

Christchurch City Council

SUPPLEMENTARY AGENDA NO. 1

Notice of Meeting:

An ordinary meeting of the Christchurch City Council will be held on:

Date: Thursday 8 September 2016
Time: 9.30am
Venue: Council Chambers, Civic Offices,
53 Hereford Street, Christchurch

Membership

Chairperson
Deputy Chairperson
Members

Mayor Lianne Dalziel
Deputy Mayor Vicki Buck
Councillor Jimmy Chen
Councillor Phil Clearwater
Councillor Pauline Cotter
Councillor David East
Councillor Jamie Gough
Councillor Yani Johanson
Councillor Ali Jones
Councillor Paul Lonsdale
Councillor Glenn Livingstone
Councillor Raf Manji
Councillor Tim Scandrett
Councillor Andrew Turner

5 September 2016

Principal Advisor
Dr Karleen Edwards
Chief Executive
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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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49. Resolution to Include Supplementary Reports

1. Background

- 1.1 Approval is sought to submit the following reports to the Council meeting on 08 September 2016:
 50. Coastal Hazard Assessment - Land Information Memorandum Revision
 52. Development Christchurch Limited Report - 95 Kilmore Street, 82-84 Peterborough Street
- 1.2 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.

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

2. Recommendation

2.1 That the reports be received and considered at the Council meeting on 08 September 2016.

50. Coastal Hazard Assessment - Land Information Memorandum Revision

52. Development Christchurch Limited Report - 95 Kilmore Street, 82-84 Peterborough Street

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50. Coastal Hazard Assessment - Land Information Memorandum Revision

Reference: 16/1005068

Contact: Brendan Anstiss brendan.anstiss@ccc.govt.nz 941 8999

1. Purpose of Report

1.1 This report is for the Council to receive the revised coastal hazard notation on Land Information Memoranda (LIMs) following the Council's receipt of the *Peer Review of the Christchurch Coastal Hazard Assessment Report*.

2. Staff Recommendations

That the Council:

1. Receive the information in this report.
2. Note that staff will review and revise the coastal hazard Land Information Memoranda notations again following the completion of the revised Coastal Hazard Assessment Stage Two Report 2015 in accordance with the recommendations of the peer review panel. This is expected to occur in late 2016.

3. Key Points

3.1 This report arises from paragraph 3 (in bold) of Council resolution CNCL/2016/00353 on 25 August 2016:

That the Council:

1. Receive the Independent Peer Review report of the Tonkin & Taylor Ltd 2015 Coastal Hazard Assessment Stage Two Report.

2. Request that staff provide a report back within one month to a Council meeting detailing the programme of work that will be undertaken in response to the recommendations in the Independent Expert Panel's report.
3. **Noting the advice of the Peer Review Panel to remove the hazard maps "until the legal requirements of the New Zealand Coastal Policy Statement are complete because the current mapping may be legally unsound" (bullet points 2 & 3 of 'The Way Forward') direct the Chief Executive to urgently review the Coastal Hazard information that have been placed on Land Information Memoranda and report back to the next council meeting.**

Also of relevance to this report is an earlier resolution of Council on 10 December 2015 resolution CNCL/2015/00102:

That the Council:

1. Receive the report on the Council's response to the Parliamentary Commissioner for the Environment's report *Preparing New Zealand for rising seas: certainty and uncertainty*.
 - 2(a). Direct staff to seek a further peer review of the Coastal Hazards Assessment (Tonkin & Taylor 2015)
 - (b). The peer review be conducted as soon as practicable by a panel of scientific experts, the details of which will be determined after consultation with affected communities.
 - (c). That LIM notations following receipt of the peer review report be reviewed acknowledging the findings of the report.
 3. Direct staff to review the wording of the LIM notation for properties potentially affected by coastal inundation and coastal erosion to ensure that the information provided is fair, clear and accurate.
- 3.2 There is a statutory requirement for Council to make available information it holds on natural hazards:

A LIM provides certain mandatory information (and may also include discretionary information) that a council holds on a particular piece of land and is prepared in accordance with s44A of the Local Government Official Information and Meetings Act 1987. A LIM *must* provide information identifying each (if any) special feature or characteristic of the land concerned, including *potential* natural hazards, that is known to the Council, but is not apparent from the District Plan.

