing subdivision rules will ensure this occurs in a timely and appropriate manner.

**Transport**

38. A report was received in relation to the previous PC23 from Traffic Design Group Ltd (TDG), and was reviewed by Abley Transport Engineers Ltd. A subsequent report from TDG reviews their findings in light of the significant differences in density of development and the range of anticipated activities provided by PC66. TDG found that because of the density reduction, activity range, and identified road upgrade projects (Christchurch Southern Motorway and the Barbers Road / SH1 intersection), there are no significant road safety or road network issues. TDG find that Levels of Service at these intersections will be acceptable, and generally in accordance with what is anticipated under the Christchurch Transport Model.
39. It is noted that the upgrade to the Barbers Road / SH1 intersection is not yet part of any work programme, and the Stage 2 of the Christchurch Southern Motorway ('CSM2') is not designated and the route has yet to be formally selected. The CSM2 is the major upgrade in the area and it is likely its construction (scheduled to commence in 2015) will coincide with development of the plan change site, mitigating concerns with Levels of Service at intersections near the plan change site.

11 Cont'd

**Open Space**

40. The site currently includes large areas of open space, including recreation facilities such as a cricket oval, swimming pool, gym, and hall. Advice from Council's reserves planners is that the Council does not need additional facilities in the Templeton area, but that at least 3000 metre square of passive open space should be provided at the plan change site. PC66 provides 1.7 hectare of open space, encompassing the existing sports oval.

**Environmental Health Considerations**

41. Two land contamination reports have been provided by Pattle Delamore and Partners Ltd (PDP). The first was desk-top only and identified a number of sources of 'potential human health and environmental issues' including fuel storage tanks, landfill and waste disposal stockpiles, and areas previously used for cropping. The second report includes on-site investigation and found minor contamination, such as can be readily remediated.
42. The issue of spray drift from adjoining farming properties was raised during the Hearing for the preceding private Plan Change 23 and again in discussions with the adjoining landowner to the west of the site. Although control of spraying activities is not within the ambit of the City Plan, PC66 proposes a 20 metre buffer area around the perimeter of the site and a rule requiring the retention and improvement of existing shelterbelts within the buffer. These requirements are proposed in order to address a number of issues, including spray drift. Discussions with the owners of the farmland adjoining the site indicate that these measures are sufficient to allay their concerns.

**Geotechnical Considerations**

43. Subsequent to the significant seismic activity from late 2010, the Council's requirements in terms of geotechnical advice have become more stringent. To avoid rezoning land which is not suitable for the anticipated outcomes, a geotechnical report was commissioned for PC66. A significant number of test pits were excavated and assessed across the site and bore logs kept. The report, from Eliot Sinclair, found that the site contains some minor uncontrolled fill, and that soils in the upper layers have variable bearing strengths. New buildings will require specific design but overall Eliot Sinclair conclude that the site is suited to the proposed zone. The report is attached to the s32 report and is compliant with the requirements of the recent Department of Building and Housing guidelines.

**THE OPTIONS**

44. A range of options were considered during the preparation of this proposed plan change. This includes options of doing nothing, the 'status quo', as well as various specific methods of amending the Plan provisions. The Section 32 assessment should be referred to for more detail in this regard.

**PROCESSING OF COUNCIL INITIATED PLAN CHANGES**

45. This is a Council initiated plan change and is subject to the provisions of the First Schedule of the RMA. If the Council decides to notify the plan change then it would be notified in accordance with the provisions of this Schedule. The proposed plan change and Section 32 would be made available for submissions and further submissions. Submitters would then have the right to present their submission at a public hearing. The Council decision must then be notified. A right of appeal to the Environment Court would be available, for any person who made a submission on the proposed plan change.

**11 Cont'd**

**SUMMARY**

46. Overall, the proposed change is considered to be the most appropriate in terms of efficiency and effectiveness in achieving the Plan's objectives. PC66 makes efficient use of the existing resources at the site and achieves a balance between economically viable land use and retaining rural character in the area. Officers consider the plan change to be adequately researched and addresses the relevant issues to the extent necessary prior to public notification. This does not preclude the possibility of other matters being raised during the submissions process. It is recommended that the proposed plan change is accepted in its entirety for public notification.

12. REPORT FROM REGULATORY AND PLANNING MEETING OF 20 APRIL 2012:  
PRIVATE PLAN CHANGE 67 – HIGHFIELD

<b>General Manager responsible:</b>	General Manager Strategy and Planning DDI 941-8281
<b>Officer responsible:</b>	Programme Manager District Planning
<b>Author:</b>	Fiona Eunson, Senior Planner, District Planning

**PURPOSE OF REPORT**

1. The purpose of this report is to provide the information needed for the Committee to make a recommendation to the Council for a decision required by the Resource Management Act 1991 (RMA) under clause 25 of Schedule 1, on whether to accept, adopt or reject the plan change request lodged by Highfield Park Ltd, and then seek approval for notification of the plan change.

**EXECUTIVE SUMMARY**

2. The plan change request proposes the rezoning of approximately 260 hectares of land between the Styx River and Queen Elizabeth II Drive, to the east of the suburb of Redwood and Northcote, from Rural 3 (Styx - Marshland) to Living G (Highfield). The Living G (Highfield) zone includes a mix of residential densities and other activities together with two discreet areas of Business 1 zone (refer to **Attachment 1** for the plan change locality and **Attachment 2** for the Outline Development Plan (CODP) of proposed land uses). The attachments for this report have been separately circulated.
3. The plan change request was lodged on 23 September 2011. Since this time the request has undergone review and analysis, with the applicant being asked to provide further information on two occasions and to make modifications to the request (cl 23 - 24 of Schedule 1 to the RMA).
4. The plan change request and supporting information now contains sufficient information to enable the Council to continue the processing of the request as required under clause 25 of Schedule 1 to the RMA. This clause gives the Council the option of:
  - (a) accepting the request in whole or in part, then proceeding to publicly notify it for public submissions and hearing at the cost of the applicant; or
  - (b) adopting the request in whole or in part as its own, then proceeding to public notify it for public submissions and a hearing at the cost of the Council; the objectives and policies of the request would have legal effect once publicly notified; or
  - (c) rejecting the request in whole or in part although this can only be done on limited grounds; or
  - (d) dealing with the request as if it were an application for resource consent.
5. At this stage the detailed merits of the plan change request are generally not relevant. In reviewing the request consideration of the merits of the proposal at a high level or coarse scale has been undertaken as part of determining whether sufficient information has been provided. If the Committee decides to accept or adopt the request for public notification the merits of the plan change can be considered in detail if a hearing of submissions is held.
6. The applicant proposes a range of measures to address potential issues associated with development of the site and the proposed Living G (Highfield) zoning.
7. This report concludes with the following recommendation:
 

That the Regulatory and Planning Committee recommends to the Council that it:

  - (a) accepts the request for Plan Change 67 (rezoning of Rural 3 (Styx – Marshland) to Living G (Highfield) and Business 1 (Local Centre/District Centre Fringe)) in whole in accordance with clause 25(2)(b) of Schedule 1 of the Resource Management Act 1991 and proceed to publicly notify it.

12 Cont'd

**FINANCIAL IMPLICATIONS**

8. Should the Council decide to accept or adopt the plan change request and then notify the plan change for public submissions there are legal processes which must be followed in accordance with Schedule 1 to the RMA. These are standard processes that all plan changes must follow and if these processes are correctly followed, no particular financial risks are foreseen.
9. Costs arise at the various stages of the plan change process. Following public notification and assuming the plan change attracts public submissions, there will be costs associated with the reporting by staff (and consultant experts) to assist the hearings panel in responding to submissions. The scale of these costs will depend on the number and the level of complexity of the submissions received. As this is a privately initiated plan change request these costs are largely recoverable from the applicant if the request is accepted by the Council. If the Council resolved to adopt the plan change as its own, it will need to absorb all the processing costs.
10. Looking ahead to the completion of a hearing and the notification of the decisions, should the applicant or submitters appeal the decision to the Environment Court then costs incurred by the Council would not be recoverable, except in instances where the Court may award costs.

**ALIGNMENT OF REPORT WITH 2009-2019 LTCCP BUDGETS**

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

**LEGAL IMPLICATIONS**

12. The RMA outlines the legal process which must be followed when processing a plan change request. At this stage were the Council to decide to reject the request or turn it into a resource consent the Council's decision can be appealed by the applicant to the Environment Court.
13. Assuming the Council decides to accept or adopt the request, subsequent stages of the process include the public notification of the plan change followed by the submission and further submission phases, the preparation of a report and the evidence of experts to assist the hearings panel or commissioner, the hearing of submissions, the release of decisions and finally possible appeals to the Environment Court.
14. If this process is followed there is generally no particular legal risk associated with processing a plan change request however there are potential legal implications if the Council's hearings panel does not have the scope it needs to amend the plan change to address matters which the Council may wish to have considered.
15. During the process of evaluating whether sufficient information was supplied with the plan change request there were issues of merit identified. The applicant made amendments to address many of these matters. For those matters for which agreement could not be reached the Council has the opportunity to lodge a submission on the plan change request and the matters will be raised in the officers report to the hearings panel should it decide to accept or adopt the request for public notification.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

16. Processing of the plan change request is a statutory requirement of the Council and is consistent with the LTCCP and Activity Management Plans. The allocation of funding and timing of infrastructure programmes such as those involving the Northern Relief Sewer and roading network improvements such as the Northern Arterial and roading intersections in the vicinity of the plan change site have the potential to impact on development of plan change site.

