

STANDARD COUNCIL/COMMUNITY BOARD/COMMITTEE REPORT

Title of Report:		Lyttelton Planning Options			
Meeting of: (state which Council/Community Board/Committee)		Council			
Date of Meeting:		10 April 2014			
Date Required by Democracy Services:					
Community Consultation:		Board Needed:	N	Complete:	N
Public Excluded		Y if PUBLIC EXCLUDED the section below MUST be completed			
REASON UNDER ACT	SECTION	PLAIN ENGLISH REASON		WHEN REPORT CAN BE RELEASED	
To enable the Council to carry on negotiations without prejudice	7(2)(l)	To keep negotiations with other agencies confidential until resolved		Once the matters referred to in the report have been completed and all parties with an interest in those matters have agreed to the release.	
Obligation of confidence	7(2)(c)	Discussions with CERA have been undertaken on agreement that they are confidential.		Following publication of the decision by the CER Minister	




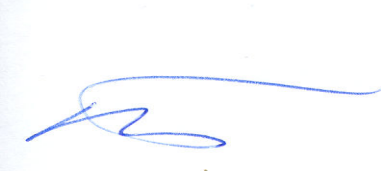
No of Attachments (must be cited in report) : 2
Description of Attachments:
1. ECan letter to the Minister CER
2. Indicative draft process timeline (produced by CERA)

Confirmation of Statutory Compliance

In accordance with Section 76 of the Local Government Act 2002, this report is approved as:

(a) Containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,

(b) Is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

	Name and title of signatories	Signature	Date
Prepared by	Mark Rushworth		4 April 2014
Approved Finance Manager by	Michael Bishop		4 April 2014
Approved Unit Manager by	Richard Osborne		7 April 2014
Approved Chief Planning Officer by	Michael Theelen		8 April 2014

LYTTELTON PLANNING OPTIONS

		Contact	Contact Details
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1. PURPOSE AND ORIGIN OF REPORT

- 1.1 To update Council on Lyttelton Planning options and seek endorsement in principle of a request that the Minister for Canterbury Earthquake Recovery direct the preparation of a Recovery Plan for Lyttelton Port, which focuses on land owned by the Lyttelton Port of Christchurch and the surrounding Coastal Marine Area. Two briefings to local Councillors were undertaken on these and other related matters on Thursday 20 and Wednesday 26 March 2014.

2. EXECUTIVE SUMMARY

- 2.1 Lyttelton suffered extensive damage from the 2010/2011 earthquakes. Lyttelton Port of Christchurch (LPC) was badly affected. It requires significant repairs, and is currently operating at reduced capacity. LPC has plans for long term redevelopment and expansion which will enable more efficient operation and will cater for the predicted growth in freight volumes. Environment Canterbury (ECan) has identified concerns over the resourcing implications for the number and complexity of coastal permits needed for the port's recovery. In December 2012 Dame Margaret Bazley wrote to the Minister for Canterbury Earthquake Recovery (Minister CER) seeking assistance. The letter forms **attachment 1**.

- 2.2 In addition to the port there has been extensive damage to the township of Lyttelton, particularly the town centre and infrastructure, including Sumner Road. Council has been addressing these issues in a number of ways including the Lyttelton Master Plan for the town centre, the facilities rebuild programme, the Sumner Road reopening project and the District Plan Review. Also, the Stronger Christchurch Infrastructure Rebuild Team (SCIRT) has developed a programme for repairing the horizontal infrastructure. While, as described below, there are existing processes in place to address these issues, there is no agreed process for addressing the repair and redevelopment of the Port.

- 2.3 The Minister CER directed CERA to work with LPC, ECan, CCC, NZTA and Ngai Tahu to consider possible approaches to the range of issues facing Lyttelton. A working group of staff from these organisations (excluding LPC), together with officials from Treasury, the Ministry for the Environment and Department of Conservation was established to progress consideration of options and prepare advice for the Minister. Three main options were identified:

- Existing Resource Management Act processes;
- Legislative intervention under the Canterbury Earthquake Recovery Act (CER Act);
- A Recovery Plan process.