Much of the residential land in Christchurch is subject to some type of 'potential natural hazard' with associated notations on the LIM – including, for example, flooding, slope instability and soft ground. This information assists people with making informed decisions on buying, building, repairing or investing in property. The Council has no discretion over including such information in LIMs, only discretion on the wording used to explain the information.

- 3.3 Previous coastal hazard notations on LIMs:

The following notations (there were earlier variations) are currently used if a LIM is requested for one of the properties (around 18,000 properties) in Christchurch District, identified in the *Coastal Hazard Assessment Stage Two Report* prepared for the Council by Tonkin & Taylor Ltd. in June 2015:

Coastal Erosion Hazard - 50 years: The Council has a report that indicates this property or part of this property is located in an area likely to be susceptible to coastal erosion and/or daily tidal inundation over the next 50 years to 2065; see Coastal Hazard Assessment - Stage 2 report. A copy of the report and other coastal hazard information can be found at www.ccc.govt.nz/coastal hazards. The report will be subject to further review through planning processes and as a result the coastal erosion information recorded on the LIM for this property may change in the future.

Coastal Erosion Hazard - 100 years: The Council has a report that indicates this property or part of this property is located in an area potentially susceptible to coastal erosion and/or daily tidal inundation over the next 100 years to 2115; see Coastal Hazard Assessment - Stage 2 report. A copy of the report and other coastal hazard information can be found at www.ccc.govt.nz/coastal hazards. The report will be subject to further review through planning processes and as a result the coastal erosion information recorded on the LIM for this property may change in the future.

Coastal Inundation Hazard - 50 year storm event: The Council has a report that indicates this property or part of this property is located in an area susceptible to coastal inundation (flooding by the sea) in a 1-in-50 year storm event, taking into account 0.4 metres of sea level rise over the next 50 years; see Coastal Hazard Assessment - Stage 2 report. A copy of the report and other coastal hazard information can be found at www.ccc.govt.nz/coastal hazards. The report will be subject to further review through planning processes and as a result the coastal inundation information recorded on the LIM for this property may change in the future.

Coastal Inundation Hazard - 100 year storm event: The Council has a report that indicates this property or part of this property is located in an area susceptible to coastal inundation (flooding by the sea) in a 1-in-100 year storm event, taking into account 1 metre sea level rise over the next 100 years; see Coastal Hazard Assessment - Stage 2 report. A copy of the report and other coastal hazard information can be found at www.ccc.govt.nz/coastal hazards. The report will be subject to further review through planning processes and as a result the coastal inundation information recorded on the LIM for this property may change in the future.

- 3.4 The Council received information on the legal implications for LIM notations at its meeting on 10 December 2015 on the Parliamentary Commissioner for the Environment report. That information is also relevant to the peer review report, and its findings in relation to the Tonkin & Taylor Ltd 2015 Coastal Hazard Assessment Stage Two Report. Some of the paragraphs from that report are repeated below:

*"...6.6 The PCE report noted that 'when hazard information is put on a LIM, it must be clear'. This statement is consistent with recent case law, which notes that information on LIMs must be accurate, state the position fairly, and not mislead: *Weir v Kapiti Coast District Council* [2013] NZHC 3522.*

*6.7 The *Weir* case (together with *Marlborough District Council v Altimarloch Joint Venture Ltd* [2012] NZSC 11) also confirmed that where a Council holds a report that identifies potential hazards, in alerting a LIM recipient to the existence of the report a Council is not warranting the accuracy of the opinions in the report. It is simply disclosing the information it holds on the hazards identified in the report. Appropriately worded disclosure of a report then allows a LIM reader to review that information and obtain other relevant information they consider may be required. In the *Weir* case the Court also noted at paragraph 64 that to satisfy*

section 44A(2)(a): *'The Council needs to know about the report but it does not need to believe that the predictions in them are accurate or even probably accurate.'*