**SUPPORT FOR A LEVEL OF SERVICE OR PROJECT IN THE 2009-2019 LTCCP**

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

12 Cont'd

**ALIGNMENT WITH STRATEGIES**

18. The Council has developed a number of the strategies which the City Plan assists with implementing. The potential for alignment of the plan change request with key strategies is summarised below.
19. The plan change request aligns with the *Greater Christchurch Urban Development Strategy and Action Plan 2007* (UDS) to which the Council is a party. A key priority of this strategy is now reflected in Chapter 12A of the Regional Policy Statement which establishes an urban limit for Christchurch and achieving a density target of 15 households per hectare. The site of the plan change request is located within the urban limit and provides for 2200 households as required by Policies 1 and 6 of Chapter 12A. The request includes an Outline Development Plan and makes some provision for the staging of site development with respect to upgrading of the roading network infrastructure as required under Policy 8.
20. The *Greater Christchurch Travel Demand Management Strategy and Action Plan* (GC TDMS) is a key approach in the UDS that establishes travel demand management policy direction, targets and actions to achieve a more sustainable transport system. The plan change request appears to promote measures that reflect some of the aims of the Strategy by locating the proposal adjacent to existing residential areas, providing for high density residential areas within close proximity to trip generating activities and planned future public transport routes and by providing a permeable movement network within the proposed urban form to decrease trip distances and enhancing opportunities to walk and cycle within the area.
21. The *Climate Smart Strategy 2010-2025* provides a vision for Christchurch that is resilient to the impacts of climate change. The plan change request appears to contribute to achieving objectives 4-5, 8-10 of the *Strategy* which aim to grow community capacity and foster partnerships that respond to climate change, encourage sustainable households and communities, encourage green and healthy places and spaces, enhance the resilience of habitats and ecosystems and promoting energy conservation and renewable energy.
22. The Council *Public Open Space Strategy 2010-2040* addresses the provision and maintenance of public open space for Christchurch over the next 30 years. The Strategy's primary focus is public parks, roads, waterways and coastline managed by the Council. The *Strategy* divides public open space into green, blue and grey spaces where green space is largely covered in vegetation, including parks and margins of water bodies; blue space is the surface water bodies or waterways; and grey spaces primarily refers to the street network which also provides for passive recreation, amenity and elements of the green space, such as grass berms and plantings.
23. The Public Open Space Strategy's *Priority Initiatives to 2040* includes as a priority the enhancement of recreation opportunities and active transport around the Styx River where linkages to the coast and to Queen Elizabeth II Drive are proposed. The plan change request appears to recognise this priority through the proposed open space reserve status of land adjoining the Styx River, the connection between the Styx River and Queen Elizabeth II Drive by the Central Boulevard, realigned Horners Drain and three neighbourhood parks.

**CONSULTATION FULFILMENT**

24. The plan change request covers land owned by approximately 45 individuals or groups including the Crown and the Council. The applicant indicates it holds land purchase options with up to 80% of the privately owned land and through these negotiations there has been on-going liaison with these landowners. Little contact has been made with the other landowners.
25. Approximately 50 hectares of land along the western boundary of the site is owned by NZTA and designated for the Northern Arterial road corridor. A site of around 11 hectares adjoining Queen Elizabeth II Drive is owned by the Council for the purpose of stormwater and flooding management. Consultation has been undertaken with NZTA and the Council.

**12 Cont'd**

26. Ngai Tahu is the tangata whenua with ancestral and traditional relationships with the land and waters within the area of the Christchurch City Council. The applicant reports being unsuccessful in consulting with Ngai Tahu. A request by Council staff for consideration of tangata whenua issues was sought from Mahaanui Kurataiao Limited (MKT) which acts for Ngai Tahu. This request was directed to the applicant and a response has since been received to the satisfaction of Council staff.
27. A memorandum to the Mayor and Councillors from the Programme Manager District Planning dated 10 February 2012 provided information on the status of processing the plan change request.
28. The Council's Regulatory and Planning Committee will consider the plan change request before referring their recommendation to the Council meeting in April 2012.

**STAFF RECOMMENDATION**

That the Council accepts the request for Plan Change 67 and Section 32 evaluation (rezoning of Rural 3 (Styx – Marshland) to Living G (Highfield) and Business 1 (Local Centre/District Centre Fringe)) in whole in accordance with clause 25(2)(b) of Schedule 1 of the Resource Management Act 1991 and proceed to publicly notify it.

**COMMITTEE RECOMMENDATION**

The Regulatory and Planning Committee considered this report at its meeting of 20 April 2012. The recommendation from the Committee will be forwarded to the Council.

**BACKGROUND**

**THE PLAN CHANGE REQUEST**

29. The request for Plan Change 67 (Highfield) proposes rezoning approximately 260 hectares of land adjoining the eastern boundary of the suburbs of Redwood and Northcote in northern Christchurch from Rural 3 (Styx – Marshland) to a new Living G (Highfield) zone, which includes two Business 1 zoned areas. This location is within the urban limits for Christchurch City as identified in Chapter 12A of the Canterbury Regional Council's Regional Policy Statement (RPS) which became operative in 2011.
30. The northern, eastern, southern and western boundaries of the plan change site are formed respectively by the Styx River, Hawkins and Hills roads, Queen Elizabeth II Drive and land designated for the proposed Northern Arterial road corridor. Much of the site is presently in pasture with rural residential properties adjoining parts of the eastern boundary which aligns with Hawkins and Hills roads.
31. The proposed Living G (Highfield) zone is a mixed use, multiple residential density zone modelled on other Living G zones within Christchurch (i.e. Awatea, East Belfast, Halswell West, Prestons, Wigram and Yaldhurst). This zoning proposes 2200 residential allotments across approximately 50% of the plan change site. The four residential densities proposed are similar to those used for Living G (Prestons).
32. Within the Living G (Highfield) zone are two areas of Business 1 (Local Centre/District Centre Fringe) zone covering approximately 6000m<sup>2</sup> in Gross Floor Area. These Business zones are located in two discreet areas within the northern and southern portions of the site that lie north and south of Prestons Road.
33. The proposed Northern Arterial road corridor designation occupies approximately 50 hectares along the western boundary and south-western corner of the plan change site with a large portion of the west and south of the site dedicated as to future stormwater management. Development of approximately one third of the allotments located in the southern portion of the plan change site adjoining Queen Elizabeth II Drive is deferred until stormwater management issues for this area are resolved.

**12 Cont'd**

34. The plan change request proposes realigning Horners Drain to become a central feature of a linear park that adjoins the Central Boulevard which runs north to south through the site linking Business 1 zone areas. Three neighbourhood parks are located across the site.

**RELEVANT RMA PROVISIONS**

35. The processing of plan change requests is covered by clauses 21 - 29 of Schedule 1 to the RMA. Those aspects of these clauses relevant to this request are:
- who may request a change to a district plan (clause (cl) 21);
  - that the request be in writing, explain its purpose and reasons, include an evaluation under s32 of the RMA and an assessment of potential environmental effects under Schedule 4 (cl 22);
  - further information may be required to better understand the potential environmental effects of the plan change (and may include the commissioning of reports); ways in which effects may be mitigated; the benefits and costs, efficiency and effectiveness, possible alternatives; and the consultation undertaken or required; timeframes applying; applicant's ability to decline to provide the further information and the Council ability to reject the request or not to approve it if there is insufficient information (cl 23);
  - with the agreement of the applicant the Council may modify the proposal (cl 24);
  - the Council must make a decision to either "adopt" the plan change request as if it were its own proposal and proceed to publicly notify it; "accept" it and proceed to public notification; reject the plan or treat it as if it were a resource consent (cl 25);
  - where the Council "accepts" the plan change it must publicly notify it within four months (cl 26);
  - the applicant may appeal the Council's decision made under clause 25 (cl 27).
  - applications may be withdrawn (cl 28).
  - unless rejected, the application is put through the standard process of public notification, submission, hearing, decision, and appeal (cl 29).

**STATUTORY TIMEFRAMES**

36. The plan change request was lodged by Highfield Park Ltd on 23 September 2011. Analysis of the plan change request was undertaken to determine whether sufficient information had been provided to enable the Council to make its decision required under clause 25 of Schedule 1 to the RMA, i.e. to adopt, accept or reject the request. Where there was an absence of expertise or insufficient staff capacity consultants were engaged to undertake the assessments.
37. After completing the initial assessment a request for further information (RFI) was made under clause 23 of the RMA on 25 November 2011. The time constraint imposed under section 37A for making a RFI was exceeded and approval was gained to extend the processing time. The applicant's response to the RFI was received on 14 December 2011.
38. Analysis of the information supplied by the applicant was undertaken and a second RFI was prepared together with a request made to modify aspects of the plan change request under clause 24 of the RMA on 10 February 2012. The time constraint imposed under section 37A for making a RFI was exceeded and approval was gained to extend the processing time. A response to the second RFI was received on 8 March 2012.
39. Following a meeting with the applicant on 14 March 2012 to discuss stormwater and open space matters additional information and a modified version of the plan change request was supplied. Another meeting with the applicant was held on 20 March to discuss sewerage related issues and a modified version of the ODP was received on 23 March.

**THE OPTIONS**

40. The Council is required to consider the plan change request under the processes outlined under clause 25 of Schedule 1 to the RMA. This clause gives the Council the option of accepting, adopting or rejecting the request or of processing the request as an application for resource consent. The four options are now evaluated in respect of the plan change request.



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**ACCEPT THE PLAN CHANGE**

41. The option of accepting the plan change request means that the Council approves the request for public notification after which time the public may make submissions in opposition or support. Under this option the applicant would continue to bear the cost of managing and processing the plan change. In accepting the request for notification the Council would:
  - (i) be taking a neutral position by neither supporting or opposing the request; and
  - (ii) retain the ability to make a submission if it opposes any aspect of the request and wishes to alter the request.
42. The Council may determine it has reasons for making submissions in opposition to the plan change. If a submission is not received seeking an amendment to the plan change, it is unlikely there will be the scope needed by the hearings panel or commissioner to amend the plan change.
43. The assessments undertaken by the Council's staff have determined that there is sufficient information supplied to enable the plan change request to be publicly notified for public submissions. Further analysis of the accuracy and reasonableness of the proposal may raise concerns that the Council determines warrant the making of submissions on the plan change request. Accepting the request enables the Council to maintain its ability to remain neutral and to make a submission.

**ADOPT THE PLAN CHANGE**

44. The Council may adopt the plan change request and process it as if it were its own. The request is publicly notified and a hearing is held to enable any submitters to present their concerns to the Hearings Panel. By adopting the plan change request the Council:
  - (i) indicates that it supports the plan change request;
  - (ii) can control the request as if it were its own;
  - (iii) may alter parts of the request that it does not support prior to public notification;
  - (iv) takes over the costs associated with managing and processing the request.
45. Were the Council to adopt this plan change request it should have some rationale to justify this approach that has a public benefit, and is a better method for promoting the purpose of the Act or carrying out the Council's functions under section 31 (integrated resource management). Potentially the Council could use a similar justification to that used by the applicant of addressing the housing need created as a result of the 2010 - 2011 earthquakes.
46. Whilst it could be argued that there is justification in terms of earthquake recovery, the remaining parts of the resource management process are unlikely to be any quicker or easier if the Council adopted the Plan Change. Also, the proponent has responded positively to the majority of modifications sought by the Council, so there would be little to gain in terms of securing better outcomes.

**REJECT THE PLAN CHANGE**

47. Limited opportunities exist under the RMA for rejecting a plan change request. In addition to the grounds under clause 23(6) where the Council may reject or decide not to approve the request if the applicant has declined to provide the further information requested, a plan change may also be rejected if:
  - (i) it is frivolous or vexatious;
  - (ii) the substance of the request has been dealt with by the Council or the Environment Court in the last two years;
  - (iii) it is not in accordance with sound resource management practice;
  - (iv) it would make the District Plan inconsistent with Part 5 of the RMA (other policies or plans, such as Regional Policies or Plans); or
  - (v) the District Plan has not been operative for more than two years.