The preferred approach of the working group and the Chief Executives Advisory Group (CEAG) is that a Recovery Plan is considered appropriate to address the repair and reinstatement of the port with a focus on land owned by LPC and the surrounding Coastal Marine Area¹. However, the exact area over which a Recovery Plan applies remains to

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- ¹ **coastal marine area** means the foreshore, seabed, and coastal water, and the air space above the water—
 - (a) of which the seaward boundary is the outer limits of the territorial sea;
 - (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—
 - (i) 1 kilometre upstream from the mouth of the river; or
 - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

be determined. The Minister CER now needs to determine which option to follow. It should be noted that if a Recovery Plan approach is adopted it is likely to be led by ECan.

3. BACKGROUND

- 3.1 The township and port of Lyttelton suffered extensive damage as a result of the 2010/11 earthquakes. A number of recovery related projects are underway. This report provides a brief overview of these, and considers the options for addressing the recovery of the port which have been presented to the Minister CER. It also seeks endorsement of requesting the Minister CER to direct ECan to prepare a Recovery Plan for Lyttelton port which will likely focus on land owned by LPC and the surrounding Coastal Marine Area. As noted above, the exact area over which a Recovery Plan may apply is yet to be determined.

Lyttelton Port of Christchurch

- 3.2 LPC suffered major damage as a result of the Canterbury Earthquakes. LPC commissioned work to identify the potential scope of works and the resource consents needed for recovery. This suggested that a significant number of resource consents would be required (mostly in relation to the ECan Regional Coastal Environment Plan). The works include repair and reinstatement of existing wharves, reclamation of up to an additional 20 ha of the harbour for relocation and expansion of port activities, and creation of a new marina with increased public access to the waterfront.
- 3.3 LPC has also been developing a long term redevelopment plan for the reinstatement and future growth of the port. In general this seeks to gradually move a significant amount of the port's operational area to the east (onto reclaimed land). The fuel tank farm would remain in its current location, but with the fuel wharf relocated to allow for larger ships. A new marina together with some commercial development is envisaged for the western side of the inner harbour. LPC has not yet shared full details of this plan with the strategic partners or the wider community, however, there was a media release on its broad details on 8 November 2013 <http://www.stuff.co.nz/the-press/business/9378703/1b-Lyttelton-Port-redevelopment-planned>

Council Projects

- 3.4 Council has a number of projects underway in the Lyttelton area, including:

Lyttelton Master Plan – adopted June 2012. This plan has been developed with extensive community participation and support, and provides a vision for the rebuild and recovery of the town centre together with 31 targeted Actions. The plan considers opportunities to improve integration with the adjacent port, particularly in relation to access to the inner harbour and waterfront. Implementation of the Actions has commenced. <http://resources.ccc.govt.nz/files/AllCommsStuff/SuburbanCentresProgramme/LytteltonMasterPlan.pdf>

Facilities Rebuild – The Facilities Rebuild Plan provides a framework for decision making about the work that will be carried out on all the buildings in the programme. The initial priority list includes:

- Lyttelton Service Centre
- Lyttelton Recreation Centre and Trinity Hall
- Norman Kirk Memorial Pool Lyttelton
- Grubb Cottage Lyttelton
- Lyttelton Visitor & Information Centre and toilet
- Social Housing facilities – 4 complexes, 20 units
- Lyttelton Recreation Ground Pavilion

District Plan Review – Phase 1 includes the town centre including some of the issues identified through the Master Plan. Phase 2 will include the Port as one of the Special Purpose Areas. This will address the land use elements of the port above mean high water springs.

Reopening Sumner Road – This comprises of two main components. The first is the mitigation of risk from geotechnical hazards and the second is the repair of the damaged roading assets (road surface, retaining walls etc). The project aims to return the road to a pre-quake level of service and re-open it by the end of 2016.