6.8 In relation to this sentence in *Weir*, advice to the Council notes that *'it is acceptable for a LIM to alert recipients to a report even though a Council may have doubts about its accuracy. This then becomes a matter of fact and degree as to how the information is fairly and not misleadingly provided on the LIM. We suspect there is a broad spectrum of possibilities. For example we could envisage a situation where a discredited report known to Council no longer requires mention. As an alternative to Council being assured about the science behind a report (which may sometimes be difficult to be categorical about) reference to alternative reports or positions could be made, or an appropriate qualifying notation could be included.'*"

3.5 Revised coastal hazard notation on LIMs following the peer review report:

The current four LIM notations were decided on by reference to the Tonkin & Taylor 2015 report. As noted above the peer review report has raised concerns with some aspects of the coastal hazards assessment, and it is therefore prudent to review the LIM notation to ensure it is accurate and balanced. However, we are not in a situation where the entire Tonkin & Taylor report has been discredited. The Council's approach needs to be one that provides an appropriately worded disclosure of the information it holds on the potential hazards identified in the report on relevant properties, which will allow the LIM recipient to review the information and make any further enquiries or obtain other relevant information they consider may be required.

Council staff have therefore developed a fair and accurate coastal hazard LIM notation that meets the Council's statutory obligations (and recent case law), while reflecting the further technical work still to be completed by the Council. We believe the changes to the LIM notation are significant and accurately and prudently represent information known to the Council. The revised LIM notation has been approved by the Chief Executive. Councillors were advised of this decision on Monday 5th of September 2016.

The following coastal hazard notation has replaced the previous four notations described in para 3.3:

"The Council has a report (Coastal Hazard Assessment Stage Two Report 2015) that indicates this property or part of this property may be susceptible to coastal hazards. The Council obtained a peer review of the 2015 report (Peer Review of the Christchurch Coastal Hazard Assessment Report, 2016) that identifies some issues with the report and makes recommendations for further work to be completed by the Council. A copy of the 2015 report, the peer review report, and other coastal hazard information can be found at www.ccc.govt.nz/coastalhazards. The Council is carrying out further work as recommended in the peer review report to update the coastal hazard report. As a result the coastal hazard information recorded on the LIM for this property may change in the future."

3.6 Revision of Coastal Hazard Assessment Stage 2 Report 2015

The peer review report (2016) provides a suite of recommendations (paragraphs 221 - 227) that the Council needs to address 'now'. Paragraphs 222 - 225 relate specifically to updating the coastal hazard report (2015). This work has commenced and is targeted to be completed by December 2016. More detail on the work programme to meet the

recommendations of the peer review report will be reported to Council on 22 September 2016. Following the completion of the revised coastal hazard report, the Council will again review the LIM notations in accordance with the updated report.

Attachments

There are no attachments to this report.

Signatories

Authors	Peter Kingsbury - Principal Advisor Natural Resources Judith Cheyne - Senior Solicitor
Approved By	Helen Beaumont - Head of Strategic Policy Rob Goldsbury - Head of Legal Services Brendan Anstiss - Acting General Manager Consenting and Compliance

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51. Resolution to Exclude the Public

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

I move that the public be excluded from the following parts of the proceedings of this meeting, namely items listed overleaf.

Reason for passing this resolution: good reason to withhold exists under section 7.
Specific grounds under section 48(1) for the passing of this resolution: Section 48(1)(a)

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.”

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:

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ITEM NO.	GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	SECTION	SUBCLAUSE AND REASON UNDER THE ACT	PLAIN ENGLISH REASON	WHEN REPORTS CAN BE RELEASED
52	DEVELOPMENT CHRISTCHURCH LIMITED REPORT - 95 KILMORE STREET, 82-84 PETERBOROUGH STREET	S7(2)(B)(II), S7(2)(H), S7(2)(I)	PREJUDICE COMMERCIAL POSITION, COMMERCIAL ACTIVITIES, CONDUCT NEGOTIATIONS	TO PROTECT BOTH PARTIES IN TERMS OF IT'S NEGOTIATIONS, INCLUDING EXCHANGE OF INFORMATION, COMMERCIALY SENSATIVE INFORMATION AND CREATE AN ENVIRONMENT OF TRUST AND ABLITY TO EXPLORE A DEAL OPENLY AND HONESTLY	Upon settlement