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48. The plan change request is not considered to contravene the requirements in (i)-(v) above. The applicant has provided a comprehensive proposal that is modelled on other Living G zones which have been approved by the Council. The analysis undertaken to date does not suggest that the plan change request is not in accordance with sound resource management practice therefore rejection of the plan change request at this stage cannot be supported.

**TREAT AS A RESOURCE CONSENT**

49. The plan change request may be converted to an application for resource consent. With this option the applicant bears all of the associated costs. It is suggested that the nature and scale of this proposal counts against it being processed as a resource consent. The plan change site covers an area of approximately 260 hectares and is currently zoned Rural 3.
50. The land use and subdivision consent applications for the scale of urban residential and commercial development proposed by the request would be a Non-complying Activity under the Rural 3 zoning contrary to the objectives and policies of the City Plan and highly unlikely to gain approval. It is therefore concluded that this rezoning proposal for such a large area of Rural zoned land is more appropriately tested through the plan change process.

**ISSUES**

51. The principal issues associated with the plan change request are summarised below. These and other issues, including those of potential interest to Ngai Tahu, and the means by which the applicant proposes addressing all issues, will be considered by the Council's hearings commissioner or panel should the request be accepted or adopted by the Council for public notification.

**GEOTECHNICAL**

52. The *Preliminary Geotechnical Assessment Report Highfield Park* (Sept 2011) concludes that the site is geotechnically viable for residential development expected under the New Zealand's Department of Building and Housing (DBH) design criteria on liquefaction susceptible soils subject to engineering preparatory works. As the DBH *Guidelines for the geotechnical investigation and assessment of subdivisions in the Canterbury region* (Nov 2011) was finalised two months after the *Report* was completed, the applicant has since provided confirmation that the *Report* complies with the *Guidelines*. This confirmation is sufficient to enable the Plan Change to be notified.

**STORMWATER AND FLOODING**

53. The *Three Water Servicing* report indicates that the stormwater management system proposed for the site is based on discharging stormwater into Horners Drain and then into the Styx River while flood management involves realigning and increasing the capacity of Horners Drain. As this re-configuration is unlikely to completely address the extent of flooding in the south of the site, the applicant proposes deferring development in the southern part of the site until a full investigation is undertaken. The Council's stormwater engineers are comfortable with the mitigation concepts in terms of area and treatment for the part of the development north of the proposed deferment area, and there are safeguards in the Plan Change to enable the Council to address mitigation issues for the deferred area at the subdivision stage.
54. Approval of the stormwater management system proposed for the site is dependent in part on the Council obtaining resource consent approval from Environment Canterbury (ECan) to discharge stormwater to the Styx River (this is required under the Waimakariri River Regional Plan). The anticipated discharge is addressed in the draft Stormwater Management Plan (SMP) for the Styx River which is to be finalised in May 2012 for lodgement as part of the Council's application for resource consent approval from ECan. The Styx catchment is currently covered by the Waimakariri River Regional Plan (ECan has requested that CERA transfer the Styx catchment to coverage under the Natural Resources Regional Plan. This would enable Council to treat the Styx SMP consent as operative once it's been lodged as a

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complete application, thereby creating greater certainty over the outcomes and timing for the applicant and Council.)

**WASTEWATER AND WATER SUPPLY**

55. The report *Three Water Servicing for Proposed Plan Change for Highfield Park* (Dec 2011) submitted in support of the plan change request proposes to either rely on a combination of the existing water supply system and new bore or to establish a completely new bore to service the site. Resource consent approval would be needed from ECan to take water.
56. The site is located in an area serviced by the Northern Relief Sewer. This Sewer was fragile prior to the 2010-2011 earthquakes but damage sustained due to these events has exacerbated infiltration and sewage overflow issues. The Council is working with Stronger Christchurch Infrastructure Rebuild Team (SCIRT) to determine repair concepts for the sewer and appropriate upgrades. Repairs and upgrades to this sewer are currently programmed in the LTCCP between 2012/13 and 2015/16.
57. Some sewage overflows are permitted under resource consents held by the Council with ECan but these have been exceeded due to earthquake damage. Options to address this non-compliance are being explored with ECan who have indicated their preference that a new resource consent be obtained by the Council to accommodate any additional non-compliances associated with the plan change site. Obtaining resource consent approval could take up to two years to complete (and longer to resolve appeals). In the interim, there is a risk of a minor increase in wastewater discharging into the Avon River in periods of heavy rain, but advice from the Team Leader Network Planning is that this is not of such a concern to warrant the Plan Change not being notified.

**TRANSPORT**

58. The plan change request is supported by an *Integrated Transport Assessment* (ITA) (Dec 2011) that assesses the effects of traffic generated by the proposed development on the receiving transport environment including key intersections in the vicinity of the site. This area of the City has been affected by changes in traffic movements following the 2010 and 2011 earthquakes. The Council's transport consultants have expressed concerns at the level of development that could occur prior to completion of improvement works in northern Christchurch, and the construction of the Northern Arterial. These effects have not been quantified and it would be unreasonable to expect the proponent to have done this in the absence of detailed traffic modelling. The UDS partners are currently completing a modelling exercise which will help identify effects of this and other developments on the road network. It is anticipated that the results will be available to be used by the Council's hearing commissioner or panel.

**LANDSCAPE**

59. The key issues for landscape are those concerning the interface between the proposed development and the proposed Northern Arterial, and implications for the eastern end of Styx River corridor, western link of the Source to Sea walkway to Redwood Springs subdivision, and the celebration of Styx River Reserve. The *Preliminary Landscape Assessment* (Sept, 2011) assists in the understanding of the landscape and visual values associated with the site and the potential effects on these values from development under the proposed plan change. The Assessment suggests there will be environmental benefits for native plant communities, enhanced amenities and recreational opportunities. The Council's Senior Landscape Architect, after receiving additional information relating to the assessment, is satisfied that the assessment has adequately addressed the key issues.

**OPEN SPACE AND ECOLOGY**

60. The *Preliminary Landscape Assessment* (Sept 2011) and the *Outline Development Plan Background Report* (Mar 2012) both inform the provision of open space shown on the ODP. The major structuring element proposed for the site is the realigned Horners Drain within the centralised linear park adjacent to the Central Boulevard. The applicant promotes this corridor as providing identity and legibility, an attractive outlook to adjoining higher density housing and an area of public open space. Advice from the Council's Senior Park's Planner is that the Plan

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Change more than adequately provides for open space requirements, with the amount proposed to be invested exceeding what the development contribution requires. This additional land will be gifted to the Council, with only a relatively minor increase in associated operational costs.

61. The *Ecology Assessment* (Sept, 2011) evaluates the existing aquatic ecological values at the plan change site, discusses potential effects of the construction phase and resultant effects of urbanisation on streams. Recommendations are made on how to enhance the ecology of the site. The Assessment concludes that the ecological values of Horners Drain and tributaries are generally poor although a number of fish taxa are present with good habitat and a healthy fish community in the reach between the development site and the confluence with the Styx River. Council. The Council's Waterways Planner Ecologist is satisfied with the overall assessment and, although the information is pitched at a high level, she considers that the proposed enhancements will have a positive effect on the overall local surface water environment.

**URBAN DESIGN**

62. The urban design component of the plan change request is largely considered in the *Outline Development Plan Background Report* (Mar 2012). The *Report* describes the context of the site, at the sub-regional, city and local scales, and includes analysis of the site and provides a platform for the ODP and its underlying design principles. The proposal has also been assessed against the criteria of the Urban Design Protocol and advice from the Council's urban design consultant is that the general principles of the Protocol have been applied.
63. The *Retail /Commercial Assessment and Recommendations* (Sept 2011) addresses activities within the proposed Business 1 zone and details the design philosophy and possible concepts for the neighbourhood centres. The conceptual urban design components of the request are largely represented in the ODP and in the rules in the Plan Change. Advice was sought from Property Economics Limited regarding distributional effects on other centres, and their advice is that there are unlikely to be any.

**PLANNING**

64. The plan change request is modelled on other Living G zones within the Christchurch City Plan. All have a slightly different approach. Much of the text of the request reflects aspects of Living G (Halswell West) but its location, scale and the constraints to site development in this area make it also similar to Living G (Prestons). It is considered that the Plan Change gives effect to Chapter 12A of the RPS including its key objectives and policies.
65. After processing the plan change request under clauses 23 and 24 of Schedule 1 to the RMA it is now concluded that there is sufficient information for the Council to make its decision under Clause 25 of Schedule 1 to the RMA on how it should continue to process the plan change request. It is not appropriate to consider the detailed merits of the request at this stage. If there are issues of merit that the Council considers important to address these can be raised in a submission by the Council to the plan change once it is publicly notified.

**SUMMARY**

66. In order for the Committee to decide on how to continue with processing the plan change request the Committee is directed to clauses 25(2), (3) and (4) of Schedule 1 to the RMA. The options provided under these clauses were discussed in detail in earlier sections of this report. In summary these options are:

**Option 1:** accept Plan Change 67 request for public notification (and supporting Section 32 evaluation) in accordance with clause 25(2)(b) of Schedule 1 to the Resource Management Act 1991;

**Option 2:** adopt Plan Change 67 request and publicly notify it as if it were the Council's own plan change in accordance with clause 25(2)(a) of Schedule 1 to the Resource Management Act 1991;

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**Option 3:** deal with Plan Change 67 request as if it were an application for resource consent in accordance with clause 25(3) of Schedule 1 to the Resource Management Act 1991; or

**Option 4:** reject Plan Change 67 request in accordance with Clause 25(4) of Schedule 1 to the Resource Management Act 1991.

**THE PREFERRED OPTION**

67. The preferred option is **Option 1**, i.e. accept the request for Plan Change 67 and supporting Section 32 evaluation (rezoning of Rural 3 (Styx – Marshland) to Living G (Highfield) and Business 1 (Local Centre/District Centre Fringe) in whole in accordance with clause 25(2)(b) of Schedule 1 of the Resource Management Act 1991 and proceed to publicly notify it.

## COUNCIL 26. 4. 2012

### 13. LIVING G (NORTH WEST BELFAST) – FINAL APPROVAL

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Programme Manager District Planning
<b>Author:</b>	David Punselie

#### PURPOSE OF REPORT

1. This report seeks the Council's approval to make operative the changes to the City Plan introduced by decisions of the Environment Court on appeals against the Council's zoning of land at Belfast.