At this stage the proposed engineering solutions consist of source rock works in the form of scaling and trundling, the construction of two bunds to catch rockfall from gullies and a section of benching at the Crater Rim Bluffs. These are earthquake recovery works which Council officers consider are within scope of the Canterbury Earthquake RMA Order in Council for land and infrastructure repair. That means that a resource consent application for that work must follow the streamlined process required by that Order in Council. A separate report is being prepared for Council on this project.

- 3.6 SCIRT horizontal infrastructure repairs have commenced on retaining walls, further works for water and roading repairs are scheduled for commencement in 2015.

Joint Projects

- 3.7 There are two collaborative projects currently underway that have a bearing on the Port. These are inter-related, and co-ordination is being managed through the alignment of project teams from the strategic partners involved.

Lyttelton Access Statement - This seeks to establish reliable, resilient twenty four hour / seven day access to the Port of Lyttelton capable of meeting the predicted growth of freight until 2040 as well as cruise ships, commuter and recreational use. This primarily focuses on Norwich Quay and alternative options for accessing the port. It will also identify appropriate access to the waterfront for the Lyttelton community and visitors. A draft scoping report is being prepared with input from CCC, NZTA, LPC & KiwiRail. This is related to Lyttelton Master Plan action M2. It is proposed to report progress on this to the Environmental Committee and the local Community Board.

Greater Christchurch Freight Study - This comprises of three elements:

- Freight Demand Statement – Origins/destinations, commodities, freight hubs and generation points, validation of Greater Christchurch Transport Statement growth forecasts.
- Freight Infrastructure Statement – Current capacity assessment, infrastructure and supply chain capability assessment, key constraints and improvement opportunities.
- Freight Management Directions Statement – Measures to optimise capacity, options for land use response, soft and hard improvement measures.

The partners in the freight study are; CCC, SDC, WDC, LPC, KiwiRail, NZTA, ECan, CIAL & CERA. It is proposed to report progress on this to the Environmental Committee.

Lyttelton Recovery Planning

- 3.8 In December 2012 ECan wrote to the Minister CER outlining the difficulty that LPC would have in procuring the necessary resource consents for the rebuild and improvement of the Port, and sought the Minister's feedback on how to manage this. These concerns principally relate to resource consents required under the Regional Coastal Environment Plan that is administered by ECan. In September 2013, a Steering Group consisting of staff from CERA, Treasury, NZTA, Ngai Tahu, ECan and Council was established to consider the recovery planning issues for Lyttelton port and surrounds. This comprised of two main components:

- Issues identification and analysis
- Briefing Paper, providing advice on what intervention measures are considered necessary.

- 3.9 The issues stage sought to clarify which of the LPC projects are earthquake related and which are future growth measures. It has also sought to confirm the relationship and dependencies of the various projects proposed by LPC and the associated timing of delivery. It is noted that LPC is progressing some aspects of their recovery through the

existing established consenting processes, currently limited to the repair of Cashin Quay 2 and renewal of some discharge consents.

4. COMMENT

- 4.1 The proposed rebuild, reconfiguration and development works required for the recovery of the Port include more than 25 separate major infrastructure projects, and more than 60 individual 'projects' that will all require resource consent(s).
- 4.2 Most repair, rebuild and reconfiguration work will occur in the coastal marine area, and require consent under the Regional Coastal Environment Plan for the Canterbury Region. When the existing Regional Coastal Environment Plan was made operative, it was never contemplated that the Port would need to undertake such a large scale repair, rebuild and reconfiguration. The Regional Coastal Environment Plan does recognise the importance of the Port to the regional economy, but does not provide any clear direction for decision makers regarding the scale of the rebuild, reconfiguration and expansion that is being considered by LPC.
- 4.3 The community, the strategic partners, business and other stakeholders all require a relative level of certainty to have the confidence to progress recovery efforts. This is particularly the case for LPC, which needs to undertake significant recovery-related reinstatement and redevelopment works that could result in around \$1 billion of construction phase projects.
- 4.4 Officials from the agencies taking part in the Lyttelton Recovery Steering Group have considered a range of options. These have been simplified into three categories, which are analysed in more detail below:
- Option 1: Existing Resource Management Act processes;
 - Option 2: Legislative intervention under the Canterbury Earthquake Recovery Act;
 - Option 3: A Recovery Plan process.

