

CHRISTCHURCH CITY COUNCIL SUPPLEMENTARY AGENDA

THURSDAY 12 JUNE 2014

9.30AM

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

CHRISTCHURCH CITY COUNCIL

**Thursday 12 June 2014 at 9.30am
in the Council Chamber, Civic Offices, 53 Hereford Street**

Council: The Mayor, (Chairperson).
Councillors Vicki Buck, Jimmy Chen, Phil Clearwater, Pauline Cotter, David East, Jamie Gough,
Yani Johanson, Ali Jones, Raf Manji, Glenn Livingstone, Paul Lonsdale, Tim Scandrett and
Andrew Turner.

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49. RESOLUTION TO BE PASSED - SUPPLEMENTARY REPORTS

Approval is sought to submit the following reports to the meeting of the Council on 12 June 2014:

- **LICHFIELD STREET CAR PARKING BUILDING – OPTIONS REPORT**
- **JOINING EQC DECLARATORY JUDGMENT PROCEEDINGS IN HIGH COURT**

The reason, in terms of section 46A(7) of the Local Government Official Information and Meetings Act 1987, why the reports were not included on the main agenda is that they were not available at the time the agenda was prepared.

It is appropriate that the Council receive the reports at the current meeting.

RECOMMENDATION

That the reports be received and considered at the meeting of the Council on 12 June 2014.

40. RESOLUTION TO EXCLUDE THE PUBLIC (Cont'd)

Attached.

CHRISTCHURCH CITY DEVELOPMENT FORUM

Terms of Reference

Establishment

The Christchurch City Development Forum (the Forum) is established by the Christchurch City Council and representatives from the business community of Christchurch with an interest in development.

Purpose and Functions

- To facilitate engagement between the development community in Christchurch and the Council on matters relating to development in the city.
- In the first instance to consider issues related to development contributions.
- Additionally, consider other initiatives to support development that contributes to the recovery and rebuild of Christchurch city.

Objectives

1. To gain an understanding of the needs of developers and the impact of development contributions on development in Christchurch.
2. To gain an understanding of the infrastructural funding requirements of the Council and the role of development contributions in providing for growth-related infrastructure.
3. To share, consider and inform other development related work undertaken by Council as appropriate, including planned developments, the content, timing and progress of the Council's capital works programme and rebuild initiatives.
4. To provide an opportunity for developers to share their knowledge and experience of the development needs of the city from their perspective and information they may have that could inform the timing and delivery of Council's capital works programme.
5. To ensure meaningful engagement with the development community on the Development Contributions Policy (DCP) and any proposed changes to development related policy.
6. To facilitate understanding of the formulation and application of development contribution charges.
7. Explore potential opportunities for greater use of Developer Agreements as supported by recent Local Government Act amendments.

Limitation of Powers

The Forum shall operate in such a way as it does not compromise the Council's freedom to deliberate and make such decisions as it deems appropriate.

The Forum does not have the ability to commit the Council to any course of action or expenditure. It may provide recommendations that will follow due process to seek a Council resolution.

Forum Membership

The forum will comprise five members from the Council and five representatives from the business community as follows:

- The Mayor.
- Chair of the Strategy and Planning Committee (Chair).
- Chair of the Regulation and Consents Committee.
- Chair of the Finance Committee.
- Chair of the Housing Committee.
- A nominated representative from the Canterbury Development Corporation.
- A nominated representative from the Canterbury Employers' Chamber of Commerce.
- A nominated representative from the Property Council of New Zealand.
- A nominated representative from the Real Estate Agents' Authority.
- A nominated representative from the Christchurch Central City Business Association.

Relevant stakeholders, strategic partners and Council staff will be invited to join the Forum as required to contribute and inform discussion.

Term of Appointment

The Development Forum shall operate from establishment to June 30 2015 only. However, should the Forum see benefit in it's continuation it may put forward a recommendation to the Strategy and Planning Committee of the Council to allow a further term of appointment, which will be at the sole discretion of the Council.

Financial Delegations

None.

Operating Philosophy

The Forum will observe the following principles in all its meetings:

- Operate in accordance with the requirements of the Local Government Official Information and Meetings Act.
- Give consideration to the interests of the stakeholder groups represented by all Forum members.
- Work in a collaborative and co-operative manner using best endeavours to reach solutions that take account of the interests of all sectors of the community.
- Members represent the interests of their stakeholder group and will not use the Forum as a place to pursue specific individual benefit.
- Any conflict of interests will be declared.

- The Forum will consult with and take into account the advice of relevant stakeholders and Council staff working in the development and administration of development contributions.
- Forum members and any stakeholders or staff invited to contribute will provide evidence and opinions to inform Council decision-making that are based on empirical evidence, established best practice or experience where possible. Where an opinion is anecdotal or not supported by evidence this must be made explicit.
- In considering development matters, members will be mindful of relevant strategic documents and directions that have been developed in consultation with the community and partners in the recovery and rebuild of Christchurch.
- Forum discussions will consider the potential implications of changes to the DCP for other development related initiatives led by the Council and its strategic partners and the impact of these initiatives on the DCP.