#### EXECUTIVE SUMMARY

2. In 1999 the Council made a decision on submissions to the proposed district plan by Apple Fields Limited (AFL) who sought a rezoning of 93 hectares of Rural 3 land generally bounded by Main North Road, Johns Road, Groynes Drive and, to the north, an area of land zoned Open Space 2, Rural 3 and Rural 4. A location map is **attached**. The submissions, which sought a change in zoning from Rural 3 to Rural 3 (Horticultural subzone) to provide for more intensive subdivision (minimum lot size of 2 hectares), were rejected by the Council.
3. AFL appealed the decision to the Environment Court. Before the hearing of the appeal an agreement was reached between the Council and AFL whereby the Council would rescind its decision and support a new Rural 3A zoning of the land which would permit subdivision down to two hectares and the erection of one dwelling on each allotment. The Regional Council (CRC), which was a party to the appeal, did not support this proposal. Following a hearing the Court issued a decision in 2002 in which it declined to change the zoning but decided that the real choice for the AFL land should not be between a Rural 3 zoning and a Rural 3A (Rural Intensive) zoning, but between a Rural zoning and a Living zoning. The hearing was adjourned to enable the parties to make submissions to the Court on whether section 293 of the Resource Management Act 1991 should be applied. This section enables the Court to revoke or change any plan provision, if it considers a reasonable case has been made for doing so, and to give interested parties an opportunity to make submissions. After hearing submissions the Court decided that a reasonable case had been made to consider a Living zoning for the land. This decision was appealed to the High Court by CRC but that appeal was dismissed.
4. In April 2008 the Environment Court, following a hearing over 10 days in August 2006 and a further four days in March 2008, issued a decision rezoning the land Living G (North West Belfast) and adjourned the matter for further consideration of an Outline Development Plan and other issues. A series of hearings followed, along with interim decisions, and, on 7 March 2012, the Court issued its tenth and final decision in which it directs the Council to amend the district plan in accordance with more than 100 pages of new text and appendices attached to the decision, a copy of which is attached to this report.
5. As the matter is now beyond challenge the Council can proceed to make the new provisions operative.

#### FINANCIAL IMPLICATIONS

6. There are no direct financial implications

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

7. The recommendations will not impose on the LTCCP budgets.

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**LEGAL CONSIDERATIONS**

8. The recommendations in this report are for the Council to take the procedural step to make operative the changes introduced by the Environment Court in its decision on land that is now zoned Living G (North West Belfast). 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 provisions become operative on a date that is nominated in a public notice of the Council's approval. The proceedings that were the subject of the appeal have reached the stage where the new provisions can be made operative. Apart from one outstanding minor matter (which is unlikely to be resolved in the foreseeable future) the City Plan is now fully operative.

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

9. Yes.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

10. 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?**

11. Yes. Supports the preparing, maintaining and reviewing the City Plan level of service.

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

12. Yes. Supports the Greater Christchurch Urban Development Strategy. The land that is the subject of the recommendation in this report is identified as CN1 in Chapter 12A of the Regional Policy Statement.

**CONSULTATION FULFILMENT**

13. 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 Environment Court in its decision No [2012] NZEnvC 49.
- (b) Authorise the General Manager, Strategy and Planning to determine the date on which the changes introduced by Environment Court decision No [2012] NZEnvC 49 become operative.

14. PLAN CHANGE 53: DESIGN AND AMENITY IN LIVING 3 AND 4 ZONES – FINAL APPROVAL

<b>General Manager responsible:</b>	General Manager Strategy and Planning; DDI 941- 8281
<b>Officer responsible:</b>	Programme Manager, District Planning
<b>Author:</b>	David Punselie Assistant Planner

**PURPOSE OF REPORT**

1. This report seeks the Council’s approval to make operative the changes to the City Plan introduced by its decision on Plan Change 53 as amended by an Environment Court consent order.

**EXECUTIVE SUMMARY**

2. Plan Change 53 (PC 53) is a Council initiated plan change that amends the provisions relating to design and amenity of new residential development in the medium and high density residential areas. Living 4 zones are located primarily within the Central City with small pockets at Carlton Mill, North Beach and in central New Brighton. Living 3 zones are generally located between the inner-city Living 4 zones and the lower density Living 1 and Living 2 zones, with further pockets located adjacent to some consolidation focal points such as large suburban shopping centres. There are also several small areas of Living 3 in large new subdivisions such as Northwood and Aidanfield.
3. PC 53 arose from widespread public dissatisfaction with the quality of urban design in medium and high density developments in the central city and inner suburbs. It focuses on provisions relating to matters of design, appearance and amenity of development in the existing zoned areas only. It does not address other matters such as building height, density, non-residential activities or zoning.
4. Public notification of the plan change on 19 February 2010 attracted 71 submissions. A hearing was conducted over four days in December 2010 before a panel of Councillors Sue Wells and Chrissie Williams, and Commissioner David Collins. On 23 June 2011 the Council accepted the Panel’s recommendation that the plan change be adopted with some amendments.
5. One appeal was received against the decision. The appeal concerned Rule 4.2.5(b) which deals with the separation distance between adjacent neighbours’ windows and balconies. The decision set the distance at four metres and the appellant sought seven, which was the distance in the Plan Change as notified. In essence the issue was about achieving an appropriate balance between residents’ privacy and amenity, and efficient use of land.
6. With the approval of the District Plan Appeals subcommittee, staff participated in an Environment Court mediation and the matter was resolved by adding some sentences to the assessment matters in Part 2 of the plan. The Environment Court’s consent order is attached (**Attachment 1**) together with the plan change as amended by that order and the Council’s decision (**Attachment 2**).
7. As the matter is now beyond challenge the Council can take the necessary steps to make operative the changes introduced by Plan Change 53.

**FINANCIAL IMPLICATIONS**

8. There are no direct financial implications.

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

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



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**LEGAL CONSIDERATIONS**

10. The recommendation in this report is for the Council to take the procedural step to make operative the changes introduced by Council's decision on PC 53 as amended by the Environment Court. 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. This plan change has reached the stage where it can be made operative.

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

11. As above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. 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?**

13. Yes. Supports the project of processing plan changes in compliance with statutory processes and time frames.

**ALIGNMENT WITH STRATEGIES**

14. Not applicable.

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

15. Not applicable.

**CONSULTATION FULFILMENT**

16. 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 decision of the Council (as amended by the Environment Court) on Plan Change 53 Living 3 and 4 zones Design and Amenity
- (b) Authorise the General Manager, Strategy and Planning to determine the date on which the changes introduced by PC 53 become operative.

## COUNCIL 26. 4. 2012

### 15. REGULATION OF SIGNAGE ADVERTISING COMMERCIAL SEXUAL SERVICES

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941- 8281
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Mel Renganathan, Policy Analyst

#### PURPOSE OF REPORT

1. This paper presents a proposed option for the development of a bylaw under the Prostitution Reform Act 2003 (PRA) to regulate signage advertising commercial sexual services that is in, or is visible from, a public place. Council direction is sought through this report before a proposed bylaw, a statement of proposal, and a summary of information are drafted.

#### EXECUTIVE SUMMARY

2. The Christchurch City Brothels (Location and Signage) Bylaw 2004 (the 2004 Bylaw) expired on 6 July 2011. Since that time signage advertising commercial sexual services has only been subject to the same rules for signage as other activities regulated by the City Plan and Proposed Banks Peninsula District Plan.
3. On 22 March 2012, the Council considered options to regulate the location of brothels and to control signage advertising commercial sexual services that is in, or is visible from, a public place. The Council determined that staff develop a proposed bylaw, Statement of Proposal and Summary of Information that would require that all brothels, other than small owner-operated brothels, be located within specific areas based on particular zones identified in the City Plan and Proposed Banks Peninsula District Plan and the Draft Central City Plan. The Council also determined that further legal advice on the proposed signage controls was required before a decision could be made on the proposed controls for signage advertising commercial sexual services.
4. Staff have now received further legal advice, which has been taken into account in preparing this report. Staff propose that a bylaw be prepared regulating signage advertising commercial sexual services in the areas where operator-run brothels are permitted to locate through controls on the number, placement and content of signs. Signage advertising commercial sexual services would be prohibited in the rest of the city.
5. If the Council agrees with the proposal to control signage advertising commercial sexual services, staff will prepare the recommended bylaw to regulate location of brothels *and* signage advertising commercial sexual services for adoption for public consultation at a Council meeting in late May 2012. The Special Consultative Procedure is then expected to run from mid June to mid July with hearings anticipated in mid to late July. Staff expect to take the bylaw for adoption at a Council meeting in late August, and for the proposed bylaw to be implemented by September of this year.

#### FINANCIAL IMPLICATIONS

6. Consultation on any new bylaw must be undertaken by way of the Special Consultative Procedure. The associated costs include printing and distribution of the Statement of Proposal and Summary of Information, the placement of public notices, and staff costs in supporting a hearings panel. These costs are budgeted for in the City and Community Long-term Planning Activity in the LTCCP.
7. The costs of enforcing the bylaw are difficult to determine. However, as there were no signage-related offences under the 2004 Bylaw in the seven years of its operation, it is unlikely that the need to enforce controls on signage will be common. Moreover, enforcement officers already respond to complaints about signage in general as part of their role in enforcing the requirements of the District Plan. These costs are budgeted for in the Enforcement and Inspections Activity of the LTCCP. Any increase in costs will be brought to the attention of the Council.

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

8. As noted above, the costs of consultation are provided for within the Community and City Long-Term Planning Activity and the costs of enforcement will be met from the Enforcement and Inspections Activity.

**LEGAL CONSIDERATIONS**

**Resource Management Act 1991 (RMA)**

9. The Council has previously considered, as part of the review of the 2004 Bylaw, its powers under the Resource Management Act 1991 (the Act) in relation to signage advertising commercial sexual services. The Act enables the Council to apply for an enforcement order or serve an abatement notice requiring a person to cease doing something, that, in the opinion of the Environment Court or an enforcement officer, is (or is likely to be) offensive or objectionable to such an extent that it has (or is likely to have) an adverse effect on the environment. (Complaints to the Advertising Standards Authority can also be made in respect of offensive advertising.) However, the Council did not consider this a sufficient option for preventing the display of offensive signage.

**The Prostitution Reform Act 2003 (PRA) and the Local Government Act 2002 (LGA 02)**

10. Section 12 of the PRA states that a territorial authority can make bylaws that prohibit or regulate signage that is in, or is visible from, a public place, and that advertises commercial sexual services.<sup>1</sup> The prohibition or regulation of such signs can be in any terms, and the terms can include the imposition of restrictions on the content, form or amount of signage on display. However, a bylaw can only be made:

“...  
(2) ... if the territorial authority is satisfied that the **bylaw is necessary to prevent the public display of signage that:**

- (a) Is likely to cause a nuisance or serious offence to ordinary members of the public using the area; or**
- (b) Is incompatible with the existing character or use of that area...**”

11. In making this bylaw, the Council therefore needs to be satisfied the bylaw is necessary for at least one of these reasons. The Council must also apply the bylaw-making provisions of the LGA 02 and be satisfied that the matters in section 155 have been complied with. This requires the Council to determine whether a bylaw is the most appropriate way of addressing the perceived problem, whether the proposed bylaw is in the most appropriate form and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). However, section 13(2) of the PRA provides that a bylaw relating to commercial sexual services signage may be made even if it is inconsistent with the NZBORA.