Option 1: Existing Resource Management Act processes

There are a variety of options available under the Resource Management Act. These include:

Lodging a regional plan change with the Environmental Protection Authority

A private plan change (lodged by LPC) or a plan change process led by ECan, and lodged with the Environmental Protection Authority would seek to make the existing planning framework more appropriate to the post-earthquake circumstances to provide clear direction for the proposed port reinstatement and development works. Resource consents would likely still be required in some instances following the plan changes. However, the plan changes would seek to lessen the number and complexity of consents required, provide a policy framework appropriate to the current post-earthquake environment, and provide clearer direction for the port's redevelopment. This option also has a reduced appeals process. Using the Environmental Protection Authority would ensure some public engagement, but no compulsory proactive engagement before lodging applications. Also, the timeframe for a plan change application to the EPA would likely be longer than a Recovery Plan process.

Lodging (bundled) resource consents with the Environmental Protection Authority/ Seeking direct referral of (bundled) resource consents to the Environment Court

Although it is possible under the Resource Management Act to 'bundle' consents together and to deal with these at the same time through a co-ordinated hearing process, it would be difficult to do so in this instance. The scale and complexity of different projects spread across the port area means that LPC do not know all of the details around construction and design for every aspect of the rebuild at this stage, in order to prepare 'global' consent applications to cover the whole port. Given that construction techniques, materials and operational requirements can change over time, such details cannot be known years in advance. This means that assessing environmental effects would be

difficult, and could mean that consents or conditions of consent would need to be revisited over time. The steering group's view is that it would be better to avoid lodging applications at the Council level as this would be time-consuming and costly.

Using Christchurch City Council's District Plan Review process

The district plan review process would only address issues outside of the Coastal Marine Area, which is not where the main redevelopment will occur.

Making numerous resource consent applications to the regional Council and to the CCC which may be dealt with in a mix of notified and non-notified processes

Lodging individual consents for the proposed redevelopment would be ad hoc, time consuming, expensive, will not provide certainty, and is unlikely to result in robust outcomes.

Overall, the advice from the officials steering group is that a plan change application lodged with the Environmental Protection Authority is considered the best available option under the Resource Management Act. However, as noted above, there are issues with this approach. Furthermore, a process under the auspices of the RMA can only address RMA documents, such as the Regional Coastal Environmental Plan, whereas a Recovery Plan *may* have a wider scope.

Option 2: Legislative intervention

An Order in Council under the Canterbury Earthquake Recovery Act (CER Act) could be used to amend existing Resource Management Act processes and statutory documents, if it was considered 'reasonably necessary or expedient for all or any of the purposes of the CER Act. However, it is doubtful that the process of first seeking Cabinet approval of an Order in Council, and then following whatever timeframes are set out in the Order in Council, would significantly shorten timeframes more than what is already provided for under the Environmental Protection Authority pathway. In comparison, the Recovery Plan option considered below more closely aligns with the purposes of the CER Act and mitigates risks relating to public engagement and judicial review. For these reasons, officials do not recommend using an Order in Council.

Under section 27 of the CER Act the Minister CER may, by public notice, suspend, amend, or revoke the whole or any part of a Resource Management Act document, including regional and district plans. This option is not recommended by the steering group as it will not provide for any public engagement. Given the nature and scale of the issues it is also considered that this option would not accord with the purposes of the CER Act, and there is a high risk such a decision could be challenged successfully by judicial review.