Guidelines

1. The Forum is to operate for the 2014/15 financial year after which it may be renewed.
2. The Forum will meet three to four times in the 2014/15 year with workshops and additional meetings if required.
3. Members are to nominate an alternate should a member not be available to attend a meeting of the Forum.
4. The Forum may co-opt individuals to provide expert knowledge or advice as it deems necessary to ensure it is able to achieve its purpose.
5. Discussions during meetings of the Forum will be captured via minutes and will be provided to the Strategy and Planning Committee which will consider if any action should be taken to give effect to Forum deliberations.
6. The minutes will be circulated to members prior to submission to the Strategy and Planning Committee.

Forum Support

Administrative support and facilitation of Forum meetings will be managed by the Council.

51. JOINING EQC DECLARATORY JUDGMENT PROCEEDINGS IN HIGH COURT

		Contact	Contact Details
Executive Leadership Team Member responsible:	Chief Planning Officer, Strategy & Planning Group		
Officer responsible:	Manager Legal Services Unit		
Author:	Senior Solicitor	9415550	Brent Pizzey

1. PURPOSE AND ORIGIN OF REPORT

- 1.1 EQC has applied to the High Court for declarations clarifying its responsibilities for settling claims for land damage if land is at increased flooding vulnerability because of the earthquakes. This report seeks affirmation of the Council having joined as a party to that High Court case, and of the Council asking for a declaration that increased flooding vulnerability is also natural disaster damage to buildings.

2. BACKGROUND

- 2.1 Any person has a right to apply to the courts for Declarations clarifying the law. EQC, in consultation with the Insurance Council, has applied to the High Court for Declarations as to whether increased flooding vulnerability is land damage covered by the legislation, and if so, whether an EQC policy for valuing that damage to land is a lawful one.
- 2.2 The High Court directed that if the Council wanted to apply to the High Court for permission to take part in that case, then the deadline for doing so was Friday 30th May.
- 2.3 The declaration proceedings brought by EQC do not directly relate to Council regulatory or operational roles but may be significant for affected landowners.
- 2.4 The EQC application did not seek Declarations in relation to claims for building damage. The implications and practical result of this are unclear at this stage, but it does appear to be a gap in the EQC proceedings.
- 2.5 Officers, at the Mayor's request, applied to the Court to join that proceedings as a party, and to seek declarations from the Court as to whether increased flooding vulnerability is also damage to buildings that is covered by EQC under the legislation. The Council's application was not opposed by the other parties.
- 2.6 The Court has granted the Council's application to join as a party to the proceedings.
- 2.7 The hearing is likely to be in October.
- 2.8 If the Council does not affirm the decision to join as a party to the proceedings, the Council can apply to the High Court to withdraw. The High Court would grant that request. The High Court has appointed two Queens Counsel to assist the Court, and they could raise the matters that the Council was to have raised.

3. FINANCIAL IMPLICATIONS

- 3.1 There will be a cost for external lawyers running the litigation. The costs will depend on the extent of the role that the Court wants to play in the proceedings and whether the actions of all of the other parties increase the complexity of the case. The increased number of parties and increased number of issues before the Court will increase the costs for the Council. If the Council's input is confined to the issue of whether increased flooding vulnerability is natural disaster damage to buildings, then external legal fees may be \$150,000.00.

51 Cont'd

- 3.2 If costs cannot be agreed among the parties, there is likely to be a costs award against the Council if the Council's claim is unsuccessful. Those costs would be limited to the extent to which the Council's issue has increased the costs of the other parties. There is clearly a great deal of overlap between the point raised by the Council and the EQC claim, which significantly reduces any exposure to a high costs award against the Council.

4. RECOMMENDATIONS

It is recommended that the Council:

- 4.1 With regard to the Declaratory Judgment proceedings commenced by the Earthquake Commission in the High Court on 9 May 2014 (CIV-2013-485):
- 4.1.1 Affirm the Council joining as a party to those proceedings;
 - 4.1.2 Affirm the Council seeking a declaration that increased flooding vulnerability is also natural disaster damage to buildings;
 - 4.1.3 Delegate to the Chief Planning Officer authority to instruct counsel on developing the Council's case, the scope of issues to raise and litigation strategy, in consultation with the Mayor's office; and
 - 4.1.4 Delegate to the Manager Legal Services discretion to make procedural decisions in the conduct of that litigation.

COUNCIL**RESOLUTION TO EXCLUDE THE PUBLIC**

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

I move that the public be excluded from the following parts of the proceedings of this meeting, namely item 50.

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

ITEM NO.	GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
50.	LICHFIELD STREET CAR PARKING BUILDING – OPTIONS REPORT)GOOD REASON TO) WITHHOLD EXISTS) UNDER SECTION 7)	SECTION 48(1)(a)

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

ITEM NO.	REASON UNDER ACT	SECTION	PLAIN ENGLISH REASON	WHEN REPORT CAN BE RELEASED
50.	LICHFIELD STREET CAR PARKING BUILDING – OPTIONS REPORT Prejudice of commercial position	7(2)(b)(ii)	Because it would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	On completion of the works
	Commercial activities	7(2)(h)	Because withholding is necessary to enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities	On completion of the works

Chairperson's

Recommendation: That the foregoing motion be adopted.

Note

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

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

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