**Determinations under the PRA and LGA in respect of signage advertising commercial sexual services**

12. The Council has previously determined that a bylaw is the most appropriate way to address the perceived problem of signage advertising commercial sexual services, and that such a bylaw is necessary in terms of section 12(2) of the PRA. These determinations were made during the 2004 Bylaw review and following the Council's consultation process in 2009 on the revocation of the 2004 Bylaw. These matters were re-considered by the Council in September 2011 and the Council again determined that a bylaw is the most appropriate way to address the problem.

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<sup>1</sup> Section 4(1) of the Prostitution Reform Act 2003 defines commercial sexual services as;

“ ... means sexual services that—

(a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and

(b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person)”

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13. The Council can only regulate signs that advertise commercial sexual services **and** that cause nuisance or serious offence, **or** are incompatible with the existing character or use of an area. If a particular sign does not meet either of these requirements then it is beyond the Council's powers to regulate that sign under the PRA. It would also be beyond the Council's powers to prohibit all signs that advertise commercial sexual services, as not every sign will be one that causes nuisance or serious offence or be incompatible with the use of every area in the Council's district. Parliament could have used the word "district" in section 12 if it intended to allow Councils to prohibit signs across the whole of their districts.
14. The form of the proposed bylaw will not prohibit all signs in the district. This is discussed in greater detail in paragraphs 33 to 39. The proposed bylaw has a similar scope to the 2004 Bylaw in that it prohibits signs in most of the district but allows signs, with restrictions on content and form, in the areas where operator-run brothels are allowed. This is on the basis that signage in these areas, with appropriate controls placed on it, as to size, nature, number and image is not incompatible with the use of these areas. Signage advertising commercial sexual services would not be allowed in all other areas in the district.
15. The proposed bylaw and the manner in which it prohibits signage in most of the district may give rise to implications under the NZBORA, specifically the right to freedom of expression in section 14 ("everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form"). However, even if there was considered to be an inconsistency with section 14, as noted above, any inconsistency with the NZBORA does not prevent the bylaw from being made. Note that a prohibition on signs does not prevent a business advertising commercial sexual services because section 11(1)(b) of the PRA allows for classified advertisements in newspapers.

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

16. As above.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

17. The proposed bylaw is broadly aligned to the City and Community Long-term Planning Activity through the provision of advice on key issues that affect the social, cultural, environmental and economic wellbeing of the city. It is also consistent with the Enforcement and Inspections Activity, which aims to protect people from hazards and nuisances and ensure compliance with the City Plan and other regulations.

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

18. As above.

#### **ALIGNMENT WITH STRATEGIES**

19. There are no strategies that relate specifically to this issue.

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

20. See above.

#### **CONSULTATION FULFILMENT**

21. The proposed bylaw is subject to formal consultation with the community by way of the Special Consultative Procedure (as required by section 83 of the LGA). Staff have drawn on previous consultation and advice from key stakeholders in preparing the recommended option for the proposed bylaw and this report.

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22. Public consultation was undertaken on the proposed revocation of the 2004 Bylaw in late 2009. The Council received 345 submissions, the majority of which considered there should be a bylaw prohibiting or regulating signage advertising commercial sexual services. It was also suggested that the lack of any problem with signs could be attributed to the existence of the 2004 Bylaw.
23. The New Zealand Police, Community and Public Health representatives (who operate as Brothel Inspectors under the PRA), advised that they do not consider there are issues with signage advertising commercial sexual services.
24. Some brothel operators advised they are unlikely to install further signage as they wish to keep signage discrete. They are also able to advertise in the classified advertisement sections of newspapers. The local branch of the Prostitutes Collective advised that they were not aware of any problems with signage, but considered there may be a need to provide controls over offensive signage such as through a bylaw.

### STAFF RECOMMENDATION

25. That the Council resolves to:
  1. Direct staff to prepare a proposed bylaw that:
    - (a) prohibits signage advertising commercial sexual services in all areas of the district except the areas where brothels are permitted:
    - (b) regulates signage advertising commercial sexual services by requiring that only one sign be displayed and that signs:
      - be attached to the premises at which the commercial sexual services are provided;
      - clearly display the number of the premises to which the sign relates;
      - not be offensive;
      - not display any pictorial image;
      - not exceed 0.3 square metres in surface area; and
      - not be illuminated by any flashing light; and
  2. Note that the proposed signage provisions may give rise to implications under section 14 of the New Zealand Bill of Rights Act 1990, but that the Bylaw can still be made, pursuant to section 13 of the Prostitution Reform Act 2003.

### BACKGROUND (THE ISSUES)

26. The Christchurch City Brothels (Location and Signage) Bylaw 2004 (the 2004 Bylaw) was adopted by the Council on 7 July 2004. The Bylaw originally restricted the location of brothels, and signage advertising commercial sexual services, to specified areas within the central city, and placed controls on signage. However, the location provisions were quashed by the High Court in 2005 because they failed to make provision for SOOBs which, by their nature, operate across the city. Only the signage provisions remained. The Bylaw expired on 6 July 2012.
27. This Bylaw was considered most recently at the 22 March 2011 Council meeting at which the Council determined that further legal advice on the proposed signage controls was required before a decision could be made on the proposed controls for signage advertising commercial sexual services.

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**Problem definition**

28. The 2004 Bylaw, now expired, restricted signage advertising commercial sexual services to the specified areas within the central city and included the following controls:
- only one sign was allowed (or two if the business had multiple street frontages)
  - the sign had to be attached to the premises
  - only the name of the business, the name of the person conducting the business and the street number could be included on the sign
  - no pictorial images or flashing lights were allowed
  - the sign could be no greater than 0.3 metres squared in surface area.
29. There is limited evidence of problems with signage advertising commercial sexual services since the 2004 Bylaw came into effect. The Inspections and Enforcement Unit have dealt with only one complaint about offensive signage since 2004, which was promptly addressed. Discussions with the local branch of the Prostitutes Collective and some brothel owners indicated a preference among this business community for keeping signage discreet. However, it is possible that the current lack of any significant problems with signs advertising commercial sexual services is also due to the existence, until recently, of bylaw controls.
30. When the Council consulted on the revocation of the 2004 Bylaw, the Council received many submissions expressing concern that a lack of bylaw controls on signage advertising commercial sexual services would result in signage that is offensive to ordinary members of the public. Many submitters were concerned about children and young people being exposed to such signage and did not consider that other tools (such as the Resource Management Act or the Advertising Standards Authority) would be effective in addressing these concerns. This indicates that while there have been few problems with signage to date, there may nonetheless be a *perceived* problem to be addressed. That was the view of the Council when it considered the hearing panel report in December 2009.
31. Many of the known operator-run brothels were located within the central city and most were badly damaged during the earthquake of 22 February 2011. It is possible that some of these businesses may wish to relocate, with signage, to other areas of the city. At the time of this report, there has only been one application to relocate under the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011. There have also been two new businesses that have opened.<sup>2</sup>

**THE OBJECTIVE**

32. The desired objective is to ensure that signage advertising commercial sexual services:
- (a) is compatible with the character and use of areas within the district
  - (b) does not cause a nuisance or serious offence to ordinary members of the public.

**THE OPTIONS**

33. Under section 155 of the LGA, the Council is required to identify non-bylaw options to address the issue. The Council has previously considered and dismissed non-bylaw options relating to signage in the earlier reports on this matter and the review of the 2004 Bylaw.
34. The Council determined at its 22 September 2011 meeting that a bylaw is the most appropriate way to address the perceived problem of signage advertising commercial sexual services and to prevent the public display of signage that is likely to cause a nuisance or serious offence to ordinary members of the public, or is incompatible with the existing character or use of certain areas in the Council's district.

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<sup>2</sup> At 484 Tuam Street and 134 Papanui Street.

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35. The earthquakes have created complexity in identifying areas in which signage advertising commercial sexual services would not be out of character. The Draft Central City Plan and rebuild will change the original nature of the district. Staff recommend that the areas in which signage be permitted align with the proposed areas for the location of brothels. This includes selected areas based on particular zones identified in the City Plan, Proposed Banks Peninsula Plan and the Draft Central City Plan. As there is no evidence that SOOBs have ever sought to provide signage in suburban areas, a prohibition in the rest of the district is considered reasonable.
36. In order to reduce the risk of signage causing offence to ordinary members of the public, it is proposed that the bylaw regulate signage by requiring that only one sign be displayed and that signs:
- be attached to the premises at which the commercial sexual services are provided;
  - clearly display the number of the premises to which the sign relates;
  - not be offensive;
  - not display any pictorial image;
  - not exceed 0.3 square metres in surface area; and
  - not be illuminated by any flashing light.
37. The proposed controls are very similar to those in the 2004 Bylaw. The 2004 Bylaw also required that any signs be attached to the premises they are advertising and provided for no pictorial images on signs, a maximum sign size and no illumination of signs. Continuing these controls would ensure that any sign a business uses will be relatively small and discreet. Applying similar controls to the proposed bylaw would also mean that any new bylaw should be easily applied and understood.
38. There are two proposed differences from the 2004 Bylaw. First, the 2004 Bylaw enabled the display of two signs where a building had multiple street frontages. It is considered that a single sign should be sufficient. Second, the 2004 Bylaw only enabled the sign to include the name of the business, the name of the person conducting the business and the street number. Legal advice suggests that this requirement may be too restrictive in that it effectively prohibits the advertising of commercial sexual services. It is proposed that this requirement be replaced with a new requirement that the sign not be offensive.
39. A more conservative option for the proposed bylaw, would be to retain the restriction that the only content permitted is the name of the business, the name of the person conducting the business and the number of the property (as per the 2004 Bylaw), instead of inserting a "not offensive" restriction. If the Council wishes to retain these restrictions, any potential risk of doing so is considered to be low. Council staff note that several other Councils include similar "name" restriction provisions in their PRA bylaws that regulate signs.

### PREFERRED OPTION

40. It is proposed that the bylaw prohibits signage advertising commercial sexual services in all areas of the district except in the areas where brothels are permitted **and** regulates signage within these areas by requiring that only one sign be displayed, and that signs:
- be attached to the premises at which the commercial sexual services are provided;
  - clearly display the number of the premises to which the sign relates;
  - not be offensive;
  - not display any pictorial image;
  - not exceed 0.3 square metres in surface area; and
  - not be illuminated by any flashing light.