Option 3: Recovery Plan

The Minister CER could direct that a Recovery Plan be developed specific to the Port area (which is a form of intervention available under the CER Act but we have dealt with it as a separate option). A Recovery Plan, to address matters relating to the repair and rebuild of the Port and the role that it plays in the environment of the Lyttelton harbour, the Lyttelton community and the wider economic recovery and prosperity of the region, could deliver a range of benefits. These include co-ordinating and directing recovery efforts, enabling community participation, and ensuring a focused timely and expedited recovery. There are some aspects that would be non-negotiable to ensure the safe and efficient operation of the Port, but other aspects will require a conversation and meaningful engagement between LPC, the surrounding community, users of the port, and other interested parties. It is anticipated a Recovery Plan could achieve these benefits through a number of mechanisms, and following community consultation and testing of information, may include:

- A port redevelopment plan and overarching strategy depicting the reconfiguration of the port, its integration with the surrounding area, and a range of other

environmental outcomes anticipated within the planning documents and the Recovery Plan;

- Amendments to key planning documents, particularly the Regional Coastal Environment Plan, to set out objectives and policies which are relevant to the rebuild and repair of the port following the earthquakes; and,
- Rules relevant to individual projects, or a simplified route through Resource Management Act consenting processes, through amending activity status and assessment criteria where appropriate.

In deciding whether a direction to prepare a Recovery Plan is consistent with the CER Act, it is important for the Minister CER to assess whether such intervention is 'necessary in accordance with the purposes of the Act', including the overarching purpose of achieving the full social, economic, cultural and environmental well-being of greater Christchurch communities in a timely and expeditious manner, when compared to business as usual processes. The Minister CER has also asked CERA officials to provide information to him regarding the views of the strategic partners, and the Community Forum, before reaching a decision on whether any intervention is necessary. An indicative draft outline of the process compared with a plan change process lodged with the EPA forms **attachment 2**.

- 4.5 The Chief Executives Advisory Group has considered the issues and options for the recovery of Lyttelton, and considers that a Recovery Plan which focuses on land owned by LPC and the surrounding Coastal Marine Area is appropriate.
- 4.6 If Council endorses the Minister CER direct that a Recovery Plan be prepared, then the Minister will need to provide direction on which agency will lead the process and the consultation required. It is anticipated that ECan would be the lead agency as it is expected that the plan would primarily relate to their area of responsibility, i.e. coastal planning. Council has key interests in a number of areas:
- Integration with other processes (as noted above)
 - Integration with the town centre Master Plan
 - Community input and participation
 - Impacts on the harbour and local iwi

CERA have indicated that a Recovery Plan would be prepared "in consultation with" Council and the other strategic partners. In order to ensure that there is effective co-ordination between staff and Council on input in a Recovery Plan it could be useful to establish an internal working party comprising of relevant Councillors and Lyttelton-Mount Herbert Community Board representatives to provide necessary governance feedback into the process.

Conclusion

Officials consider that the Recovery Plan process and a plan change application lodged with the Environmental Protection Authority are the best available options. The primary benefits of a Recovery Plan are as follows:

- the consultation process could be better defined to meet the needs of the community, as well as LPC;
- it may provide greater certainty;
- it may be more timely;
- it may have a wider scope than a plan change process which can only address Resource Management Act documents.

The 'costs' associated with this process is that it could require considerable Council staff resource, whereas an EPA process would primarily be between ECan and LPC.

5. FINANCIAL IMPLICATIONS

- 5.1 Funding arrangements have been discussed between LPC, ECan and CERA. The recommendation is that the costs for a Recovery Plan would be covered by the LPC, ECan and CERA. However, CCC would need to contribute considerable staff resource

from the Strategy and Planning Group, at a time when resources are focused on the District Plan Review and other matters.

6. STAFF RECOMMENDATION

It is recommended that the Council:

- 6.1 Endorse, in principle, a request to the Minister for Canterbury Earthquake Recovery to direct the preparation of a Recovery Plan for Lyttelton port which focuses on land owned by the Lyttelton Port of Christchurch and the surrounding Coastal Marine Area.
- 6.2 Establish an internal working party (including representation from Councillors and Lyttelton-Mount Herbert Community Board members) to consider the issues raised in the development of the Recovery Plan.
- 6.3 That the working party report back to Council via the Earthquake Recovery Committee of the Whole as necessary throughout the preparation of any Recovery Plan.