16. PROPOSED AMENDMENTS TO ALCOHOL RESTRICTIONS IN PUBLIC PLACES BYLAW (2009) TO CREATE PERMANENT ALCOHOL BANS FOR MERIVALE AND PAPANUI

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager Strong Communities
Author:	Ruth Littlewood Senior Policy Analyst

PURPOSE OF REPORT

1. This report seeks the Council's approval to commence the Special Consultative Procedure (SCP) to create permanent Alcohol Ban Areas for Papanui and Merivale through amendment of the Alcohol Restrictions in Public Places Bylaw 2009 (the 2009 Bylaw). Council approval is also sought for the Statement of Proposal, the proposed Amendment Bylaw and the Summary of Information required by sections 83 and 86 of the Local Government Act 2002 (the Act).

EXECUTIVE SUMMARY

2. On 23 February 2012, the Council considered preliminary advice on the effectiveness of the temporary bans introduced in September 2011 for Papanui and Merivale. The Council resolved to extend the temporary alcohol bans and to request staff to undertake analyses under section 155 of the Act with regards to making permanent alcohol bans for these areas.
3. Under section 155 of the Act, an analysis is required for each new area in which the bylaw might apply; the required analysis is appended [**Attachment 1**] to this report. The Act requires 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.
4. Any bylaw which the Council makes must be reasonable. The reasonableness of a bylaw relates 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 remedy and whether public or private rights are unnecessarily or unjustly invaded. The fact that there must be a "problem" is emphasised by the Act which requires the Council to determine the perceived problem and to determine that a bylaw is the most appropriate way of addressing the perceived problem.
5. The Police support the introduction of permanent bans to Papanui and Merivale, see [**Attachment 5**] and Police statistics show a trend of increasing levels of alcohol related offending in Papanui and Merivale, following the February 2011 earthquakes. Data collected since the introduction of temporary bans generally supports the bans, as does the results of consultation with Community Boards, the New Zealand Police, residents associations and a survey of business operators. Given the need for and apparent effectiveness of the Alcohol Bans, staff have concluded that there is sufficient evidence in terms of section 155 of the Act to commence the SCP to create permanent bans for Merivale and Papanui.
6. This report presents three options for Council consideration:
  - Option one: "Status quo" in terms of permanent bans. Retain the current bylaw with its existing Permanent Alcohol Ban Areas and do not proceed with making permanent Alcohol Ban Areas for Papanui and Merivale. (The current temporary bans will lapse.)
  - Option two: Further extend the temporary alcohol bans for Merivale and Papanui beyond their current 9 September 2012 expiry date. Staff do not recommend this option as it is contrary to legal advice.
  - Option three: An amendment to the 2009 Bylaw making new Permanent Alcohol Ban areas for Merivale and Papanui. This will require a revocation of the existing Permanent Alcohol Ban Area for Northland Mall Surrounds.
7. Staff recommend option 3 and propose that permanent alcohol bans apply in Papanui and Merivale for the same areas, days and times as the existing temporary Alcohol Bans. In accordance with section 156 of the Act, a SCP will be required to amend the 2009 Bylaw. If the proposed amendment is adopted, the permanent alcohol ban should take effect before the temporary alcohol bans lapse on 9 September 2012.



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**FINANCIAL IMPLICATIONS**

8. The cost of public notices and other publicity for a SCP is estimated to be in the order of \$5000. 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 and 2012/13.
9. The cost of new signage for permanent bans is estimated to be approximately \$4500. Signage relating to Alcohol Bans have been budgeted for within the Strategy and Planning Group budget for 2012/2013.
10. The Council is not responsible for (the costs of) enforcement as the Police are empowered by the Act to enforce the provisions of any bylaw made for "liquor control" purposes. Section 169 of the Act gives the Police powers of arrest, search and seizure in relation to the bans. This is different from many bylaws, where enforcement is undertaken by warranted Council officers.

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

11. See above.

**LEGAL CONSIDERATIONS**

12. 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.
13. In addition, section 147 of the Act 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.
14. 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.
15. The process for making, amending or revoking bylaws under the Act 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.
16. Section 156 of the Act requires the Council to use the SCP when amending a bylaw. In addition to this statutory requirement, the law generally requires that any bylaw must be *intra vires* (in other words within the statutory powers that authorise the bylaw), certain 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.

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17. 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.
18. The 2009 Bylaw currently provides that certain areas of the city are "Permanent Alcohol Ban Areas" and the Schedule to the Bylaw prescribes the location and the times for the Permanent Alcohol Ban Areas; Council must therefore use the special consultative procedure before making a new permanent ban or before changing the area or time applying to a permanent ban.
19. The Bylaw also provides, under Clause 5, for Temporary Alcohol Bans which can be made by way of Council resolution without consulting the community through an SCP. However a temporary ban is designed to provide a short-term restriction of public or private rights only; the extension or 'rolling over' of a temporary ban is only 'reasonable' when (as for the current proposal) Council has expressed the intention to introduce a replacement Permanent Ban.

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

20. Yes – as above. A section 155 analysis is appended [**Attachment 1**] to this report. Analysis has been undertaken for each new area in which the bylaw might apply. It is not appropriate to re-consider the high level issues around permanent alcohol bans because the Council undertook the required section 155 analysis before making the 2009 Bylaw. In the current situation the relevant issues are those relating to the specific proposals for new permanent Alcohol Ban Areas.
21. As stated above, a section 155 analysis for the proposed Amendment Bylaw has been carried out by answering the following questions for each of the 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 other qualitative research or other relevant 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?
22. The draft Amendment Bylaw has been reviewed for vires, certainty and reasonableness.
23. If the Council decides to introduce a permanent ban with the same coverage as the temporary Papanui Alcohol Ban Area Council will need to revoke the current permanent ban for Northlands Mall and its surrounds. The temporary Alcohol Ban Area for Papanui covers a wider area, applies on a greater number days and over longer hours and there will be no need for the "Northlands Mall Surrounds Alcohol Ban Area".

**ALIGNMENT WITH LTP AND ACTIVITY MANAGEMENT PLANS**

24. This report is broadly aligned to the City and Community Long-term Planning Activity through the provision of advice on key issues that affect the social, cultural, environmental and economic wellbeing of the city.

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

25. Yes – as above.

**ALIGNMENT WITH STRATEGIES**

26. The *Safer Christchurch Strategy* aims to see rates of injury and crime decline, for people to feel safe at all times in Christchurch City and for Christchurch to have excellent safety networks, support people and services. The Amendment Bylaw supports the Strategy through the provision for alcohol bans which contribute to a reduced level of unacceptable behaviours and vandalism associated with excessive drinking in public places. The proposed Bylaw aligns also with Goal 7 of the *Strengthening Communities Strategy*, “Enhancing the safety of communities and neighbourhoods”.

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

27. Yes – as above.

**CONSULTATION FULFILMENT**

28. Consultation has been undertaken with the New Zealand Police, Community Boards, residents associations and through surveys of Papanui and Merivale businesses. A summary of the findings of this consultation process is included in the section 155 report [**Attachment 1**]. The consensus view of those consulted is that alcohol bans are necessary in the current situation and should remain in place.

29. Those consulted reported that, following the February 2011 earthquake and the influx of new patrons to bars and restaurants in Merivale and Papanui, there had been a significant increase in alcohol related problems including, people urinating or vomiting on shop frontages, intentional damage or graffiti, broken bottles, assaults confrontations and anti-social or ‘threatening’ behaviour of people gathering and drinking in the streets and adjoining places e.g. carparks. Respondents felt that the bans were valuable especially in allowing the police to carry out ‘low level policing’ of the bars which prevented more serious offending. The residents’ associations especially considered that the bans are valuable for community safety and security purposes.

30. In May 2011, 40 per cent of those businesses surveyed in Papanui said that problems had significantly worsened after the earthquake while approximately 50 percent of the Merivale businesses experienced increased problems. Of those consulted, who were affected by alcohol related damage disorder and crime, most considered that the introduction of the Alcohol Bans had brought real improvement to the situation, although they still experienced more problems than before the February 2011 earthquake.

31. If the Council decides to seek amendments to the Bylaw, a SCP will be undertaken in accordance with the Act. 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, Police, and Community Boards will be notified directly of the proposal.

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**STAFF RECOMMENDATION**

32. It is recommended that the Council, in relation to the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2012:
- (a) Determine that there is sufficient evidence to support the proposal for permanent alcohol bans in the Papanui and Merivale areas and for commencing a special consultative procedure (as outlined below).
  - (b) Resolve that the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2012 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.
  - (c) Resolve that the Statement of Proposal including the proposed Bylaw [Attachment 2] and Summary of Information [Attachment 3] be adopted for consultation.
  - (d) 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.
  - (e) 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.
  - (f) Resolve that the consultation period be from Friday 4 May 2012 to Wednesday 6 June 2012.
  - (g) Resolve that a hearings panel be appointed to hear submissions, deliberate on those submissions and to report back to the Council on the final form of the Bylaw in August 2012.

**BACKGROUND**

33. Following the 22 February 2011 earthquake the Police approached Council seeking, as preventative measures, the introduction of new permanent alcohol bans for Merivale and for an area of Papanui not covered by the permanent ban for Northland Mall and its surrounds. Staff investigations into the need for alcohol bans, concluded that there was a lack of evidence of significant alcohol-related issues, but that the situation should be monitored on an ongoing basis. By August 2011, up-dated police data and other (anecdotal) evidence showed increasing levels of alcohol related disorder in Papanui and Merivale and Council decided to introduce temporary alcohol bans for 6 months from 8 September 2011 until 8 March 2012.
34. During December 2011 and January 2012 staff reviewed the data and undertook community consultation as to the effectiveness of the temporary bans in addressing alcohol related problems. On 23 February 2012 Council resolved to:
- (a) *Direct staff to undertake a section 155 Local Government Act 2002 analysis of possible amendments to the Bylaw with respect to declaring new Permanent Alcohol Ban Areas for Merivale and Papanui, and report back by April 2012.*

16 Cont'd

- (b) *Having considered the matters in clause 5(2) of the Christchurch City Alcohol Restrictions in Public Places Bylaw 2009, declares Temporary Alcohol Ban Areas for Merivale and Papanui; being the areas shown on the attached maps (Attachments 1 & 2), to apply from 9 March 2012; Wednesday Thursday, Friday and Saturday nights from 6.00pm to 6.00am.*
- (c) *Resolve that the temporary bans (provided for in (b) above) shall expire either on the 9th September 2012 or if and when Council resolves that a permanent ban for that area will not be imposed.*

35. As discussed above, a section 155 analysis [**Attachment 1**] has now been undertaken with respect to Merivale and Papanui Each area is discussed in turn.

**Merivale**

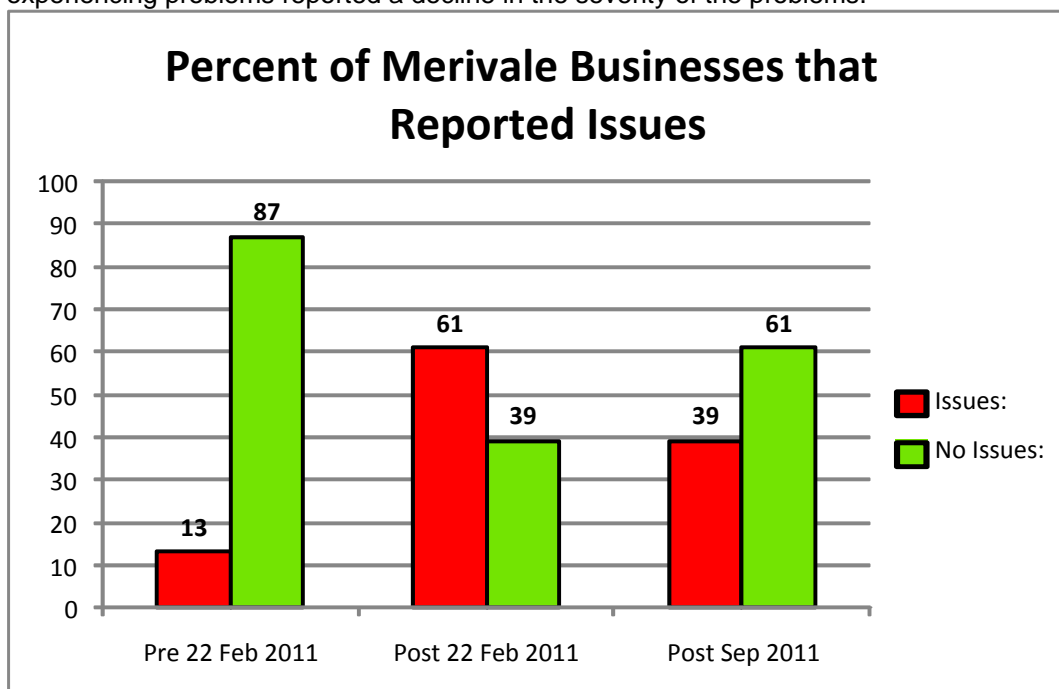
- 36. The current temporary liquor ban area runs from Papanui Road/St Albans Road intersection to Browns Road to Innes Road, back across Papanui Road to Heaton Street, down to Rossall Street, back up Rugby Street onto Papanui Road then back to the Papanui/St Albans Road intersection. (See bylaw map, schedule 1 to this report.) The ban applies for Wednesday to Saturday nights 6pm-6am as specified in the resolution quoted above.
- 37. The provisional police statistics show a significant increase in recorded incidents of alcohol related crime for Merivale in 2011 in comparison with 2010 and 2009 while the total for the first three months of 2012 is a return to a more 'normal' level of offending. (See Table below). While it is difficult to quantify the effect of the temporary alcohol ban from the police statistics, the survey of business operators and other community consultation suggest that the temporary alcohol bans have had significant positive effects.

**Total Recorded Violence, Disorder and A-Series (Alcohol related offending). Data covers the full calendar years 2009 - 2011, and from January to March 2012.**

		2009	2010	2011	2012
<b>MERIVALE</b>	Jan	6	6	1	6
	Feb	1	6	9	4
	Mar	9	3	6	6
	Apr	4	4	4	
	May	6	4	11	
	Jun	4	1	18	
	Jul	6	1	11	
	Aug	8	10	3	
	Sep	4	4	9	
	Oct		6	12	
	Nov	10	10	6	
	Dec	14	3	11	
<b>MERIVALE</b>		<b>72</b>	<b>58</b>	<b>101</b>	<b>16</b>

16 Cont'd

38. Consultation with the Police, Fendalton-Waimairi Community Board, and Merivale Precinct Society was undertaken as part of the review of the temporary ban and the Board was briefed in February on the staff review of the ban. Community Board and Society members expressed support for a more permanent alcohol ban as a useful and necessary measure in the current circumstances but also want a review of the ban should the patronage and drinking 'culture' in Merivale revert to that applying prior to the February 2011 earthquake. The Police maintain their view previously expressed, **[Attachment 5]** that the ban has been very effective, preventing people in public places 'pre-loading' before entering Merivale licensed premises, and allowing officers 'to move intoxicated people on' before they become involved in more significant incidents such as scuffles or fights. Most of the police work has been educational – the issuing of warning notices.
39. As well as a consideration of police data, the Council undertook, in January 2012, a survey of Merivale business operators to obtain their views on the effectiveness of the temporary alcohol ban. Prior to the February 2011 earthquake, (only) 3 out of 23 surveyed businesses in Merivale reported alcohol-related 'issues' while by May 2011 following the influx of patrons displaced from the Central City, 14 of 23 businesses surveyed reported alcohol-related 'issues' including; people urinating or vomiting in shop frontages, intentional damage or graffiti, broken bottles outside premises and more serious alcohol related offending - threatening behaviours, confrontations and fights. The January 2012 survey revealed that business operators considered that the temporary bans had been effective in reducing alcohol related problems; fewer businesses reporting alcohol related issues (see the table below) and those that were still experiencing problems reported a decline in the severity of the problems.



**Papanui**

40. The temporary alcohol ban area for Papanui applies Wednesday- Saturday nights 6pm to 6am for the area shown on the bylaw map, schedule 1 to this report. The temporary ban extends the hours and area covered by the permanent ban for the 'Northlands Mall and surrounds'. As stated above, any change or addition to the permanent ban in Papanui must be through an amendment to the Bylaw, requiring consultation under the SCP.
41. Police representatives report that the temporary alcohol ban has been effective in addressing alcohol-related problem behaviours, particularly those associated with patrons 'preloading' before entering licensed premises in Papanui and in preventing unsafe and problem drinking in Papanui. They noted that the ability to prevent the drinking of alcohol on the walkway beside the railway lines as a particular benefit of the wider Papanui ban.

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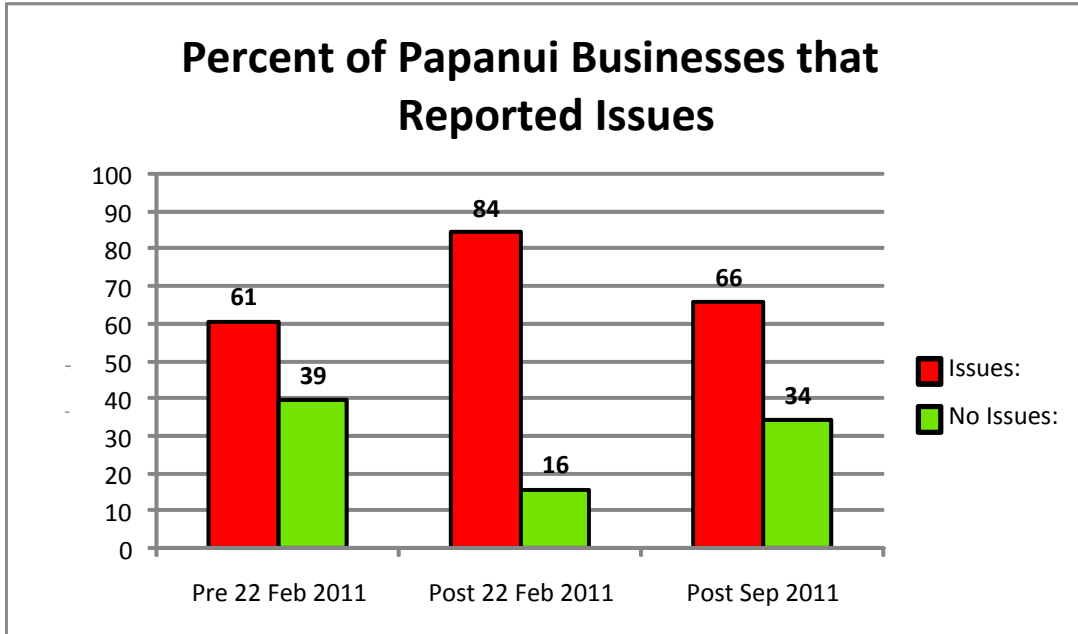
**16 Cont'd**

42. The president of the St James Avenue Residents Association confirmed that, following the influx of drinkers to Papanui, its members have observed a dramatic increase in the sort of alcohol related behaviours which the ban is designed to address e.g. drinking in public, broken bottles on the road, the stashing of liquor (behind street trees and in the adjoining park and properties) for 'pre and post- loading' by patrons, together with more serious alcohol related crimes such as destruction of property, intimidation and violence. Some Association members consider that the ban should be extended to apply 24 hours a day in St James Park, publicised widely and more consistently enforced.
43. The provisional police statistics show a significant increase in recorded incidents of alcohol related crime for Papanui in 2011 in comparison with 2010 and 2009 and the level of offending for the first three months of 2012 continues to be high in comparison with previous years. (See Table below). In these circumstances, it is difficult to quantify the effects of the temporary alcohol ban from the police statistics, however, as with Merivale, the survey of business operators and the results of other community consultation suggest that the temporary alcohol bans has had a positive impact.

**Total Recorded Violence, Disorder and A-Series (Alcohol related offending). Data covers the full calendar years 2009 - 2011, and from January to March 2012.**

		<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>PAPANUI</b>	<b>Jan</b>	<b>17</b>	<b>5</b>	<b>18</b>	<b>23</b>
	<b>Feb</b>	<b>13</b>	<b>18</b>	<b>16</b>	<b>23</b>
	<b>Mar</b>	<b>16</b>	<b>23</b>	<b>16</b>	<b>16</b>
	<b>Apr</b>	<b>13</b>	<b>13</b>	<b>30</b>	
	<b>May</b>	<b>19</b>	<b>12</b>	<b>21</b>	
	<b>Jun</b>	<b>14</b>	<b>8</b>	<b>33</b>	
	<b>Jul</b>	<b>18</b>	<b>16</b>	<b>28</b>	
	<b>Aug</b>	<b>29</b>	<b>24</b>	<b>23</b>	
	<b>Sep</b>	<b>16</b>	<b>19</b>	<b>19</b>	
	<b>Oct</b>	<b>23</b>	<b>17</b>	<b>17</b>	
	<b>Nov</b>	<b>7</b>	<b>20</b>	<b>16</b>	
	<b>Dec</b>	<b>13</b>	<b>16</b>	<b>24</b>	
<b>PAPANUI</b>		<b>198</b>	<b>191</b>	<b>261</b>	<b>63</b>

44. In May 2011, the Police undertook a survey of business owners in the Papanui area to determine what issues had arisen since the 22 February earthquake. Council undertook a survey of these same businesses in January 2012 to see if the ban had made a positive difference.



46. While the number of respondents surveyed is relatively small (42), on the basis of the survey (see results above) the temporary ban appears to have made a measurable positive difference in the number of businesses experiencing alcohol related problems. The problems recorded through the survey are; urinating or vomiting in shop fronts; intentional damage or graffiti; broken bottles; assaults or confrontations; thefts and “other”. The qualitative data (comments from respondents) was also positive in respect to the alcohol ban with the ban perceived to be generally quite effective in public places. Staff reviewing the comments and responses consider that an effective collective response is required by businesses to deal with anti-social activities in private spaces not subject to the ban e.g. shop car-parks.

**THE OBJECTIVES**

47. 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**

48. There are three options:

Option 1 – ‘Status quo’. With this option, there would be no new permanent alcohol ban area for Merivale, no change to existing alcohol ban area for Papanui (Northlands Mall and it surrounds) and the temporary alcohol bans would lapse immediately as soon as Council decided not to proceed with permanent bans (Council resolution of 23 February 2012). This option is not preferred because the situation is considered likely to revert to that applying prior to the introduction of the ban with relatively high and increasing levels of alcohol-related harm, damage disorder and crime in Merivale and Papanui.

Option 2 - Resolve to extend the temporary alcohol bans for a further period. This option is not supported as further extensions to the current temporary bans are not considered appropriate in terms of the legal advice (see above). Section 156 of the Act requires the Council to use an SCP when amending a bylaw and a decision to (further) extend the temporary bans by way of Council resolution may as regarded as contrary to the Act. Moreover the submissions and hearing process of the SCP allows a proposed bylaw to be tested as to its effectiveness and as to its ‘reasonableness’ in restricting individual rights. A decision to extend the temporary bans would deprive the community of the opportunity to challenge the bylaw or to seek improvements to its provisions (area/times etc.) through the SCP.



Option 3 - Amend the Bylaw by creating a new permanent ban area for Merivale and extending the area and periods (days/times for the ban applying to the Northlands Mall and its surrounds) to create the new Papanui permanent ban area. This will require a revocation of the existing "Northland Mall Surrounds Alcohol Ban Area". The results of community and police consultation and the survey of businesses in Merivale and Papanui all support making the temporary bans 'permanent'.

**THE PREFERRED OPTION**

49. The preferred option is Option 3 which is generally supported by the evidence provided by police statistics and by the results of surveys of business opinion. This option would enable the temporary alcohol bans in Merivale and Papanui to become permanent. The Police advise that alcohol bans are one of the most successful tools in reducing violence and disorder. While it is not clear that there is a direct causal link between a ban on drinking in public places and a reduction in alcohol-related crime, certainly there appears to be considerable police and community support for the current temporary bans to be made permanent

**The Preferred Option**

50. Option 3 – creation of new permanent Alcohol Ban areas for Merivale and Papanui.

	<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>

**Extent to which community outcomes are achieved:**

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 3 would contribute to these four community outcomes. The proposed permanent alcohol ban areas may contribute to perceptions of safety and have 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.

**Impact on the Council's capacity and responsibilities:**

The Act 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.

**Effects on Maori:**

Similar to other ethnic groups.

**Consistency with existing Council policies:**

This option is consistent with the *Safer Christchurch Strategy*.

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

The Act 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 Community Boards, and residents associations support this option as do businesses in these areas. The views and preferences of the general public can be ascertained through the special consultative procedure on this proposal.

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

85. Option 1- status quo. No new permanent alcohol ban areas and no changes in existing areas. The temporary bans will lapse immediately.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	<ul style="list-style-type: none"> <li>• No restriction on freedoms</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to increase level of alcohol-related harm.</li> </ul>
<b>Cultural</b>	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to increase negative drinking culture</li> </ul>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to increase the amount of glass bottles, broken glass and litter on our streets and in our parks</li> </ul>
<b>Economic</b>	<ul style="list-style-type: none"> <li>• Potential to increase off-licence sales</li> </ul>	Potential to: <ul style="list-style-type: none"> <li>• Maintain /increase current culture of fear/negative perceptions of safety leading to decrease in business activity</li> <li>• increase damage, vandalism, etc.</li> <li>• impact on tourism</li> </ul>
<p><b>Extent to which community outcomes are achieved:</b>                      If the ban areas are not updated to reflect the current situation for Merivale and Papanui, 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>                      No change to Council responsibilities compared to option 3 – the preferred option as enforcement for a bylaw is a matter for the Police, rather than the Council.</p> <p>Compared with the preferred option there will be a saving in 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>                      As for other cultural groups.</p> <p><b>Consistency with existing Council policies:</b>                      Assessed as less likely to achieve community outcomes - 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 permanent alcohol ban areas in the Bylaw are not adequate to address current issues in Merivale and Papanui. The views of the Community Boards and residents associations do not support the status quo option.</p> <p><b>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.</b></p>		

16 Cont'd

Other Option

86. Option 2 – Extend the current temporary bans.

	<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 freedom to drink in public places</li> <li>• Deprives community of right to challenge or amend the alcohol bans</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>

**Impact on the Council's capacity and responsibilities:**

There is legal risk in extending the current temporary bans because further extensions could be considered to effectively create permanent bans without going through the SCP required by the Act. Failure to carry out the statutory requirements for amendments to the 2009 Bylaw would deprive members of the community of their statutory rights to be consulted on bylaw amendments and potentially make the 'temporary bans' subject to successful legal challenge.

**Extent to which community outcomes are not achieved:**

A Well Governed City: Our people participate in decision making and enjoy the rights and responsibilities of living in a democracy.  
The identified priorities under the 'Well Governed City' community outcome include "improve consultation and participation" and for Council to "consider community views at each stage of decision making" under the Local Government Act 2002. This option would not be consistent with this outcome or the identified priority action.

**Extent to which community outcomes are achieved:**

As for preferred option 3.  
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.

**Impact on the Council's capacity and responsibilities:**

The Act 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 temporary alcohol ban areas on an ongoing basis and ensuring adequate signage is in place.

**Effects on Maori:**

Similar to other ethnic groups.

**Consistency with existing Council policies:**

As above.

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

There is police and community support for continuation of the alcohol bans for Merivale and Papanui.

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16 Cont'd

Schedule 1 – Draft Amendment Bylaw

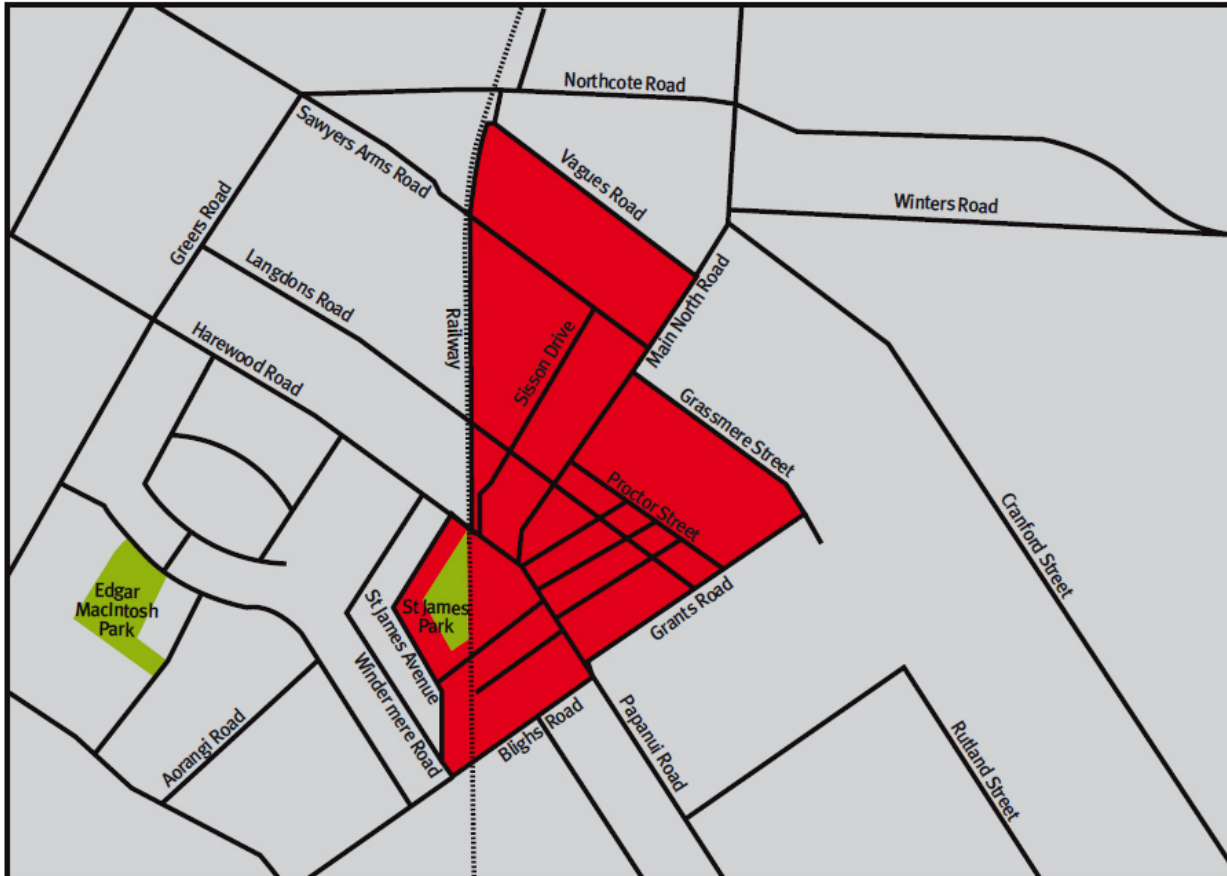
<b>Name of Alcohol Ban Area</b>	Merivale
<b>Description of Alcohol Ban Area</b>	The area bounded by and inclusive of all of, or the relevant parts of the area is bounded by Rossall Street, Rugby Street, St Albans Street, Browns Road and Innes Road/Heaton Street, as indicated in the map below.
<b>Times, days or dates during which alcohol restrictions apply</b>	Wednesday, Thursday, Friday and Saturday nights, from 6.00pm to 6.00am.



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<b>Name of Alcohol Ban Area</b>	Papanui
<b>Description of Alcohol Ban Area</b>	The area bounded by and inclusive of all, or the relevant parts of, the railway line and Vagues Road to Harewood Road, St James Avenue, Windermere Road, Blighs Road, Papanui Road, Grants Road, Grassmere Street, Main North Road as well as all of St James Park, as indicated in the map below.
<b>Times, days or dates during which alcohol restrictions apply</b>	Wednesday, Thursday, Friday and Saturday nights, from 6.00pm to 6.00am.



**17. NOTICES OF MOTION**

**18. RESOLUTION TO EXCLUDE THE PUBLIC**

Attached.